**From:** Max Resic <Max.Resic@unitedworkers.org.au>
**Sent:** Thursday, 1 April 2021 3:40 PM
**To:** Chambers - Ross J <Chambers.Ross.j@fwc.gov.au>; AMOD <AMOD@fwc.gov.au>
**Cc:** Ben Redford <Ben.Redford@unitedworkers.org.au>
**Subject:** AM2020/99 - Application to vary the Aged Care Award 2010

Dear Associate

The UWU wishes to file an outline of submissions and associated witness statements in accordance with the directions issued by the Fair Work Commission on 18 December 2020 in relation to the HSU application to vary the *Aged Care Award 2010*.

Please find **attached**:

1. The UWU Outline of Submissions
2. Witness Statements:
    a. Judeth Anne Clarke, Personal Care Worker (Western Australia);
    b. Geronmina Ortillano Bowers, Personal Care Worker (Western Australia);
    c. Tracey Anne Colbert, Food Services Assistant, (South Australia);
    d. Sandra Kim Hafnagel, Personal Care Worker (Queensland);
    e. Ross Evan Heyan, Client Services Assistant/Administration Assistant (Queensland); and
    f. Lyndelle Anne Parke, Community Personal Care Worker (Northern Territory).

Please do not hesitate to contact us if you have any questions.

Kind regards

**Max Resic**

Industrial Officer | Victoria

**United Workers' Union**

**FAIR WORK COMMISSION**
**MATTER No. AM2020/99**
**S 158 – APPLICATION TO VARY OR REVOKE A MODERN AWARD (AGED CARE AWARD 2010)**

## OUTLINE OF SUBMISSIONS

1. On 12 November 2020 an application was filed in the Fair Work Commission (**FWC**) pursuant to section 158 of the *Fair Work Act* 2009 (**the Act**) seeking determinations to vary the *Aged Care Award 2010* (**the Aged Care Award**) including with respect to modern award minimum wages on work value grounds. On 19 November 2020 the Health Services Union (**HSU**) and others filed an amended application seeking determinations to vary the Aged Care Award, including with respect to modern award minimum wages on work value grounds (**the Aged Care Award application**).

2. The United Workers' Union (**UWU**) makes these submissions in support of the Aged Care Award application. Together with these submissions, UWU has also filed witness statements as follows:

   (a) Judeth Anne Clarke, Personal Care Worker (Western Australia);

   (b) Geronmina Ortillano Bowers, Personal Care Worker (Western Australia);

   (c) Tracey Anne Colbert, Food Services Assistant, (South Australia);

   (d) Sandra Kim Hafnagel, Personal Care Worker (Queensland);

   (e) Ross Evan Heyan, Client Services Assistant/Administration Assistant (Queensland); and

   (f) Lyndelle Anne Parke, Community Personal Care Worker (Northern Territory).

3. UWU has had the opportunity to read a draft of an outline of submissions intended to be filed by HSU in this matter. The submissions made by UWU herein are intended to be supplementary to the submissions of the HSU.

4. UWU has also had the opportunity read a draft of an outline of submissions intended to be filed by Australian Nursing and Midwifery Federation (**ANMF)** in this matter (**the ANMF submissions**). Matters raised by that outline of submissions are dealt with below.

5. On 16 March 2021 solicitors for ANMF sent correspondence to the FWC regarding the *Nurses Award 2010* (**the Nurses Award**) which foreshadowed its intention to file an


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application pursuant to section 158 and/or 302 of the Act with respect to the Nurses Award that is similar in nature to the Aged Care Award application (**the Nurses Award application**).

6. On 24 March 2021 UWU sent correspondence to the FWC in relation to the *Social, Community, Home Care and Disability Services Industry Award 2010* (**the SCHADS Award**) which foreshadowed its intention to file an application pursuant to sections 158 and/or 302 of the Act with respect to the SCHADS Award that is similar in nature to the Aged Care Award application (**the SCHADS Award application**).

7. In their correspondence, and in the ANMF submissions, ANMF also refer to recommendations made by the Royal Commission into Aged Care Quality and Safety (**the Royal Commission**). The Royal Commission made a range of findings and recommendations relevant to this application, including:

   (a) That a wages gap exists between aged care workers and workers performing equivalent functions in the acute health sector;

   (b) That "providers, unions and the Australian Government must work together to improve pay for aged care workers";

   (c) That the Aged Care Application presently before FWC should not be confined to the Aged Care Award, but should encompass Awards covering aged care workers in nursing and home care;

   (d) That the chances of success of such an application are significantly increased if FWC is presented with an agreed position involving unions, employers and the principal funder, the Australian Government; and

   (e) That the reconstituted Aged Care Workforce Council will be well placed to encourage this cooperative approach.

8. In their correspondence and in their submissions, ANMF confirms it has written to the Chief Executive Officer of the Aged Care Workforce Council, requesting that it convene urgent collaboration between employers, Unions and the Australian Government in line the recommendation of the Royal Commission. UWU confirms it has sent similar correspondence to the Aged Care Workforce Council and is optimistic these discussions will ensue in April 2021.

9. In the ANMF submissions, ANMF also indicates that **"**subject to any collaboration with the Australian Government, employers and other employee organisations, the ANMF proposes to make an application under section 158 of the Act in respect of the *Aged Care Award 2010*, predicated on the Royal Commission's report, by 17 May 2021".

10. Accordingly, it appears possible that at a future time, the Commission may have before it:

(a) an application pursuant to section 158 in relation to the Aged Care Award, made by HSU and others (the Aged Care Award application);

(b) another application pursuant to section 158 in respect to the Aged Care Award, made by ANMF;

(c) an application pursuant to sections 158 and / or 302 in respect of the Nurses Award, made by ANMF (the Nurses Award application); and

(d) an application pursuant to sections 158 and / or 302 of the Act in respect of the SCHADs Award, made by UWU (the SCHADS application).

11. It is also likely that during in or about April 2021 a dialogue will occur between Unions, employers and Government in relation to the Aged Care application and the applications foreshadowed in relation to the other Awards, which would, if it occurs, be directly relevant to the matters raised by the Aged Care application.

12. On this basis UWU notes that:

(a) this outline of submissions is intended to be a brief outline of reasons for the UWU's support of the Aged Care Award application, and supplementary to the submissions filed by HSU;

(b) the lay witness statements filed by UWU together with this outline are intended to provide a sample of the matters which evidence the justification of the increases to minimum wages sought by the Aged Care Award application on work value grounds;

(c) given the likelihood of several other applications which relate to these matters, and collaborative discussions between Unions, employers and Government, it is possible UWU may seek leave to file further material in relation to the Aged Care Award application which may include or relate to:

(i) further matters relating to the necessity that the FWC make a determination varying the Aged Care Award to increase minimum wage rates in that Award, justified by work value reasons; and/or

(ii) the history and development of the Aged Care Award and the other Awards referred to; and/or

(iii) matters arising from the collaboration between Unions, employers and Government; and/or

(iv) the relativity, if any, between wage rates for work performed in the aged care sector under the Nurses Award, the SCHADS Award and the Aged Care Award; and/or

(v) similarities in work value with respect to work performed in the aged care sector under the Nurses Award, the SCHADS Award and the Aged Care Award; and/or

(vi) any other matter relevant to this application which arises from the impact of concurrent applications with respect to the other Awards referred to.

**INTRODUCTION**

13. The minimum wage rates provided for in the Aged Care Award are inadequate in that they do not reflect the nature of work, the level of skill and responsibility involved in the work and conditions under which the work is performed by aged care employees whose work falls within the coverage of the Aged Care Award.

14. The current minimum wage rates provided for in the Aged Care Award significantly undervalue the work of aged care employees. To rectify this undervaluation, the Award should be varied as follows:

(a) to provide for an increase to wages of 25 per cent for all classification levels in the Award; and

(b) a variation to the classification structure in Schedule B of the Award to provide for an additional pay level for personal care workers who have undertaken specialised training in a specific area of care and use those skills.

15. For the reasons that follow, these variations are:

(a) justified by work value reasons as per section 157(2)(a) of the Act; and

(b) necessary to make outside the four-year review process to achieve the modern awards objective as outlined in section 134 and as per section 157(2)(b) of the Act.

16. These variations to the Award will ensure its minimum rates and classification structure provides an appropriate standard of remuneration for aged care employees that accurately reflect the work they do.

**LEGISLATIVE FRAMEWORK**

17. UWU is entitled to represent the industrial interests of aged care employees working in residential aged care covered by the Aged Care Award. UWU is also entitled to represent the industrial interests of some aged care employees working in home care covered by the SCHADS Award and the Nurses Award.

18. In the *Re Four Yearly Review of Modern Award – Preliminary Jurisdictional Issues*[1] (***Jurisdictional Issues Decision***), the Full Bench made clear that if a party seeks a significant change to a provision in a modern award it must be supported by a submission which addresses the relevant legislative provisions and be accompanied by probative evidence properly directed to demonstrating the facts supporting the proposed variation.[2]

19. In determining whether FWC should make a determination to vary the Award under section 157(2) of the Act, it must be satisfied that:

    (a) the variation is justified by work value reasons;

    (b) it is necessary to make the variation outside the system of annual wage reviews to achieve the modern awards objective;

    (c) the varied minimum wages are necessary to achieve the modern awards objective; and

    (d) the variation is necessary to establish and maintain a safety net of fair minimum wages, taking into account the minimum wages objective.

