

From: Madeleine Tiedeman [mailto:Madeleine.Tiedeman@Ablawyers.com.au]
Sent: Wednesday, 24 April 2019 3:29 PM
To: Chambers - Ross J
Cc: AMOD; Kyle Scott; 'Brent.Ferguson@aigroup.com.au'; 'Ruchi.Bhatt@aigroup.com.au'; 'peggms24@gmail.com'; 'nicola.shaw@afei.org.au'; 'thalls@ja.com.au'; Estha van der Linden; 'mrobson@asu.asn.au'; 'Stephen.Bull@unitedvoice.org.au'; 'Natalie.Dabarera@unitedvoice.org.au'; Leigh Svendsen; 'rachell@hsu.net.au'
Subject: AM2018/26 - Social, Community, Home Care and Disability Services Industry Award 2010 - Draft Survey [ABLaw-ImanageDocs.FID135800]

Dear Associate

AM2018/26 - Social, Community, Home Care and Disability Services Industry Award 2010

We refer to the above matter and **attach** a submission of today's date in relation to the Draft Survey and Statement [2019] FWC 2755 issued by the Commission on 23 April 2019.

Should you require further information or wish to discuss, please let me know.

Yours Sincerely

Madeleine Tiedeman

Associate
Australian Business Lawyers & Advisors

Suite 402, Level 4
Watt Street Commercial Centre
45 Watt Street, Newcastle 2300
Dir: +612 4989 1004 | Fax: +612 9954 5029 | Mob: 0447 255 095
Tel: +612 9458 7005 | Web: www.ablawyers.com.au |  [LinkedIn](#)

**AM2018/26: 4 YEARLY REVIEW OF MODERN AWARDS - SOCIAL, COMMUNITY, HOME CARE AND
DISABILITY SERVICES INDUSTRY AWARD 2010**

SUBMISSION REGARDING DRAFT SURVEY

Background

1. This submission addresses the draft survey which was prepared by the Commission and discussed briefly during the course of the hearing before the Full Bench on 17April 2019 (**Draft Survey**).
2. At the hearing, and subsequently pursuant to a Statement issued by the Commission on 23 April 2019 ([2019] FWC 2755), parties were directed to file a short written submission about the contents of the Draft Survey.

The Commission's proposal to survey members of employer groups

3. Our clients are generally supportive of the Commission's proposal to distribute a survey to their members and to members of other employer organisations in order to obtain information that is relevant to issues presently before the Commission as part of these proceedings.
4. We acknowledge that the Commission has broad powers under section 590 of the *Fair Work Act 2009* (Cth) to inform itself in any manner it considers appropriate and the proposed survey is likely to assist the Commission in exercising its functions in these proceedings.
5. However, we note that both the disability sector and home care sectors are undergoing significant structural change and other changes at the moment which are requiring considerable attention and resources. For example, there is currently a Royal Commission underway into Aged Care Quality and Safety. Having regard to the significant amount of work involved in dealing with these matters we apprehend that these factors may have some impact on the response rate of any survey.
6. In order to minimise the administrative burden on the employer groups in relation to the roll out and implementation of the survey we respectfully request that the survey be created and administered by the Fair Work Commission and that a link to an electronic survey be provided to each employer organisation so that the link can simply be distributed to members in order for them to complete the survey.
7. In order to ensure consistency we consider that a standardised communication be developed by the Commission which can be sent to members accompanying the link to the electronic survey.

Comments in relation to the Draft Survey

8. Firstly, we understand that the list of sectors covered by the Award are taken directly from the submissions filed by the ASU dated 18 February 2019 and were discussed during the hearing. It is apparent that the list only deals with those sectors over which the ASU has coverage. That being the case, the list is likely to be incomplete. For example, the list does not appear to include 'home care' or 'family day care' which are two sectors covered by the *Social, Community, Home Care and Disability Services Industry Award 2010* (the **Award**).
9. There are also a number of others listed that do not precisely align with the language in the Award. For example the list refers to 'crisis accommodation' but the Award refers to 'crisis assistance'.
10. Secondly, question 7 of the survey asks employers to clarify what their source of income is, if they receive a significant portion of their income from a government body. It is not clear from the document circulated whether employers will be able to select more than one box. If not, we submit that employers should be able to select more than one option, as it is possible that certain businesses will receive funding from more than one government body.
11. Alternatively, we submit that the question could be reframed to ask the employer what the 'main' source of their income is.
12. Thirdly, we consider that there would be benefit in asking an additional question as to the primary location of the business, including whether it is located in a metropolitan or regional or rural area. This may assist in providing greater context to the responses in terms of understanding whether there is correlation between the location of the provider and their utilisation of the 24 hour care provision and casual employees.

AUSTRALIAN BUSINESS LAWYERS & ADVISORS

On behalf of Australian Business Industrial, the New South Wales Business Chamber Ltd, Aged and Community Services Australia and Leading Age Services Australia Ltd

24 April 2019



Kyle Scott
Associate Director
Australian Business Lawyers & Advisors Pty Limited
(02) 4989 1010
Kyle.Scott@ablawyers.com.au



Madeleine Tiedeman
Associate
Australian Business Lawyers & Advisors Pty Limited
(02) 4989 1004
Madeleine.Tiedeman@ablawyers.com.au