

From: Sophie Margaret Whish [<mailto:Sophie.Whish@ablawyers.com.au>]

Sent: Tuesday, 19 June 2018 11:32 AM

To: Chambers - Hatcher VP

Cc: Michal Roucek; 'Simon Spence'; 'lucy.saunders@greenway.com.au'; Robert Seals

Subject: RE: C2013/6333 - ERO - Confidentiality Orders (ACA Confidential Information & Third Party Confidential Information) [ABLAW-ImanageDocs.FID162488]

Dear Associate

Please find **attached** ACA's proposed:

1. Confidentiality Order (relating to the ACA Confidential Information and the Third Party Confidential Information);
2. Amended Order (PR606299) in relation to the third parties that produced confidential information to the Commission; and
3. Amended Order (PR606760) in relation to York Civil Pty Ltd and its confidential information.

For ease of reference, our amendments are displayed in **red**.

The confidentiality order sought (that relates to both ACA Confidential Information and the Third Party Confidential Information) will also require orders PR606299 and PR606760 to be amended as has been confirmed by the IEU and CCER below. The amendments to PR606299 and PR606760 must however, maintain that only legal representatives of the parties are able to see the bundles of documents produced by third parties in response to the Notices to Produce issued by ACA earlier in the proceedings (**Bundles**).

ACA Amendments

It has become apparent to us that the proposed confidentiality regime should consider the fact that the IEU is still to file reply evidence (including submissions) and that there is a scheduled two week hearing in which documents 'referring' to the Third Party Confidential Information are likely to be tendered.

In order to ensure compliance with the orders but create some administrative ease for the parties we propose to identify all instructing officers from the IEU, ACCI, NSWBC, ABI and the ACA.

Instructing officers will have the ability to see any evidence filed in submissions or during the hearing that refer to the Third Party Confidential Information or ACA Confidential Information.

In addition, we have amended the orders to give Mr Nigel Ward access to the bundles (which are otherwise only available to legal representatives of the parties). Mr Ward will be the lead advocate for ACA in the upcoming two week hearing and in preparation for the hearing would like access to the bundles in the same manner that IEU's counsel is afforded access. As a technicality, Mr Ward is not admitted as a lawyer.

Yours sincerely

Sophie Margaret Whish

Associate

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DRAFT ORDER



Fair Work Act 2009
s.302 - Application for an equal remuneration order

Independent Education Union of Australia (C2013/6333)

VICE PRESIDENT HATCHER

SYDNEY, 19~~8~~ JUNE 2018

Confidentiality Order – Australian Childcare Alliance Inc.

A. Pursuant to s.594(1) of the Fair Work Act 2009, the Fair Work Commission orders as follows:

1. access to:
 - a. the ACA Confidential Information as defined in B below is restricted to:
 - i. the legal representatives of parties to this Application and in the case of the IEU its legal representatives and Dr Michael Wright and Ms Carol Matthews; and
 - ii. any witness in the proceedings for the purposes of preparing evidence in reply, subject to the witnesses being provided with a copy of these Orders;

b. the Third Party Confidential Information as defined at C below is restricted to the legal representatives of parties to this Application and in the case of:

- i. -the IEU its legal representatives and Dr Michael Wright and Ms Carol Matthews;
- ii. the ACCI, NSWBC, ABI and its legal representatives and Mr Dick Grozier; and
- iii. the ACA and its legal representatives and Mr Nigel Ward.

-pursuant to Amended Orders PR606299 and PR606760.

2. ~~t~~he ACA Confidential Information is identified in yellow highlighting and the Third Party Confidential Information is highlighted in blue highlighting;
3. ~~t~~he ACA Confidential Information and the Third Party Confidential Information is to be kept confidential by the Commission and the persons referred to in Orders 1(a) and (b) above and is not to be disclosed or published, including in any decision of the Commission;
4. the persons listed in Order 1(a) above must not disclose any part of the ACA Confidential Information to any other person not referred to in Order 1(a) and may not use the Confidential Information for any purpose other than the conduct of these proceedings;
5. the persons listed in Order 1(b) above must not disclose any part of the Third Party Confidential Information to any other person not referred to in Order 1(b) and may not use the Third Party Confidential Information for any purpose other than the conduct of these proceedings;

6. documents containing or referring to the ACA Confidential Information or Third Party Confidential Information filed by any party are to be marked as such, accompanied by versions redacting the ACA Confidential Information or Third Party Confidential Information for publication where necessary, and treated (to the extent necessary) as confidential by the parties and the Commission; and
7. if the ACA Confidential Information or Third Party Confidential Information is referred to during the course of the hearing of the matter, whether in evidence or otherwise, the hearing will be held in private to the extent necessary to deal with the ACA Confidential Information or Third Party Confidential Information, and otherwise will be held in public.