## THE AGED CARE SECTOR AND THE WORK PERFORMED

20. The Aged Care Award covers work performed in Australia by employees working in the aged care industry, meaning work associated with the provision of accommodation and care services for aged persons in a hostel, nursing home, aged care independent living units, aged care serviced apartments, garden settlement, retirement village or any other residential accommodation facility.

21. Work performed by employees providing aged care to persons outside of a residential aged care facility, such as the provision of aged care in a person's home is not covered by the Aged Care Award.

22. The Aged Care Award provides for a classification structure at Schedule B of the Award. The conceptual structure of the classification structure describes work in three streams:

    (a) **General and administrative services**: such as cleaner, laundry worker, gardener, maintenance, receptionist, payroll clerk, interpreter

    (b) **Food services:** such as cook, chef; and

    (c) **Personal care**: personal care worker (**PCW**).

[1] [2014] FWC 1788.
[2] Ibid at [23].

23. Work covered by the Aged Care Award by people in roles such as those described in [22] includes:

    (a) assisting residents with personal care and hygiene, such as showering and dressing;

    (b) assisting residents with mobility;

    (c) assisting residents with feeding;

    (d) assisting residents with medication;

    (e) assisting with pressure area and skin care;

    (f) assisting residents with additional care needs such as those with dementia and / or in palliative care;

    (g) assisting with reablement and therapies;

    (h) assisting with assessments and care planning;

    (i) providing emotional and social support to residents;

    (j) monitoring/observation of resident behaviour and undertaking care documentation;

    (k) communicating with families about the status / welfare of the resident;

    (l) assisting with recreation and activities;

    (m) facility services, including cleaning, maintenance, repairs; and

    (n) preparing and cooking food; dispensing and serving food.

24. About 87 per cent of people employed in the aged care sector are women. The median age of workers employed in the industry is 46 years of age.[3]

25. About two thirds of people engaged in the aged care sector hold a certificate three qualification, or a higher qualification, such as a certificate IV in Ageing Support.[4]

**WORK VALUE REASONS**

26. 'Work value reasons' is defined at s 157(2A) FW Act as:

[3] Commonwealth of Australia as represented by the Department of Health, *2016 National Aged Care Workforce Census and Survey – The Aged Care Workforce, 2016,* March 2017, page 72 – 75.
[4] Ibid, page 79.

*"Work value reasons are reasons justifying the amount that employees should be paid for doing a particular kind of work, being reasons related to any of the following:*

*(a) the nature of the work;*

*(b) the level of skill or responsibility involved in doing the work;*

*(c) the conditions under which the work is done."*

27. The factors included in a 157(2A) are consistent with the historical considerations which have informed work value assessments by current and previous industrial tribunals that call for the exercise of broad judgement.[5]

28. In *Re Pharmacy Industry Award 2019*,[6] the Commission stated the following in relation to the 'work value reasons' in s 157(2A):

    (a) the definition of 'work value reasons' requires only that the reasons justifying the amount to be paid for a particular kind of work be 'related to any of the following matters set out in paragraphs (a)-(c);[7]

    (b) the Commission is to exercise a broad and relatively unconstrained judgment as to what may constitution work value reasons and is open to considerations which have been taken into account in previous work value cases under differing past statutory regimes;[8]

    (c) even if the jurisdictional prerequisites in s 157(2) are satisfied, it remains the case that the Commission must ensure that the inclusion of the varied minimum wages are necessary to achieve the modern awards objectives and the minimum wage objectives;[9]

    (d) assessing how work value ought to be assessed in monetary terms via making comparisons with other wages and work requirements within the award, and in other awards, provided such comparisons are fair, proper and reasonable in the circumstances;[10] and

    (e) the appropriateness of minimum pay alignments between the awards under consideration and the *Metal Industry Award* between classifications with equivalent training and qualification levels.[11]

[5] *Equal Remuneration Decision 2015* [2015] FWCFB 8200 at [280].
[6] [2018] FECFB 7621.
[7] Ibid at [165].
[8] Ibid at [167] – [168].
[9] Ibid at [169].
[10] Ibid at [160].
[11] Ibid at [161].

29. The variation sought by the Aged Care Award application with respect to modern award minimum wages is justified by reasons associated with the conditions under which the work is done (section 157(2A)(c):

    (a) Over recent decades the evolution of the Australian aged care system has resulted in a significant increase in the level of care (including complex care) required to be provided by people whose work is covered by the Aged Care Award;

    (b) Some of the drivers of this evolution include matters such as:

        (i) the provision of more intensive care service for older people in home and the increase of support available in the community;

        (ii) an attempt to provide older Australians with opportunities to remain in one location as their care needs increase – to 'age in place';

        (iii) an increase in the age of aged care residential care residents.

    (c) As a result, a higher proportion of aged care residents present with acute care needs. The recent Final Report of the Royal Commission found:

        *"With the increase in the availability of support in the community, the average frailty of people receiving permanent residential aged care has increased significantly in recent years. Since 2009, the proportion of people with high care needs has generally increased in each care domain under the Aged Care Funding Instrument. The biggest overall change was in complex health care, which rose from 13% in 2009 to 61% in 2016, and then fell to 52% in 2019. This fall followed changes to the rating method for complex health care that applied from January 2017.143 In 2019, some 31% of permanent residents were classified as having the highest care needs in all three care domains: activities of daily living, cognition and behaviour, and complex health care. Some 85% of all permanent residents were classified as having the highest care needs in at least one of the three care domains."*[12]

    (d) This significant increase in the complex care needs of residents of aged care facilities (around a four-fold increase in just over a decade) has transformed the conditions under which work which is covered by the Aged Care Award is performed across all areas of the Award's coverage.

30. The variation sought by the Aged Care Award application with respect to modern award minimum wages is justified by reasons associated with the nature of the work (section 157(2A)(a)) including as follows:

[12] Royal Commission into Aged Care Quality and Safety, *Final Report: Care Dignity and Respect*, "Volume 2 (The Current System)", page 22.

(a) People whose work is covered by the Aged Care Award are expected to respond to more acute care needs by adopting and applying philosophies such as reablement, the household model of care, resident-choice centred care - which is a definable change in the nature of the work;

(b) Changes in workplace structure mean that people whose work is covered by the Aged Care Award are likely to be working in an environment where there is less medical expertise on site – in the form of Doctors or nurses –to assist if necessary, at the same time as residents are presenting with relatively higher caring and medical needs;[13]

(c) Corporate changes, and changes in workplace structure in the aged care sector have also resulted in a reduction in the ratio of staff to residents, resulting in more challenging workloads and environmental stress;

(d) The changes mentioned in (b) mean people whose work is covered by the Aged Care Award are more likely to be involved in the dispensation of medicine and medical attention than was the case in the past;

(e) Changes in the regulatory environment, such as the updated Aged Care Quality Standards have resulted in significant changes in the manner in which an approved aged care provider facility must be administered, and persons whose employment is covered by the Aged Care Award now work within the environment of that higher level regulatory environment; and

(f) There is a growing reliance on new technology in the delivery of aged care, and people whose employment is covered by the Aged Care Award are required to navigate that technology in the course of their work. Many providers are now using electronic clinical systems which monitor clinical needs, electronic care plans, digital record access technology, Telehealth and Telecare, electronic surveillance and emergency alert devices as well as electronic administrative systems such as payroll and financial accounting systems. Technological advances have also meant that more complex and advanced mobility equipment is also a key feature of the work environment.

31. The variation sought by the Aged Care Award application with respect to modern award minimum wages is justified by reasons associated with the level of skill or responsibility involved in performing the work (section 157(2A)(b) including as follows:

(a) The evolution of the sector (see [29] above) in recent decades means the skill and responsibility associated with work performed by people whose work is covered by the Aged Care Award has enhanced to include:

[13] https://agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-executive-summary.pdf page 63.

(i) practical skills associated with providing care to residents presenting with acute needs, such as those associated with providing assistance with personal care and hygiene, mobility, feeding and reablement, recreation;

(ii) work process skills associated with providing care to residents with acute needs, including interacting and relating, communicating verbally & non-verbally, negotiating boundaries, connecting across cultures, monitoring and guiding reactions, and effectively judging impacts of actions;

(iii) social and work process skills such as those associated with providing emotional and social support to residents with acute needs;

(iv) skills associated with greater responsibility for assessing and responding to medical needs and the dispensation of medication;

(v) skills associated with providing care to residents presenting with specialist care needs, such as dementia and palliative care;

(vi) skills associated with communicating effectively with families about the status or welfare of the residents, including cross cultural communication;

(vii) skills associated with dealing with new technology;

(viii) skills associated with dealing with a more complex regulatory environment; and

(ix) the rapid mobilisation and deployment of complex combinations of the above skills throughout the workday to respond to changing resident needs.

(b) Work performed within the coverage of the Aged Care Award involves a high degree of what FWC described in the Equal Remuneration Case as "caring work"[14] - skills that can also be described as "social and work process skills".

(i) In the *ERO Decision* FWC found that "the characterisation of work as caring work can disguise the level of skill and experience required and contribute, in a general sense, to a devaluing of the work", and "because caring work in this context has a female characterisation, to the extent that work in the industry is undervalued because it is caring work, the undervaluation is gender-based."; and

(ii) Precisely the same thing can be said in relation to aged care.

