

The Hon. Justice IJK Ross, President
Fair Work Commission
11 Exhibition Street
MELBOURNE VIC 3000

By email: chambers.ross.j@fwc.gov.au, amod@fwc.gov.au

5 November 2018

Dear Justice Ross,

**RE: Draft variation determination
4 yearly review of modern awards—Award stage—Group 4 awards—Substantive issues
(AM2018/18) *Children’s Services Award 2010***

We thank you for the opportunity to file a draft variation determination (Report 30 October 2018).

We refer to our substantive claims submissions dated 11 November 2015 and 18 April 2018. The following submission is consistent with our proposed variations and reasoning provided in our previous submissions with minor alterations. The minor alterations include definitions of the roles referred to in the substantive claims and changes to the format of our proposed variations for improved consistency with the current Award.

AM2014/263 Children’s Services Award 2010

Proposed substantive change 1

Insertion of Educational leadership allowance for employees with educational leadership responsibilities in early childhood education and care settings.

- 1.1 We submit that the work of educational leaders in early childhood education and care settings is of equal or comparable value to the work of educational leaders in school settings and that this role should also be compensated through an allowance.
- 1.2 Educational leaders in early childhood education and care settings do not receive equal remuneration to educational leaders in school settings as this role is not currently recognised within the *Children’s Services Award 2010*.

1.3 The omission of recognition of educational leadership in early childhood education and care settings is inconsistent with Modern Awards Objective 1(e) “the principle of equal remuneration for work of equal or comparable value”.

1.4 The *Children’s Services Award 2010* was introduced prior to the introduction of the *Education and Care Services National Regulations*. Regulation 118 mandates that every early childhood education and care setting in Australia appoints an educational leader. The role and responsibilities of the educational leader is akin to the role of an educational leader in a school.

According to the Australian Children’s Education and Care Quality Authority (ACECQA, 2018):

The role of the educational leader is primarily to:

- collaborate with educators and provide curriculum direction and guidance
- support educators to effectively implement the cycle of planning to enhance programs and practices
- lead the development and implementation of an effective educational program in the service
- ensure that children’s learning and development are guided by the learning outcomes of the approved learning frameworks.

The educational leader also has a significant role in:

- guiding and developing educators and families’ understandings about play and leisure-based learning, and the significance of the early years in the education continuum for children
- building the knowledge, skills and professionalism of educators
- building a culture of professional inquiry with educators, coordinators and staff members to develop professional knowledge, reflect on practice and generate new ideas.

1.5 We believe that a universally applicable allowance through the Award is necessary to ensure employees in early childhood education and care settings receive fair remuneration. Peer-reviewed academic research suggests that educational leaders hold a range of qualifications and are not being fairly or consistently remunerated for this work in in early childhood education and care settings.

1.6 The substantive changes we propose are detailed below. We propose an Educational leadership allowance be inserted as 15.9 (in the current version of the Award). Alternatively, the following clauses may be inserted into *Exposure draft – Children’s Services Award 2016* as 17.2e.

15.9 Educational leadership allowance

(a) Eligibility

(i) A leadership allowance will be paid to an employee where the employer requires the performance of educational leadership duties.

(ii) An allowance is linked to the appointed position of educational leader.

(iii) The Approved Provider of the early childhood education and care setting determines who holds

a position that is eligible for a leadership allowance.

(b) Notification

The Approved Provider will provide written advice to an employee in receipt of an allowance of the position, its tenure, the duties required and the allowance to be paid.

(c) Structure of leadership allowances

Leadership allowances will be determined by the number of places and the level of responsibility undertaken, as follows:

(d) Setting size

- (i) Level 1 refers to a centre with no more than 39 places;
- (ii) Level 2 refers to a centre with 40–59 places; and
- (iii) Level 3 refers to a centre with 60 or more places.

(e) Amount

The allowances are based on a percentage of the standard rate.

(f) The following allowances apply:

Level % of standard rate per hour

1	2.00
2	2.50
3	3.00

Proposed substantive change 2

Insertion of Responsible Person allowance.

2.1 We submit that the work of the Responsible Person in early childhood education and care settings is of comparable value to the work of co-ordinators or directors in early childhood education and care settings yet this role is not recognised within the *Children’s Services Award 2010*.

2.2 The omission of recognition of the role of Responsible Person in early childhood education and care settings is inconsistent with Modern Awards Objective 1(e) “the principle of equal remuneration for work of equal or comparable value”.

2.3 The *Children’s Services Award 2010* was introduced prior to the introduction of the *Education and Care Services National Regulations*. Regulation 150 mandates that one physically present employee at every early childhood education and care setting in Australia is the Responsible Person at any time. In settings where there are shift workers there may be more than one Responsible Person over the course of a work day.

2.4 Historically a co-ordinator or director would have generally assumed responsibility for the day-to-day operations of an early childhood education and care setting. This provides part of the rationale as to why the role of co-ordinator/director has dedicated classifications in the *Children's Services Award 2010* (see Schedule B). This role is reflected in the indicative duties listed in B.1.10. With the introduction of new legislation an additional tier of responsibility was introduced meaning that employees who are not co-ordinators or directors may be appointed as the Responsible Person and therefore have these responsibilities. As the title implies, the Responsible Person has responsibility for the daily operations of a setting at a given point in time.

According to ACECQA (2017), a responsible person:

- has adequate knowledge and understanding of the provision of education and care to children
- has an ability to effectively supervise and manage an education and care service.

2.5 We believe that a universally applicable allowance through the award is necessary to ensure that employees who are determined to be the Responsible Person receive fair remuneration for their work.

2.6 The substantive changes we propose are detailed below. We propose a Responsible Person allowance be inserted as 15.10 (in the current version of the Award). Alternatively, the following clauses may be inserted into *Exposure draft – Children's Services Award 2016* as 17.2f.

15.10 Responsible person allowance

This clause applies only to an employee who is appointed as Responsible Person.

(a) An employee who is appointed as Responsible Person will be paid, in addition to the standard rate, an hourly allowance based on a percentage of the standard rate, and calculated on the basis of the number of places in the centre for which they are responsible where:

- (i) Level 1 refers to a centre with no more than 39 places;
- (ii) Level 2 refers to a centre with 40–59 places; and
- (iii) Level 3 refers to a centre with 60 or more places.

(b) Amount

The following allowances apply:

Level % of standard rate per hour

- | | |
|---|-------|
| 1 | 11.50 |
| 2 | 14.25 |
| 3 | 17.30 |

As individuals who are employed in the early childhood education and care sector under Award conditions we value the opportunity to participate in this process.

If any further information or clarification is required, please do not hesitate to contact us.

Kind regards,

Isabelle Arrabalde

Elizabeth Arrabalde