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To: AMOD

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Subject: AM2018/26 - Social, Community, Home Care and Disability Services Industry Award 2010 - Draft Survey

Dear Associate,

Re: AM2018/26 - 4 yearly review of the Social, Community, Home Care and Disability Services Industry Award 2010

We refer to the President's request for comment on a draft survey prepared by the Commission, which was distributed to the parties in attendance at the Hearing on 17 April 2019.

The Australian Federation of Employers and Industries (AFEI) has members in all streams of the SCHADS Award. Our membership in the SCHADS industry includes a range of entities from small businesses to several major charitable organisations operating nationally, as well as a number of other membership-based associations.

We provide comments below in respect of the draft survey contents, and the survey procedure in accordance with Statement [2019] FWC 2755.

SURVEY CONTENTS

SCHADS Sectors – page 1

1. On page 1 of the draft survey, it states 'The SCHADS Award covers the following sectors.' The list that follows this statement does not appear to be derived from clauses of the Award.
2. The list should be replaced with the sectors expressly included in the definitions of 'crisis assistance and supported housing sector', 'social and community services sector', 'family day care scheme sector', and 'home care sector' in clause 3 of the Award.

SCHADSI Sectors – page 2

3. As on page 1, the list of SCHADS sectors should be replaced with a list which corresponds with the Award.

Contract employees – page 4

4. The survey should exclude reference to 'contract employees.' The term 'contract employees' does not assist the Commission as:
 - a. The term is ambiguous (or potentially ambiguous), as all employees technically have an employment contract and could be described as 'contract employees';
 - b. No definition is provided in the Aged Care Workforce 2016 Report of 'contract employee' including whether this is intended to refer to labour hire workers (who are not direct employees), or fixed-term employees;

- c. To the extent it is intending to refer to those who are not employees, the question is inconsistent with question 2 – which requires the survey participant to identify how many ‘employees’ it has; and
- d. To the extent it is intending to refer to those who are employees of a labour hire organisation, the appropriate survey participant would be the labour hire organisation as opposed to the host.

Response to other party proposals

5. In the circumstances other parties may propose fundamental variations to the draft survey, AFEI requests the opportunity to respond to any comments provided by other parties, prior to finalisation of the survey.

SURVEY PROCEDURE

Questions about interpretation of survey questions

6. Survey participants could have questions about the meaning of certain phrases in the survey, including for example, what is meant by ‘significant proportion’ in question 6, and potentially even what is meant by ‘full time’ in question 4, as some employers may allow their ‘full time’ employees to work less than 38 hours per week without loss of pay.
7. It is possible that survey participants with questions about interpretation of the survey could receive different responses from different employer organisations, as even reasonable minds may differ on what is meant by ‘significant proportion.’
8. To ensure consistency in explanation of survey questions, there should be a Fair Work Commission contact person who is nominated to receive and address such questions.

Timeframe for response

9. The amount of time required by employers to complete the survey, particularly large multi-disciplinary employers, could be impacted by:
 - Having multiple payroll systems across multiple sites or regions;
 - Different human resources/payroll staff responsible for different regions;
 - Having single payroll systems with employees covered by different modern awards;
 - Having enterprise agreements (and linked payroll systems) which apply to employees covered by different awards;
10. We propose a time-frame for at least 4 weeks as a final return date for responses to the survey.

Membership of more than one employer party

11. AFEI anticipates the strong likelihood of employers being members of more than one of the employer parties who could be distributing the survey.
12. One approach to prevent double-counting of an employer’s data, could be for the survey to include a preliminary question as follows: *‘have you already submitted a completed copy of*

this survey to another employer organisation? Where an employer marks 'yes' in response to this question, they should be instructed not to answer any additional questions.

Kind regards,

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