(c) These considerations are relevant to an application made pursuant to section 157(2) and should be given regard to.[15]

[14] *Equal Remuneration Case* [2011] FWAFB 2700 at [253].
[15] *ERO Decision 2015* at [292].

**THE MODERN AWARDS OBJECTIVE**

32. The Modern Awards Objective is set out at section 134(1) of the Act:

> *(a) relative living standards and the needs of the low paid; and*
>
> *(b) the need to encourage collective bargaining; and*
>
> *(c) the need to promote social inclusion through increased workforce participation; and*
>
> *(d) the need to promote flexible modern work practices and the efficient and productive performance of work; and*
>
> *(da) the need to provide additional remuneration for:*
>
> *i. employees working overtime; or*
>
> *ii. employees working unsocial, irregular or unpredictable hours; or*
>
> *iii. employees working on weekends or public holidays; or*
>
> *iv. employees working shifts; and*
>
> *(e) the principle of equal remuneration for work of equal or comparable value; and*
>
> *(f) the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and*
>
> *(g) the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and*
>
> *(h) the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy*

33. In the *Jurisdictional Issues Decision*, the Full Bench considered the relevance of section 134 of the Act and stated:

> *"No particular primacy is attached to any of the s 134 considerations and not all of the matters identified will necessarily be relevant in the context of a particular proposal to vary a modern award."*[16]

34. In addition, the Full Bench indicated that:

[16] [2014] FWC 1788 at [32].

*"…the Commission's task is to balance the various considerations and ensure that modern awards, together with the NES, provide a fair and relevant minimum safety net of terms and conditions."*[17]

35. The Full Bench in *4 yearly review of modern awards – Real Estate Industry Award 2010* found that where the wage rates in modern awards have not previously been the subject of a proper work value consideration, there can be no implicit assumption that at the time the award was made its wage rates were consistent with the modern award objectives.[18]

36. The factors set out in section 134 of the Act weigh substantially in favour of the need to increase minimum wages in the Aged Care Award, to ensure a fair and relevant minimum safety net of terms and conditions:

    (a) It is likely workers covered by the Aged Care Award are "low paid" and experience relative living standards aligned to low remuneration[19]. The increase of minimum wage rates in the Aged Care Award would improve the living standards of the low paid;

    (b) There are significant challenges in the aged care sector in relation to enterprise bargaining[20]. The increases sought in Award minimum wages would encourage collective bargaining in the sector, because a fairer and more relevant safety net would provide industrial parties with a realistic basis from which to engage in collective bargaining around productivity and quality service delivery and improvements in conditions of employment;

    (c) An increase in minimum wages in this sector would increase workforce participation in a sector where workforce retention is a significant issue (such issue being one of significant societal importance in an essential industry in a community with an aging population);

    (d) An increase in minimum wages in this sector would promote the efficient and productive performance of work. Work in this sector is emotionally and physically challenging, but it is low paid. It is only logical that low wages results in low productivity within such a challenging environment and wage rates which properly reflect the value of the work would improve job satisfaction and productivity;

    (e) The workforce in aged care is a predominantly feminised workforce and the work is afflicted by a traditional undervaluation, contributed to by the undervaluation of what is sometimes described as "caring work", and the exercise of social and work process skills such as those associated with providing emotional and social support to residents with acute needs. An

[17] Ibid at [33].
[18] [2017] FWCFB 3543 at [80].
[19] See *United Voice; The Australian Workers' Union of Employees, Queensland* [2011] FWAFC 2633.
[20] Ibid at [21] – [22].

increase in minimum wages in the Aged Care Award is consistent with the principle of equal remuneration for work of equal or comparable value; and

(f) Paying workers who are engaged in the care and welfare of the elderly, in community with an aging population will have significant societal and economic benefits.

**THE MINIMUM WAGES OBJECTIVE**

37. When setting, varying or revoking a modern award minimum wages, FWC is also required to take into account the minimum wages objective as outlined in section 284 of the Act in the following terms:

> *(1) The FWC must establish and maintain a safety net of fair minimum wages, taking into account:*
>
> *(a) the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth; and*
>
> *(b) promoting social inclusion through increased workforce participation; and*
>
> *(c) relative living standards and the needs of the low paid; and*
>
> *(d) the principle of equal remuneration for work of equal or comparable value; and*
>
> *(e) providing a comprehensive range of fair minimum wages to junior employees, employees to whom training arrangements apply and employees with a disability.*
>
> *This is the **minimum wage objective**.*

38. Section 284(2) of the Act sets out when the minimum wages objective applies:

> *(2) The minimum wages objective applies to the performance or exercise of:*
>
> *(a) the FWC's functions or powers under this Part; and*
>
> *(b) the FWC's functions or powers under Part 2-3, so far as they relate to setting, varying or revoking modern award minimum wages.*
>
> *Note: The FWC must also take into account the objects of this Act and any other applicable provisions. For example, if the FWC is setting, varying or revoking modern award minimum wages, the modern awards objective also applies (see section 134).*[21]

[21] Section 284(2) of the Act.

39. The meaning of the modern award minimum wages is defined at s 284(3) of the Act:

*"Meaning of modern award minimum wages*

*(3) Modern award minimum wages are the rates of minimum wages in modern awards, including:*

*(a) wage rates for junior employees, employees to whom training arrangements apply and employees with a disability; and*

*(b) casual loadings; and*

*(c) piece rates.*

40. The Act also defines the meaning of setting and varying modern award minimum wages at section 284(4):

*(4) Setting modern award minimum wages is the initial setting of one or more new modern award minimum wages in a modern award, either in the award as originally made or by a later variation of the award. Varying modern award minimum wages is varying the current rate of one or more modern award minimum wages.*

41. The underlying feature of the minimum wages objective is the requirement to establish and maintain a safety net of fair minimum wages. As highlighted by FWC in the *Equal Remuneration Order* (**ERO Decision**):[22]

*"We consider, in the context of modern awards establishing minimum rates for various classifications differentiated by occupation, trade, calling, skill and/or experience, that a necessary element of the statutory requirement for 'fair minimum wages' is that the level of those wages bears a proper relationship to the value of the work performed by the workers in question.*[23]*"*

42. The modern awards regime in the Act involves the establishment of minimum wages which account for the work value reasons. If it is considered that the minimum rates in any modern award does not properly take into account the value of the work performance then an application may be made to the Commission in the circumstances prescribed under section157 of the Act.

43. The variation sought to increase minimum wages under the Aged Care Award is consistent with the minimum wage objective, based particularly on the matters submitted above in [29] – [31] and [36].

**UNITED WORKERS UNION**

**1 APRIL 2021**

[22] *Equal Remuneration Order* [2015] FWCFB 8200.
[23] Ibid at [272].

**STATEMENT OF JUDETH ANNE CLARKE**

I, Judeth Anne Clarke, of [redacted], say as follows:

1. I make this statement from my own knowledge, save where otherwise indicated. Where I refer to matters within this statement on the basis of information and belief, I identify the source of that information and believe those matters to be true.

2. I commenced work as a Personal Care Worker (**PCW**) in aged care when I was 15 years old.

3. I completed a Certificate III in Aged Care in the 1990s, and an Advanced Practices Certificate (which includes medical competency training) in the early 2000s.

4. In the 48 years that I have worked in the aged care industry, I have worked in both residential and home care.

5. I have worked for a number of aged care providers in Western Australia, including Tuohy Hospital (Midland), Aegis (Shoalwater), Silver Chain and Best West.

6. For the last 7 years I have been employed as a PCW at Baptistcare. At present, I am on a 3-month secondment to United Workers' Union, working as a Member Organiser. I will return to my PCW role at Baptistcare on 28 May 2021.

7. I am employed on a part-time basis, and usually work 33 hours per fortnight.

8. I receive $25 per hour. This is the highest pay grade for a PCW at Baptistcare.

9. In my role as a PCW at Baptistcare, I work predominantly afternoon shifts, between 2.45pm and 10.15pm in a locked dementia wing. The wing houses 10 female residents.

10. I work alone for some of the afternoon shift. A second PCW is usually rostered to work with me between 3pm and 8pm.

11. My care duties in my current role include:

    assisting residents to get up after their afternoon rest; toileting residents; serving meals and beverages; feeding residents; cleaning up the kitchen area (the locked dementia ward has its own kitchen, with no dedicated kitchen staff); keeping residents occupied with activities and entertainment (including television, knitting, colouring in, and hair and nail treatments); managing behaviours (for example when residents become violent or distressed); changing residents; showering and washing residents; preparing residents for and assisting them into bed; checking residents' medications and ensuring that they receive them); monitoring residents for skin wounds, lesions and bruises and reporting these to the RN/EN where necessary; turning some residents at 2-hourly intervals; re-settling residents when they wake up during the night, and when they are distressed, crying, or in need of support.

12. In order to be an aged care worker, you have to have empathy and you have to care. I don't believe that you can learn these qualities in online training. Carers need to be able to discern

[redacted]

residents' needs, especially when those needs cannot be communicated by the resident or their family. Carers have to be attentive not just to residents' physical needs but also their emotional needs. When a resident is distressed, you have to be able to work out what is causing them distress and know how to alleviate it. Caring is physically and emotionally draining work. Not everyone is able to do it.