B. ACA Confidential Information means the redacted portions of:

1. Australian Childcare Alliance Inc - Outline of Submissions dated 25 May 2018 other than the redacted Additional-Third Party Confidential Information.
2. Statement of Alexandra Hands dated 21 May 2018;
3. Statement of Gary Carroll dated 23 May 2018;
4. Statement of Jae Dean Fraser dated 25 May 2018;
5. Statement of Jennifer Mary Kearney dated 23 May 2018;
6. Statement of Karthiga Viknarasah dated 23 May 2018;
7. Statement of Merran Edith Toth dated 16 May 2018;
8. Statement of Nicola Susanne Johnson dated 23 May 2018;
9. Statement of Shelley Prendergast dated 25 May 2018;
10. Reply Statement of Sarah Louise O'Donnell dated 7 May 2018; and
11. Reply Statement of Anne-Maree Wulff dated 21 May 2018.

C. Third Party Confidential Information means the sections of the Australian Childcare Alliance Inc - Outline of Submissions dated 25 May 2018 that have been redacted in blue highlighting to ensure compliance with Fair Work Commission Orders PR606760 and PR606299.

D. This Order operates on and from 19 June 2018.

[Insert Fair Work Commission Seal and Signature]



AMENDED ORDER

Fair Work Act 2009
s.302 - Application for an equal remuneration order

Independent Education Union of Australia
(C2013/6333)

VICE PRESIDENT HATCHER

SYDNEY, ~~1983 JUNE MAY~~ 2018

Confidentiality Order – York Civil Pty Ltd.

A. Pursuant to s.594(1) of the *Fair Work Act 2009* (the Act), the Fair Work Commission orders as follows:

1. In respect of the following documents and any information contained therein, produced by York Civil Pty Ltd in response to the Order to Produce issued on 4 April 2018:

- (a) Payment Certificate (Adelaide Freight Terminal Office Upgrade Project);
- (b) Payment Certificate (Construction of Structures at Bank J);
- (c) Payment Certificate (Construction Main South Road Upgrade, Malpas Road);
- (d) Payment Certificate (Construction of Structures at Margaret Dowling); and
- (e) Extracts from York Civil Pty Ltd Accounts Trading Statement for period ending 31 December 2017

(collectively, the **Confidential Information**), the following orders are made.

2. Access to the Confidential Information is restricted to the legal representatives of the parties to the proceedings and to Mr Nigel Ward of Australian Business Lawyers & Advisors (ABLA).

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3. Access to the submissions filed by any party that refer to the Confidential Information is restricted to the legal representatives of the parties to the proceedings and to:
and to

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- a) -Ms Carol Matthews and Dr Michael Wright of the IEU; and
- b) Mr Dick Grozier of the ACCI, NSWBC and ABI;
- c) Mr Paul Mondo and Ms Nesha Hutchinson of the ACA;
- d) Mr Nigel Ward of ABLA.;

43. The Confidential Information is to be kept confidential by the parties and the Commission and not disclosed or published, including in any decision of the Commission.

54. Documents containing or referring to the Confidential Information filed by any party are to be marked as such, accompanied by versions redacting the Confidential Information

PR606760

suitable for publication where necessary, and treated (to the extent necessary) as confidential by the parties and the Commission.

| 65. If it is necessary to refer to any part of the Confidential Information during the course of the hearing of the matter, whether in evidence or otherwise the hearing will be held in private to the extent necessary to deal with the Confidential Information, and otherwise will be held in public.

| 76. The parties have liberty to apply to vary these orders on seven (7) days' notice, with York Civil Pty Ltd to be given notice of any such application.

B. This Order operates on and from 3 May 2018.



VICE PRESIDENT

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Fair Work
Act 2009

AMENDED ORDER

s 302 - Application for an equal remuneration order

Application by the Independent Education Union of Australia

(C2013/6333)

VICE PRESIDENT HATCHER

SYDNEY, 198 JUNE 2018

Confidentiality Order.

Pursuant to s 594(1) of the *Fair Work Act 2009*, the Commission orders as follows:

[1] The following orders are made in respect of any documents, and any information contained therein, produced in response to the orders requiring production of documents by:

- a) ~~Catholic Education Office Sydney Catholic Schools Limited as trustee for the Sydney Catholic Schools Trust,~~
- b) Department of Education and Training Victoria,
- c) Langdale Consultants,
- d) Trustees of the Roman Catholic Church for the Archdiocese of Canberra and Goulburn,
- e) ~~York Civil Pty Ltd,~~

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(the Confidential Information).

[2] Access to the Confidential Information is restricted to the legal representatives of the parties to the proceedings and to Mr Nigel Ward of Australian Business Lawyers & Advisors (ABLA).

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[3] Access to the submissions filed by any party that refer to the Confidential Information is restricted to the legal representatives of the parties to the proceedings and to:

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- a) Ms Carol Matthews and Dr Michael Wright of the IEU; and
- b) Mr Dick Grozier of the ACCI, NSWBC and ABI;
- c) Mr Nigel Ward, Mr Paul Mondo and Ms Nesha Hutchinson of the ACA.

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[4] The Confidential Information is to be kept confidential by the parties and the Commission and not disclosed or published, subject to and until further order of the Commission.

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[54] Documents containing or referring to the Confidential Information filed by any party are to be marked as such, and treated (to the extent necessary) as confidential by the parties and the Commission, subject to and until further order of the Commission.

[65] The parties have liberty to apply to vary these orders on three (3) days² notice.

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