

IN THE FAIR WORK COMMISSION

Matter No: AM2014/285

Section 156–Four Yearly Review of Modern Awards – Social, Community, Home Care and Disability Services Industry Award 2010

SUBMISSION OF UNITED VOICE

8 May 2017

INTRODUCTION

1. This submission concerns the substantive claims pursued by United Voice in the *Social, Community, Home Care and Disability Services Industry Award 2010* ('the Award') and are made pursuant to the directions issued by the Fair Work Commission on 7 February 2017.
2. This submission refers to the current version of the Award and not to the exposure draft.
3. A Draft determination for the changes that United Voice pursues is attached at **Annexure A**.

CLOTHING AND EQUIPMENT ALLOWANCE

4. Clause 20.2 (a) of the Award provides that where an employee is required to wear a uniform by the employer, then the employer must provide the employee with 'an adequate number of uniforms' free of cost to the employee. United Voice seeks to vary clause 20.2 (a) to ensure that the employee will be given a sufficient number of uniforms that they will not need to launder their work wear more than once a week.
5. We anticipate that this claim will be made on its merits.

TELEPHONE ALLOWANCE

6. Clause 20.6 requires an employer to reimburse an employee for the installation and rental of a telephone used by the employee for the purpose of being on call. This provision does not account for the growing use of mobile phones. United Voice seeks to vary clause 20.6 to ensure that an employee who is required to use a mobile phone will be entitled to reimbursement for the cost of purchase and other charges.
7. We anticipate that this claim will be made on its merits.

BROKEN SHIFTS

8. Clause 25.6 applies to social and community services employees when undertaking disability work and home care employees. The clause provides for those employees to work shifts that 'include one or more breaks (other than a meal break)'. United Voice seeks to vary the Award so that the maximum number of broken shifts that can be worked is two.
9. We anticipate calling several witnesses in support of our claim.
10. Further, clause 25.6 (b) provides for employees to be paid at the ordinary rate of pay with penalty rates and shift allowances in accordance with the Award. Shift allowances are determined by the finishing time of the broken shift. This means that employees who commence their broken shift before 6.00 am, who would otherwise be entitled to the night shift rate, are not paid any penalties.
11. This claim will be advanced on its merits.

24 HOUR CARE

12. Clause 25.8 provides for '24 Hour Care', a particular type of roster arrangement. United Voice seeks the deletion of this clause. Consequentially, we seek to delete the reference to 24 Hour Care in clause 25.7 (a).
13. If the Commission believes that clause 25.8 should remain in the Award, United Voice will seek to vary the Award to ensure that employees are paid overtime for all hours worked over eight and that an employee will have time to sleep within the 24 hour period.
14. We anticipate calling several witnesses in support of our claim.

EXCURSIONS

15. Clause 25.9 provides for the situation where an employee agrees to supervise excursion activities involving overnight stays from home. United Voice will seek to vary the Award to ensure that employees are paid according to the provisions of the Award for the whole time they are working an excursion.
16. This claim will be advanced on its merits.

OVERTIME

17. Clause 28.1 (a) provides for overtime for full-time employees. Clause 28.1 (b) provides for overtime for part-time and casual employees. United Voice will seek to vary the Award to ensure that part-time and full-time employees are paid at overtime rates for all work done in

addition to their rostered hours on any day. United Voice will also seek to vary the Award so that casual employees are paid at overtime rates after 8 hours of work on any one day.

18. We anticipate calling several witnesses in support of our claim.

UNITED VOICE
8 May 2017

DRAFT DETERMINATION

Fair Work Act 2009

s.156–4 yearly review of modern awards

4 yearly review of modern awards

[AM2014/285]

Social, Community, Home Care and Disability Services Industry Award 2010

[MA0000100]

Social, community, home care and disability

ROSS, PRESIDENT

SYDNEY, XX YYY 2017

4 yearly review of modern awards

A. Further to the Full Bench decision issued by the Fair Work Commission on XX XXX 2017¹, the above award is varied as follows:

1. By inserting new clause 20.2(b) at clause 20.2 as follows:

20.2(b) An adequate number of uniforms should allow an employee to work their agreed hours of work in a clean uniform without having to launder work uniforms more than once a week.

2. By renumbering clauses 20.2 (b) to (d) as clauses 20.2 (c) to (e) respectively.

3. By renumbering clause 20.6 as 20.6(a).

4. By inserting a new clause 20.6(b) as follows:

20.6(b) Where the employer requires an employee to use a mobile phone for the purpose of being on call, the employer will either:

(i) provide a mobile phone and cover the cost of any subsequent charges;
or

(ii) refund the cost of purchase and the subsequent charges on production of receipted accounts.

5. By deleting clause 25.6(b) and inserting the following:

25.6(b) Payment for a broken shift will be at ordinary pay with penalty rates and shift allowances in accordance with clause 29—Shiftwork, with shift

¹ [Insert decision reference]

Annexure A – Draft Determinations

allowances being determined by the starting or finishing time of the broken shift.

6. By inserting a new clause 25.6(e) as follows:

25.6(e) The maximum number of broken shifts which can be worked per day is two.

7. By deleting the words “a 24 hour care shift pursuant to clause 25.8 or” where it appears in clause 25.7(a).

8. By deleting clause 25.8.

9. By deleting clause 25.9 and inserting the following:

25.9 (a) An employee may agree to supervise clients in excursion activities involving overnight stays.

(b) Employees will be paid according to the provisions of this Award, including appropriate penalty rates, overtime rates and shift allowances for all work performed on an excursion.

(c) Employees required to stay overnight will be paid according to clause 25.7.

(d) Where an employee is agrees to supervise clients in excursion activities on a Saturday and/or Sunday, the employee must not work more than 10 days in the two week cycle, including the weekend work was performed.

10. By deleting “A full time” where it appears in clause 28.1(a) and inserting “An”.

11. By deleting clause 28.1(b) and inserting the following:

28.1(b) Casual employees

(i) All time worked by casual employees in excess of 38 hours per week will be paid for at the rate of time and a half for the first two hours and double time thereafter, except that on Sundays such overtime will be paid for at the rate of double time and on public holidays at the rate of double time and a half.

(ii) All time worked by part-time or casual employees which exceeds ~~10~~ 8 hours per day, will be paid at the rate of time and a half for the first two hours and double time thereafter, except on Sundays when overtime will be paid for at the rate of double time, and on public holidays at the rate of double time and a half.

(iii) Overtime rates payable under this clause will be in substitution for and not cumulative upon:

(a) the shift premiums prescribed in clause 29—Shiftwork; and

Annexure A – Draft Determinations

(b) the casual loading prescribed in clause 10.4(b),

and are not applicable to ordinary hours worked on a Saturday or a Sunday.

12. By inserting clause 34.2(c) at clause 34.2 as follows:

34.2(c) Rosters must not be altered for the purpose of avoiding public holiday entitlements under this Award and the NES.

B. This determination will come into operation from XX YYY 2017. In accordance with s.165(3) of the *Fair Work Act 2009* (Cth) these items do not take effect until the start of the first full pay period that starts on or after XXX XXXX 2017.

PRESIDENT

Annexure A – Draft Determinations