13. In addition to caring duties, I am also required to complete various paperwork during my shifts, including Activities of Daily Living (**ADL**) Sheets, Bell Charts and Progress Notes. This paperwork is onerous, and often comes at the expense of personal care. However, it is essential that it be completed in order that my employer receive funding.

*Changes in the industry over time*

14. In my 48 years' working in the industry, I have seen little, if any, real improvement in the wages of PCWs. When I started at aged 15, I was paid between $1.50 and $2.00 an hour. In the 48 years since, my wage has risen to $25 per hour. I believe that this increase is modest compared with the sorts of increases that people in other industries have received.

15. There are now fewer carers on the floor than there were when I started work in the industry. For example, in my current role, I often work alone in the dementia ward. This would not have happened when I started in the industry, when there would always have been at least 2 carers on shift at all times in a 10-resident dementia ward.

16. Over the years, I have noticed that residents are entering care with higher needs and therefore requiring higher levels of care than in the past. For example, many residents aren't able to walk when they enter care. Some come in in an ambulance. In the past, most residents had the ability to walk when they entered care.

17. There are now fewer nurses on shift than there used to be. At the facility where I work, there is usually 1 RN and 1 EN rostered on at any one time, for 98 residents. When we need nursing assistance (for example when a resident needs a sedative, or wound care), we have to call the RN. It can take some time to get nursing assistance. In my experience, we have to call the RN at least once every afternoon shift. If the RN can't attend, the EN will come, but sometimes we have to wait as the nursing staff are in high demand and often run off their feet. The reduction in nursing staff over time has meant that carers have had to take on additional duties which, in the past, were performed only by nurses.

*How my role and work has changed over time*

*Medications and wound care*

18. When I started working as a PCW, carers were not involved in administering medications. That was always done by the nurses. Now, since around the early 2000s, many carers are required to do medication competency and administer medications.

19. Medication errors are not uncommon. Sometimes, the pharmacists will make errors when making up the Webster packs. For this reason, PCWs always have to check the contents of the Webster packs against the medications list before giving them to the resident.

[redacted]

20. Carers make medication errors too. When this happens, it is usually because the carer has become distracted by another task. Initially when we started doing medications, one carer would be assigned to the medication round and that was all they would do for the entire shift. They would have such a large round that once they completed it the first time, they would be due to start the next medication round. They did not have to alternate between doing medications and doing other tasks on one shift.

21. These days, carers do shorter medication rounds and return to the floor afterwards. This means that while they're doing the medication rounds, they might be interrupted by a resident who needs to be toileted, has a fall, or needs some other form of support, if there is no other carer on shift to attend to that immediate need. In my experience, this can lead to errors when carers forget where they were up to with the medications, and to whom they gave what, if the carer hasn't had time to document events before the interruption.

22. Nowadays, carers also have to monitor residents with respect to their medications, whereas in the past this would have been done by the RN or EN. For example, when a resident is put on a new antibiotic, we have to monitor them and notify the RN if they have an adverse reaction to the new medication.

23. Because there are not ENs and RNs always available, carers have to monitor residents' wounds and check for skin lesions and bruising, and report this to ENs and RNs where necessary.

*Reablement work*

24. Residents are now entering care with higher physical needs, which means that carers can be required to do more reablement work than in the past. For example, in my facility we now provide heat packs, gentle massage, and movement exercises to residents, under the guidance of the physiotherapist. In the past, this work would have been done by the physiotherapists themselves.

*Technological advancements*

25. We are seeing more obese residents in care, which presents issues with respect to lifting and moving them. Nowadays, we have various aides and equipment to help with this, such that it requires less 'people power' to lift and move residents. However, the equipment is expensive and therefore limited in number. For example, our facility has one hoist between 48 residents. The hoist is not always available when you need it. Also, equipment wears out quickly due to regular use, and it is not always promptly repaired or maintained, for reasons of cost. This presents significant problems when a hoist is broken or unavailable and there are not enough staff to lift a resident who requires lifting. Even with the assistance of aides, it is not uncommon for PCWs to sustain back, shoulder, leg, feet and knee injuries in the course of their work.

26. Increasingly, carers are being asked to complete training online whereas, in the past, such training would have been delivered face-to-face. This presents problems for carers who don't have good computer skills, as the employer typically doesn't provide training in relation to this.

27. On the whole, I think that personal care work has become more demanding since I started doing it 48 years ago. These days, carers are required to have a broader range of skills and to perform tasks which in the past would have been performed by other health care workers, such as nurses and physiotherapists. Although there have been technological advancements in relation to how care is delivered, this has not always resulted in less work for care workers.

Signed by Judeth Anne Clarke, 29 March 2021

**FAIR WORK COMMISSION**
**MATTER No. AM2020/99**
**S 158 – APPLICATION TO VARY OR REVOKE A MODERN AWARD (AGED CARE AWARD 2010)**

## WITNESS STATEMENT – GERONIMA ORTILLANO BOWERS

I, Geronima Ortillano Bowers, [redacted], personal care worker, state as follows:

1. I am a member of the United Workers' Union.

2. I make this statement from my own knowledge, save where otherwise indicated. Where I refer to matters within this statement on the basis of information and belief, I identify the source of that information and believe those matters to be true.

### Personal Information

3. My date of birth is [redacted].

4. I live with my daughter who is 13 years old and dependent on me.

### Employment History

5. I have over 15 years' experience in the aged care industry across Australia.

6. I began working in aged care in 2006 for the Brightwater Care Group which is one of the leading aged care agencies in Perth, Western Australia.

7. When I began working for Brightwater Care Group, I was employed in hospitality services and would do things like preparing meals and drinks for the residents at the residential home. I worked in hospitality services for about one year.

8. After about one year in hospitality services, I moved into the personal care worker role and was earning about $19 an hour in 2007. Since then, I have worked as a personal care worker for Brightwater Care Group.


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9. I am permanent part-time and work 72 hours a fortnight. My work pattern is usually 10 shifts a fortnight with both afternoon and day shifts. I cannot work night shift because I must care for my daughter and I also work weekends to get the extra money.

10. I have another job with a disability support provider that operates a residential house for teenagers with disabilities. I work about five shifts a week with the disability provider when I am off shift from Brightwater Care Group. I balance the two jobs to provide for my daughter.

11. In my role as a personal care worker with Brightwater Care Group, I earn $25.58 per hour.

12. At Brightwater Care Group I work in the Acute Dementia Ward. There are about 20 residents who all have acute dementia in the ward and usually there are three personal care workers in the ward.

13. My duties change depending on the client, but it usually includes a combination of:

- personal care which covers tasks such as showering, dressing, toileting, wound care and hygiene;
- medicine administration which involves making sure clients receive the correct medication at the right times from their Webster Packs;
- companionship which involves providing company to clients at all hours of the day and night; and
- various administration such as paperwork during shifts to monitor the client and make sure everything is in order as in many cases there will be multiple personal care workers who work with the same client at different times and days of the week.

14. The interpersonal skills required to be a personal care worker are very high. Interpersonal skills like empathy, strong communication with a variety of personalities, positive mental attribute, time management and the ability to handle criticism. Without

a high level of interpersonal skills and the ability to communicate and support residents who needs a variety of levels of care, you cannot work in aged care. To me, this is the most undervalued part of my job.

**Qualifications**

15. I have a Certificate III and IV in Ageing Support, I have had these Certificates since I started working in aged care in 2006.

16. At Brightwater Care Group, we get refresh training every 6 months or so on topics like manual handling, elder abuse and COVID-19 measures. I do not think there is enough training for how to manage residents with serious health illnesses. The personal care workers are just expected to learn what works and what does not work with residents as you do the job. This is why all the job advertisements state the applicant must have previous experience in the aged care industry.

**Changes in my Role Over Time**

*Staffing Levels*

17. The nature of aged care has changed significantly since I joined the workforce in 2006. The main reason for this is the change in the types of elderly people that enter aged care and the expectation of personal care workers.

18. In the past, aged care homes had a variety of residents who needed all different types of care from low care to high care. This has slowly changed over my career to where now people who would have in the past gone into aged care are staying at home for longer and the elderly that go into aged care are older and have serious mental and physical issues. Nearly half of all residents in aged care have serious health or behavioural condition like dementia and depression.

19. Trying to care for residents with these kinds of conditions means you need to have a team of healthcare workers like doctors, nurses and personal care workers. However, the reality is that many aged care providers are short staffed, and they try to make up the staff shortage by hiring more personal care workers who are not properly qualified to take care of residents with such serious illnesses on a 24-hours a day basis. This

means that personal care workers are doing more than ever to assist and support aged care residents who have higher needs than ever before.

20. In my residential home, there are usually three or four nurses on shift for over 145 residents. There used to be many more nurses in the residential home but over time they have been replaced by more personal care workers because it is cheaper.

*Working with Dementia*

21. I work in the Acute Dementia Ward so I only care for residents with dementia.

22. When I started in the aged care industry, there were far less residents with serious physical and mental illnesses. Now, there are entire wards for residents with dementia and many personal care workers like me only work with residents who have dementia.

23. There is usually no specialised training for personal care workers who work with serious mental health conditions like dementia, we are allocated to specific wards based on staffing allocation not any specialised training or preference.

24. Working with dementia is very difficult both mentally and physically. Residents with dementia have much higher care needs, for example:

- they experience quick behavioural changes;
- tend to break things unintentionally;
- go into different rooms thinking it's their own by accident;
- fighting with other residents because they are confused and scared; and
- higher mobility needs.

25. I must always be on high alert so that residents are safe and not hurting themselves on top of all the other personal care work we are expected to do like showering and toileting which is more difficult and takes longer to do with dementia residents.

26. Although I do not have any specific qualifications to care for residents with dementia, I am expected to understand the disorder and know how to communicate with residents with dementia.

27. It is made harder when we are constantly understaffed and are expected to just cover the job of staff who are on leave. What this means is we must do more in less time, which negatively impacts on the residents because we are in such a rush to get everything done that the quality of care is impacted. For example, the other day I was leaving work at the end of my shift and went to say goodbye to some of the residents, one of the residents started crying and asked if I could stay back a little longer just to have a chat because the personal care workers were so busy that no one had properly spoken to him all day.

*Medication administration*

28. When I started in the aged care industry, we were not directed to administer medicine and we began administering medication in the early 2000s.

29. We are trained by nurses on how to administer medication to the residents. However, the training is always rushed and the personal care workers never feel confident or safe when administering medication. We are all scared because if something goes wrong we get in trouble and get formal warnings.

30. Administering medication for residents with dementia is much harder than other residents because:

- it takes about twice as long to administer medicine to residents with dementia;
- I must explain why we are administering the medication and explain the different types of medicines; and
- residents with dementia can get aggressive and refuse to take the required medicine.

*Technology*

31. We are now expected to use more technology than ever before as part of our jobs.

32. Personal care workers are directed to complete all the training refreshers online whereas in the past they were all taught in person by nurses in the residential aged care home. Many personal care workers are not good with technology, so the online training is very difficult because we are unable to ask questions and try the techniques being taught during the training course.

33. Our employer use iPads to record all the medical information on residents and what medicines they need. For example, when we are doing medicine administration, we use the iPads to check the file on each resident and what medicines they need to take and when we need to administer it. We take the iPads around to each room when we are administering medicine.

34. We also must know how to use computers for things like emails and filing out incident reports online when things go wrong.

*Reablement*

35. Reablement is a planned approach for residents that aims to help them re-establish daily living skills. Like I mentioned earlier, residents are now entering residential homes with higher physical and mental needs which means we must do more reablement work with the residents.

36. In my ward, the kind of reablement work we do with residents includes teaching them how to use cutlery properly, how to eat their meals without assistance and use the toilet independently.

37. Overall, I think the role of personal care workers has increased significantly since I joined the industry 15 years ago. Personal care workers are expected to take on more duties and responsibilities which they are not properly trained to do with more residents and less guidance than ever before.

**Geronima Ortillano Bowers**

**1 April 2021**

**FAIR WORK COMMISSION**
**MATTER No. AM2020/99**
**S 158 – APPLICATION TO VARY OR REVOKE A MODERN AWARD (AGED CARE AWARD 2010)**

# WITNESS STATEMENT – TRACEY ANNE COLBERT

I, Tracey Anne Colbert, [redacted], state as follows:

1. I am a member of the United Workers' Union.

2. I make this statement from my own knowledge, save where otherwise indicated. Where I refer to matters within this statement on the basis of information and belief, I identify the source of that information and believe those matters to be true.

## Personal Information

3. My date of birth is [redacted]

4. I live in a rental property with my husband who works in a factory, our 26-year-old daughter and her partner.

5. Both my daughter and her partner are dependent on my husband and me.

## Work History

6. I have over 14 years' experience in the aged care industry.

7. I began working in aged care in or around 2007 for ECH Aged Care as a Food Services Assistant. ECH Aged Care is one of the largest not-for-profit providers of aged care services in Australia.

8. Allity Aged Care bought out the residential home I work at about 5 years ago. Allity Aged Care has about 50 residential aged care facilities across Australia.


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| DOCKLANDS VIC 3008 | | |

9. I have stayed employed by Allity Aged Care in the same residential home as a Food Services Assistant.

10. I am currently a permanent part-time employee and work 76 hours (9 day shifts and 2 night shifts) a fortnight.

11. Allity Aged Care has an enterprise agreement, *Allity Enterprise Agreement (South Australia) 2018.* Under the agreement, I am classified as a 'Hospitality Services Level 2' and get paid $22.86 per hour.

12. A typical day at work for me includes:

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| 6:50am | • I always get to work early so the morning rush is not as bad.<br>• My day starts with going to the main industrial kitchen to get all the food and drink needed for the day so that I can take it back to my smaller satellite kitchen in the ward I take care of which has about 42 to 50 residents. I am the only Food Services Assistant for all the residents in the ward. |
| 7:00am – 8:10am | • I unload the trolley from the industrial kitchen and start preparing for breakfast. Breakfast involves meals like porridge, eggs and toast with tea or coffee.<br>• Each meal is different depending on the dietary needs of the residents.<br>• Once I have prepared the meals for the residents, I put the meals in trolleys outside of the kitchen for the personal care workers to hand out to the residents themselves. |
| 8:10am – 9:30am | • I clean the kitchen from the breakfast session.<br>• My next job is to prepare the different jugs of fluid for the residents as they all get their own jug depending on their dietary requirements. The usual types of jugs are:<br>o Water; |

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| | ○ Thickened fluid for residents who cannot shallow water or have a serious mental health condition like dementia; or<br>○ Fluid restrictions for medical reasons which are labelled on the jug.<br>• A recent change to my role is that I now must deliver the jugs to residents myself because it is important not to mix them up. My employer decided it was easier if the food services assistants delivered the jugs to take the personal care workers out of the situation. If we accidentally mix up the jugs it can have serious consequences for the residents and even ourselves because we are given formal warnings which can lead to dismissals. |
| 9:30am – 10:00am | • The trolleys from breakfast come back to the kitchen and I must clean everything on the trolleys like the cutlery and plates and then replace them with clean ones. |
| 10:00am – 10:30am | • I prepare morning tea which includes tea or coffee and a biscuit or cake for each resident. |
| 11:00am – 11:30am | • I take my lunch break at this time but usually because of something going wrong in the morning or taking longer than it should, like a resident dropping their food or a staff member being off on sick leave, I must work into my lunch break to make up for the lost time. |
| 11:30am – 12:00pm | • I start preparing for lunch which includes texture-modified meals for residents with chewing and swallowing difficulties, fluids and desserts which must be ready to go out to residents by 12:00pm.<br>• The dining room is full of residents and the personal care workers serve it to the residents. |
| 12:00pm – 12:30pm | • Lunch is served to residents and I help to make sure everyone is happy and gets the right meals. |

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| 12:30pm – 1:30pm | • After lunch I must stack all the trays in the trolleys, clean up the dining room and wash all the dishes from lunch. |
| 1:30pm – 2:00pm | • I take all the dishes back to the industrial kitchen and restock the food and drinks.<br>• If I have time, I try to take a 10-minute break after lunch. |
| 2:30pm – 3:00pm | • I start preparing for afternoon tea which includes a cake or biscuit with a drink like tea, coffee or a milkshake. The milkshake is for residents who have dietary issues and need more energy and protein.<br>• I must hand out the afternoon tea to residents myself because of the drinks just like with morning tea.<br>• I also must pick up all the cups and plates to clean in the kitchen. |
| 3:15pm | • The end of the day shift. |

13. The only difference between the day shift and night shift is that on night shift you must also mop and sweep the kitchen and dining room on your own.

14. During the shift I do a lot of paperwork, for example:

- probe all the hot food that goes to residents with a thermometer and write the temperature in a folder;
- write down the temperature of the dishwasher, fridge and freezer at different times in the day;
- write down all the cleaning tasks I have done for example that I have washed all the tablecloths and wiped down all the benches; and
- make sure all the stock levels are up to date.

15. The paperwork goes in a folder and at the end of each shift my supervisor checks the folder to make sure I have done everything correctly. If anything is out of order or I miss something, I can get a formal warning or be dismissed.

16. I also must use different technology during my shift like KRONOS to access my payslips and request leave, a separate mobile phone application for shift swaps and recently we have had to record our temperatures for COVID-19 in another application on my personal mobile.

**Qualifications**

17. I do not have any formal qualifications like a Certificate in Food Processing or Food Handling.

18. With Allity, you do not need a Certificate unless you are a Hospitality Services Level 4 which is a Hospitality Coordinator, Team Leader or Cook. I think that is the same under the *Aged Care Award 2010*.

**Changes in my Role Over Time**

19. The main ways my job has changed since I started working in the aged care industry are that I now must not only prepare but also hand out the jugs to residents, the increasing requirements and dietary needs of residents and the changes in the quality and variety of meals we are expected to prepare.

20. In the past, we would only have to prepare food and drinks and the personal care workers would give the meals to the residents. This was much easier because we did not have to give the meals to residents directly and only had to prepare them the right way. Now we must provide more and more of the drinks and meals to residents because personal care workers do not want the responsibility and risks that come with it. This means that not only do we have to prepare the meals correctly in line with the residents' dietary plans, but we also must deliver them to the residents in the same amount of time as when we were only preparing the meals. It obviously leads to a lot more stress and if we accidentally mix up the meals we are subject to disciplinary warnings and even dismissal.

21. Another issue with now having to deliver the meals is that we must interact with the residents much more than ever before. In the past when we were just making meals and cleaning up, we would have little interaction with the residents and could just focus on our job because the personal care workers delivered the meals and are trained to interact with the residents. I must now interact with 40 to 50 residents multiple times a day and it is never as simple as just putting their meals next to them and moving on to the next resident. The residents always want to chat because they are very lonely and have mental health issues, some complain about their meals and even complain about their health issues to me. This makes my job much harder and impacts me emotionally because many of the residents are severely unwell and lonely. Even though I am not trained the same way as a personal care worker to handle and support the residents, I am expected to use my interpersonal skills to communicate and relate to a variety of low-care and high-care residents who have serious mental issues like dementia and depression.

22. In the past, residential aged care homes had a variety of residents who needed different types of care. This has slowly changed over my career where now most residents in aged care all require a very high level of care because they have serious mental and physical health issues. When residents have serious mental and physical issues, they need more specific dietary plans which include personal choice diets and medically prescribed diets to manage specific food allergies or swallowing difficulties. This means that I must now make more resident-specific meals and drinks which take longer to prepare and I must be much more careful about cross-contamination issues which can lead to more stress and even less time to do everything else.

23. Over my career, my role as a food services assistant has changed from only preparing meals in the kitchen to now having to provide the meals and communicate with the residents not only about the meals but a whole range of issues from health to loneliness. Food services assistants are always doing more and more additional duties and I think we will be expected to do even more work with the residents as time goes on. The role is becoming more and more like the role of a personal care worker.

**TRACEY ANNE COLBERT**

**31 March 2021**

**FAIR WORK COMMISSION**
**MATTER No. AM2020/99**
**S 158 – APPLICATION TO VARY OR REVOKE A MODERN AWARD (AGED CARE AWARD 2010)**

## WITNESS STATEMENT OF SANDRA KIM HAFNAGEL

I, Sandra Kim Hufnagel, [redacted], United Workers' Union - Aged Care Organiser, state as follows:

1. I am a member of the United Workers' Union.

2. I make this statement from my own knowledge, save where otherwise indicated. Where I refer to matters within this statement on the basis of information and belief, I identify the source of that information and believe those matters to be true.

**Personal Information**

3. My date of birth is [redacted]

4. I have been a widow since 2010.

5. I began working in the aged care industry in or about 1989.

6. I worked in the industry for 4 years, up until around 1993, when my husband passed away.

7. In or about 1993, I started a business in another industry until around 2010, after which I returned to working in the aged care sector.

8. I have over 15 years of service in the industry.

9. I left my employment as a personal care worker (**PCW**) in community care with PresCare on 3 March 2021, after more than 10 years' service.


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**Education, Training and Qualifications**

10. When I commenced work as a Personal Carer with Logan Nursing home in 1989, there was no formal qualification. My skills and training were acquired in-house.

11. In 2010, I completed a Certificate III in Aged Care through the Royal College of Health, Sunnybank Hills, while undertaking a work placement with the Wishart Nursing Home.

**Employment History**

1989 to 1993

12. From 1989 to 1993, I worked as a Personal Carer for Logan Nursing Home. My duties included:

- making beds;
- feeding residents;
- showering residents / bed baths (top and tail);
- assisting residents to wash hair, dry, get dressed & undressed;
- emptying bed pans and sputum mugs;
- assisting with toileting;
- emptying commodes;
- turning patients - 2 hourly turns (bed sore prevention);
- assist in transporting residents via walker or wheelchair to meals and return to rooms;
- removing ‘urodomes’ from male residents in the morning, prior to showering;
- completing paperwork (progress notes, bowel movement records etc); and
- administering suppositories.

1993 – 2010

13. During the period 1993 to 2010, my husband passed away and I started a business in another industry.

2010

14. In 2010, I returned to working in the aged care industry and gained a Certificate III in Aged Care while on placement with Wishart Nursing Home.

2010 – 2021

15. From 7 September 2010 to 3 March 2021, I worked as a PCW in community care (going to the homes of clients) for PresCare in Brisbane. My duties included:

- administering medication;
- showering clients;
- meal preparation;
- feeding clients;
- shopping;
- transporting clients (to and from medical appointments – anywhere the client needed to go);
- domestic duties (cleaning – vacuuming, mopping, dusting, washing up, washing, folding, ironing, unpacking and putting shopping away);
- gardening;
- teaching & assisting clients to use mobile phones & computers;
- personal care (including hairdressing – especially during covid-19 lockdowns, nail painting etc);
- taking clients for walks (in wheelchairs or walkers);

- buying household items (mobile phones, clothing, mattresses, appliances etc);
- mentoring;
- counselling when needed (depressed clients with no family required extra support);
- putting rubbish bins out for collection and returning empty bins;
- documentation management – including completing progress notes, medication records and dietary records – as per care plan; and
- reading books to clients.

**Changes in the work and the industry**

Certificate III in Aged Care

16. In or about 2010 when I returned to the Aged Care sector, a new requirement had been introduced for PCWs to hold a Certificate III in Aged Care.

First Aid and CPR Certificates & Police Check

17. Prior to 2010 (before I started with Wishart Nursing Home) I did not require a First Aid and CPR Certificate, or a Police Check.

18. It is now a requirement for Aged Care workers to attain and hold:

- a First Aid Certificate – which is required to be renewed every three years;
- a CPR Certificate – which is required to be renewed annually; and
- a Police Check – which is required to be renewed every three years.

19. In 2011, I completed oxygen training as we had a client who was oxygen dependent.

20. In 2015/2016, we applied Morphine Patches to clients, for a period of about 18 months. After that period, that work was performed by Registered Nurses (**RNs**).

**Changes in my Role and the Nature of my Work Over Time**

Training Modules – Choice TLC (Training Learning and Competencies)

21. PresCare introduced a requirement four years ago for PCWs to complete training modules each year.

22. I usually completed similar courses every year. The courses are completed online and I was expected to apply the learning outcomes from the courses in my daily work.

23. During 2020, during periods of COVID-19 lockdown and pandemic concerns, I was expected to maintain regular training and reinforcement on policies and practices associated with Covid safety and related issues.

24. Recent training modules I completed with Choice TLC were:

- COVID 19 - Infection Control Training;
- COVID 19 - Module 1 - Personal Safety Training;
- COVID 19 - Module 2 - Families and Visitors - Part 1 Residential Care;
- COVID 19 - Module 2 - Families and Visitors - Part 2 In-home Care;
- COVID 19 - Module 3 - COVID 19 and Aged Care;
- COVID 19 - Module 4 - Outbreak Management Procedures; and
- COVID 19 - Module 5 - Personal Protective Equipment (PPE).

**PCWs**

25. Due to changes in the nature of service delivery and the associated changes in funding packages, care has been provided into clients' homes when previously it would have been provided in a facility.

26. The provision of care into clients' homes is a significant change in the environment in which work is performed. The care worker must perform tasks on their own with no back up from other staff.

27. The nature of the work is more holistic and involves assisting clients with more personal goals and aspirations rather than just narrow care and hygiene tasks.

28. A PCW has authority to administer medication when there is a MAR (Medication Administration Record) in place.

29. A MAR is part of a client's care plan. The RNs creates the MAR. The MAR includes points such as medication prompts and other observations. As part of my role, I was required to work with the MAR including for example recording whether patients have taken their medication or not.

30. PCWs now care for a variety of low and high care residents. In 2018, new Aged Care funding packages were introduced. They provided more flexible care packages for clients. There were also more high support needs packages and these packages created more responsibility and higher workloads for PCWs.

31. PCWs do more reablement work with residents rather than just supervision. For example, as summarised in my duties, as set out in point 13 above.

32. There is greater supervision in facilities. For example, in facilities nursing staff are often in supervisory positions. There is little or no direct supervision in community-based care, the care worker is usually working alone.

33. Dementia wings in Aged Care facilities have been reduced and more in-home dementia care is being provided. The PCW is more likely to be on their own for home visits, which increases workload and responsibility. The working environment when working alone is riskier than in a facility. There is a lot more responsibility on the PCW to address broader responsibilities, including contacting emergency services.

34. I am expected to ring an ambulance or police in certain circumstances. When talking with an ambulance call operator, I am required to provide sufficient clear information, to enable the appropriate paramedic resources to be allocated to the call. I am then required to remain with the client until the paramedics have arrived and stay with the

client depending upon the paramedic's treatment and whether the client is transported from home.

35. Examples of where I have called an ambulance for clients include:

- when clients have fallen either before or during my attendance at their home;
- where clients have complained of chest pain or other symptoms;
- where clients have displayed symptoms of strokes (such as slurred speech, face drooped on one side, eye twitching, loss of movement and pins and needles in the arm and slower response time to answer when asked a question);
- where clients have experienced dizziness;
- where clients appear 'off colour'; and
- where clients display symptoms of urinary tract infections (such as confusion, disorientation and unsteadiness when standing as balance can be affected).

36. I am aware of the various symptoms because of my First Aid Training and due to my long experience in the industry. Over the years I have been confronted by many different situations and have been able to identify many different symptoms.

37. Whenever I call for an ambulance, I am required to follow set protocols. The protocol requires me to notify the PCW coordinator as well as the rosters section.

38. I am required to provide a hand over to the paramedics which includes explaining the client's symptoms I have observed to the paramedics. We also provide information about the client's medical history. If the client has a Webster Pack we provide that to the paramedics because it contains the client's prescribed medicine.

39. A Webster Pack is a portable medication system package where medication tablets and capsules are sealed in a blister pack and assembled in a manner which allows a client to store and monitor medications and ensure that medication is taken regularly and on time.

40. If paramedics decide to transport the patient to hospital my duties include packing up the client's clothing, toiletries and medication to be taken with the client. I must stay at the client's home until the ambulance has left for the hospital. I then notify my coordinator and the rostering department to inform them where the client is being taken. I must then promptly complete a detailed incident report on my personal mobile and email it to the coordinator.

41. Some recent examples, of where I have called an ambulance are:

- In late June 2020, I attended the home of a client in Darra. The first thing I observed was she was slurring her words, her face was drooping and when I asked her questions, her response time was very slow and I was concerned. So with my observations, I rang and requested an ambulance;

- In early December 2020, as I entered a client's home I observed that she had breathing difficulties and pins and needles in her hands and feet. Having made those observations I knew an ambulance was required; and

- In early January 2021, I arrived at client's home in Inala. The client informed me that she had chest and back pain. I knew this client had a heart problem, so I called an ambulance.

42. An example where I called the police was in about 2011/2012, when a client passed away in his home from a heart attack. His wife was home at the time due to the client having a pacemaker with a built-in defibrillator. The defibrillator must be turned off by the hospital only. I called the ambulance service and the police service. I called the police because the client cannot be removed until the defibrillator is turned off or disarmed.

43. While waiting for the paramedics or the police to arrive, my duty of care and responsibility was to comfort the deceased's wife. Once the paramedics handed over to the police then my service ends. Police normally stay until the defibrillator has been switched off.

44. PCWs now have a lot more responsibilities than when I first started in the industry, and even since I returned in 2010, especially in community work. We have less staff and more work to do, and when working alone our job is high risk.

**Staffing**

45. In my experience, there are challenges in Aged Care staffing and there is a high turnover of staff. Most staff did not stay in the same facility or staff for long periods. When I left PresCare in March 2021, there were only two staff left there who were working at PresCare when I started there ten years earlier. During that period, I estimate that at least 30 people had come and gone.

46. In my conversations with staff who were leaving, there were various reasons given for leaving but usually they were related to dissatisfaction with the job and the wages.

47. I recall periods where staff had reduced to about nine staff from a group of about twenty due to people leaving and their positions having not been filled yet. Staffing shortages cause significant problems in service delivery and increased workloads.

48. In my experience, staff are mostly female. In my period of time working in the Aged Care industry, I have only ever had female co-workers and have never worked alongside a male co-worker. To my knowledge, PresCare had a total of three male employees in community care.

**Sandra Kim Hufnagel**
**30 March 2021**

**FAIR WORK COMMISSION**
**MATTER No. AM2020/99**
**S 158 – APPLICATION TO VARY OR REVOKE A MODERN AWARD (AGED CARE AWARD 2010)**

# WITNESS STATEMENT OF ROSS EVAN HEYAN

I, Ross Evan Heyen of [redacted], Client Services Assistant/Administration Assistant, state as follows:

1. I am a member of the United Workers' Union.

2. I make this statement from my own knowledge, save where otherwise indicated. Where I refer to matters within this statement on the basis of information and belief, I identify the source of that information and believe those matters to be true.

## Personal Information

3. I was born on [redacted].

4. I am married and have four children who are between 3 and 12 years old.

5. I am also a Delegate for United Workers' Union.

## Work History and Qualification

6. I have been working for approximately the last 5 years as a Client Services Assistant/Administration Assistant at Ozcare Noosa Residential Aged Care facility.

7. Previously to working in aged care, I was a TESOL teacher in mainland China.

8. My role at the facility has always been multi-faceted but apart from mandated training on infection control, food safety, and WHS, all job specific training I have had to enrol in and complete of my own accord. I initially worked in the facility's administration, so in order to do the job better, I completed a Diploma of Business Administration course.


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9. Gradually my role morphed into being less administration work and more food services, namely food preparation in the main kitchen and the serving of meals and tea/coffee in the smaller ‘serveries’ located in each wing of the facility.

10. In early 2018, due to the unreliability of my rostered hours I took on a second job as a cleaner at a local primary school.

11. While working at the primary school, the Department of Education enrolled me in a Certificate III in Cleaning Operations course for free and I completed this course in late 2020.

12. As I was only available during school hours, the only shifts available that I could pick up were cleaning shifts and my role then changed to mostly cleaning. These shifts involved disposing of accumulated rubbish from central storage spaces in each wing where other staff placed it. Also dusting/sweeping/mopping of communal areas and residents’ private rooms, infection control of touch points, and other general cleaning duties.

13. Another part of my job in all roles was to chat with the residents and try to make the facility feel more like their home. Most residents, especially during covid lockdowns, did not receive any visitors so they were always looking for someone to talk to. I have always found this the most rewarding part of my job, however, it is the part of the job that suffers first when I am loaded down with too many tasks to reasonably complete.

**Changes in the Work and the Industry**

14. Two significant changes I have noticed in my time in aged care is the reduction in staff and the diminishing empathy from management.

15. When I started in aged care, every few months the facility would put on a BBQ for staff as a ‘thank you’.

16. While it wasn’t a party, it was pleasant and encouraging to come on a lunch break to freshly cooked food and feel the appreciation of management. Those events very rarely happen anymore.

17. The same story goes for little celebrations of staff's 5 or 10 years of service anniversaries - they rarely happen anymore.

18. Part of the reason these staff activities don't happen so much is because so many staff are increasingly time poor.

19. The complexity of residents' needs have increased and staff hours have stayed static.

20. In my experience, 5 years ago fewer residents were completely bed-bound and they would spend their day out with family/friends or attending activities in other parts of the facility. Now, many more residents require assistance to get out of bed and perform basic activities like showering and going to the toilet.

21. Most of my time at Ozcare Noosa has been spent working in the 'Eucalyptus' wing. During the day, we have 20 residents, 1/2 Registered Nurse (**RN**) (the RN is required to supervise 2 wings of 20 residents each), 2 carers, 1 cleaner and 1 servery staff.

22. Five years ago, maybe two or three residents there would require assistance toileting. As of now, there are nine residents of whom at least half of those are 'doubles' meaning two carers are required to attend to their needs.

23. For me as a cleaning/food service worker, it has meant that I am sometimes on my own in the wing with agitated residents or even residents that have fallen.

24. I am not provided with training beyond basic first aid training so being left in that situation is very difficult.

25. It is very hard to get any cleaning done when there are residents requiring attention and care. For example, recently I was cleaning within the facility and there were two residents with acute memory loss who were incessantly asking me what their name is and why were they there. At the same time, another resident with severe dementia was screaming and I did not know why and what to do.

26. Commonly, when I am cleaning, the call bells in residents' rooms are constantly going off and while it's not my job to check on residents who call if no one comes when they call they will come out to find someone and many of them are not able to walk unassisted so if I ignore the call bells they might fall.

27. I have walked past rooms and found residents sitting on top of flimsy bedside tables because they get confused and if they had fallen from that height they may not have survived.

28. I have entered resident's rooms when their call bell has gone for more than 20 minutes unanswered and found them holding onto the end of the bed with their legs shaking about to fall because they needed the toilet and have tried to go themselves.

29. In or about late 2017/early 2018, I was working in food services in Eucalyptus. A resident who was diabetic, lactose intolerant and bed-bound due to amputated legs was consistently being sent inappropriate meals from the kitchen for dinner (by inappropriate, I mean meals made with milk/cream and therefore containing lactose), and I would have to rush down to the kitchen and prepare a sandwich or salad for him myself once I'd finished serving out the other meals.

30. This meant that the resident was getting his meal at 6:00pm instead of 5:00pm like everyone else which was not ideal due to his diabetes. I spoke with my direct supervisor (the Manager of Client Services) about this on several occasions and at least twice with the Manager of Clinical Care (the supervisor of the nurses and carers). Despite both supervisors agreeing with me that it was inappropriate that the kitchen was not providing the correct meals for this man and promising they would do something about it, nothing happened. Eventually, I emailed the Facility Manager and copied in both supervisors, I explained the whole situation including my efforts to try and rectify it and that nothing happened. I never received an answer to my email, but not long after the kitchen were given a new procedure to follow to ensure special dietary requirements were not missed.

31. As a delegate for my union I often have other staff with concerns coming to speak to me. Several carers who are recorded as 'Med Comp' have asked if they can be forced to work alone in a wing they have never worked in before and provide medication to residents they have never met before. These carers were refused a 'buddy shift' to help them get used to the area and residents and told that they were down as Med Comp so they had to do the shift.

32. 'Med Comp' means medically competent. Management have determined that certain staff have an acceptable level of skill and training to be accepted as such.

33. Instead of dedicated staff for roles, all roles have been jumbled together. Some cleaners will start their shift by serving breakfast, then clean before coming back to serve morning tea, then lunch. Many staff question if it is sanitary to clean toilets then serve meals but are told by management it's fine.

34. I have been asked by a RN on several occasions to supervise the large dining/lounge room area of our dementia-specific wing because she needed to take a break and all of the carers were performing cares. I was not provided with any additional training about supervising residents with dementia, who can often be aggressive or have other high needs.

35. In my experience, carers do not care for more residents but the residents all have higher needs and require more care time.

36. I have observed an increase in the intensity of work in aged care. The increase is related to residents in aged care now having higher needs.

37. I have noticed a difference over the past 5 years. New residents used to come into the facility with their family bringing all their comforts from home. Residents would be active in community activities in the facility, go out on their own or with family on day trips, and were able to care for their own personal hygiene, only needing help remembering medication and getting their meals prepared.

38. Now it is much more common for residents to come via ambulance, suffering from more and more serious pre-existing conditions and requiring the help of one or more carers for even the most basic of daily activities like showering and brushing their teeth.

**Staffing**

39. I have noticed increasing staff turnover as compared to 5 years ago.

40. The dedicated staff who have been in the industry for years are getting older and close to retirement now and younger staff who come in to replace them are not staying because of the extreme workloads and low pay.

41. When staff call in sick, they are regularly not replaced because no one is available.

42. Those staff who do come in on-call or are rostered on having to deal with understaffing get tired, sick, or injure themselves due to the workload, call in sick, and the problem gets worse.

43. Over the last couple of years when management advertised and brought in new hires we'd often get three or four new staff in the cleaning/kitchen area at the same time.

44. It is common for many of the new staff to only stay for a couple of weeks.

45. Of those that do stay longer many leave within a short time thereafter. I estimate that maybe 10 per cent of new hires stay longer than a year and become ‘part of the team’.

46. I had a new staff member who I was training as a cleaner start at 8:30am and not even make it to morning tea at 10:00am. That staff member said the job demands were too much and left.

47. I find that few people can handle the emotional aspects to the job. Residents who haven't had any visitors often implore staff to sit down and talk with them with tears in their eyes.

48. Staff are mindful on being called in for ‘performance management’ if they do not get a long list of tasks finished.

49. Not everyone can handle walking in on a dementia resident covered in their own faeces.

50. I have heard a few staff make statements like "Why would I put up with this, when I can get paid better in almost any other job”.

51. I had a co-worker who quit and told me that she took a holiday when COVID-19 hit because her son was on Jobkeeper and earned enough to pay their bills.

52. She now tells me that she works at a resort two minutes down the road from the facility earning more as a housekeeper without the extreme workload and emotional toll of working with vulnerable elderly.

53. Newer staff that leave have regularly told me that the high workload and low pay as well as the confronting nature of the work were their reasons for leaving.

54. More experienced staff often cite to me the high workload, lack of appreciation from management and being upset with the conditions that residents are subjected to.

55. I have experienced that Aged care is a female dominated profession. Out of approximately 120 staff at Ozcare Noosa, there are less than 20 men.

56. While all carers do a great job no matter their gender, some residents express their own preferences. Some residents want to have their cares done, or even just chat to, a man.

**Ross Evan Heyen**

**31 March 2021**

**FAIR WORK COMMISSION**
**MATTER No. AM2020/99**
**S 158 – APPLICATION TO VARY OR REVOKE A MODERN AWARD (AGED CARE AWARD 2010)**

## WITNESS STATEMENT – LYNDELLE ANNE PARKE

I, Lyndelle Anne Parke, [redacted] personal care worker, state as follows:

1. I am a member of the United Workers' Union.

2. I make this statement from my own knowledge, save where otherwise indicated. Where I refer to matters within this statement on the basis of information and belief, I identify the source of that information and believe those matters to be true.

### Personal Information

3. I was born on [redacted].

4. I live in a rental property in Darwin, Northern Territory.

5. I live alone and have three children who are now all independent.

### Work History

6. I have over 35 years' experience in the aged care industry in both community and residential care across Australia.

7. For the past 9 years I have worked as a community personal care worker with Australian Regional and Remote Community Services (**ARRCS**), a major provider of aged care and health and community services to people in remote Australia.

8. I am employed on a permanent part-time basis for usually 70 hours a fortnight.


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9. I am covered by the *Australian Regional and Remote Community Services (ARRCS) Enterprise Agreement 2019.* Under the agreement, I am classified as an 'Aged care employee level 5 year 3 and earn $26.87 an hour.

10. Since I began working in aged care, I have held the following positions:

- 1985 – 2005: personal care worker for the Malvern (now Stonnington) City Council in Victoria;
- 2005 – 2006: personal care worker for AbilityFocus, a private disability support provider in the Northern Territory;
- 2006 – 2009: personal care worker for Golden Glow Nursing, a private aged care provider; and
- 2009 – present: community personal care worker for ARRCS.

11. In my current role with ARRCS, my duties change depending on the client but it usually includes a combination of:

- personal care which covers tasks such as showering, dressing, toileting, wound care and hygiene;
- domestic care which covers tasks such as meal planning and preparation, shopping and cleaning;
- medicine administration which involves making sure clients receive the correct medication at the right times from their Webster Packs;
- companionship which involves providing company to clients at all hours of the day and night; and
- various administration such as paperwork during shifts to monitor the client and make sure everything is in order as in many cases there will be multiple personal care workers who work with the same client at different times and days of the week.

12. A typical day at work for me consists of seeing around six to seven clients and assisting them with a range of activities from basic domestic duties such as washing clothes and helping with showering to things like going shopping with clients and administering medication. It completely depends on the client and their needs.

13. The main difference between personal care workers that work in the community compared to those in residential homes is that community workers are on their own because we do not have other staff in the next room to help if something goes wrong.

14. Most people do not realise the interpersonal skills personal care workers need to have if they want a career in aged care because it is never included in the job advertisements. Interpersonal skills like empathy, strong communication with a variety of personalities and types of people, positive mental attitude, time management and the ability to handle criticism.

**Qualifications**

15. There were no requirements or qualifications necessary to get a job in aged care back in 1985. However, during my time with the Malvern Council, the Council did put the aged care workers through a Certificate IV in Ageing Support and Disability so that we could also care for clients with disabilities. The Certificate IV course went for a total of 12 months. The course included training in palliative and dementia care, falls prevention and interventions for clients at risk, service planning and delivery and elderly care health and hygiene.

16. During my career in aged care, many of the employers provided specialist training for specific disabilities that clients would have. For example, when I was employed with Glowing Glow Nursing we had a training provider teach all the personal care workers about Huntington's disease so that we could better understand the disease and prognosis and learn how to assist and support clients with the disease. This is just one example I remember of these kinds of specialist training courses.

17. In addition to my Certificate IV in Ageing Support and Disability, my employer ARRCS Services has mandated refresher courses for all aged care staff every twelve months so staff can be up to date on topics like manual handling techniques, fire safety, food handling and elder abuse. The courses are now completed online so you must have

access a computer to complete them. I am not good with computers and do not have one, so to pass the training I go to my friend's house and do it on her computer.

**Changes in my role over time**

18. There are three major ways my job has changed since I started in the industry: medications, wound care and an increase in clients with serious health and behavioural conditions.

19. When I started in the industry back in 1985, there was no medication administration as that was a job only for nurses. In or around 2005 when I moved to the Northern Territory, it was expected that all personal care workers administer medicine to clients. We now must be able to administer the correct medication to clients at the correct time with the correct amount without assistance from a nurse. If anything goes wrong, we are expected to know what to do and manage any issues with the administration of medication. This leads to additional stress, skill and responsibility, which we now have to manage on our own. If there are any issues with the Webster Packs that contain the client's medication, we have to take a photo of the pack on our own phone and send it to the registered nurses via email.

20. As there are fewer nurses available especially in the community home care setting, we also must know how to monitor, treat and record developments about clients' wounds. This includes tasks like redressing wounds with anti-bacterial cream and contacting the on-call nurse if the wounds get worse over time. If we do not correctly record the information about the wound and what we have done with it, it can become an issue with our employer. We record the wound care by taking photos of the wound and emailing it to the nurses.

21. The biggest change in the aged care industry is the increase in clients with serious health or behavioural conditions such as dementia and depression. When I started with ARRCS about 9 years ago, I would assist 2 to 3 clients a week with dementia whereas today it is more like 10 to 15 clients a week.

22. Working with clients who have serious health or behavioural conditions is much more mentally challenging and requires a higher level of interpersonal skills and care. Dementia completely changes a person's behaviour leading to reduced communication, hallucinations, aggression, depression and, as a result, a significant

change in needs. Dementia and other similar conditions make our jobs much more difficult as the clients are harder to understand, more difficult to handle and require much more family engagement.

23. Caring for someone with dementia does not come naturally. It is not intuitive and sometimes the logical thing is the wrong thing. We must look for the emotion underneath the words, facial expressions and body language, create a safe environment and provide more specialised care. For example, if the client has developed swallowing difficulties, insisting that they eat may not be the solution and the client may in fact need serious medical attention.

24. I have worked with dementia clients for decades and have a strong understanding of the disease and how to cater my care for clients with dementia. For example, earlier this year I was on annual leave and another personal care worker was assisting one of my regular clients with dementia. Even though I was on leave, the on-call nurse at the time had to call me for help because the other personal care worker was having such a hard time with the client doing tasks like shopping for food and hygiene management. Without my insight into dementia and how to best support clients with the conditions, the nurse would have had to attend the client's residence to assist the other personal care worker.

25. Overall, personal care workers have always been undervalued and over time the role has required more advanced skills and qualities for a wider variety of clients. We are expected to understand and cater for clients with complicated diseases like dementia and Huntington's disease and also administer medication without any assistance from nurses. My fear about the aged care industry is that personal care workers will continue to do many of the tasks that nurses used to do because it is cheaper without being acknowledged for it in wages.

**Lyndelle Anne Parke**

**31 March 2021**