

Fair Work Commission
Modern Award Review
AM2014/250

**Submissions in reply on drafting and technical issues
in the Aboriginal Community Controlled Health
Services Award 2016 Exposure Draft**



Prepared by HWL Ebsworth Lawyers on behalf of



NATSIHWA
National Aboriginal and Torres Strait
Islander Health Worker Association

25 July 2016

Ref SMP:JCLB:313668

A. INTRODUCTION

1. We refer to the Honourable Justice IJK Ross' Statement and Directions dated 10 May 2016, the *Aboriginal Community Controlled Health Services Award 2016 Exposure Draft* published by the Fair Work Commission on 17 May 2016 (**Exposure Draft**) and the submissions filed on behalf of the National Aboriginal Torres Strait Islander Health Worker Association (**NATSIHWA**) on 1 July 2016 (**NATSIHWA Submissions**).
2. These submissions are filed in reply to the submissions on drafting and technical issues arising from the Exposure Draft filed by:
 - (a) the Health Services Union of Australia (**HSU**) on 30 June 2016 (**HSU Submissions**);
 - (b) United Voice on 30 June 2016 (**United Voice Submissions**); and
 - (c) the Australian Business Industrial and the NSW Business Chamber on 1 July 2016 (**ABI and NSWBC Submissions**).

B. SUPPORTED PROPOSALS

3. NATSIHWA supports the proposals contained in:
 - (a) paragraphs 12, 19, 24, 25, 29, 30, 31, 43, 45, 56, 57, 58, 59, 60 and 61 of the HSU Submissions;
 - (b) paragraphs 3, 8, 10 and 13 of the United Voice Submissions; and
 - (c) paragraph 3.1 of the ABI and NSWBC Submissions.
4. NATSIHWA's further more detailed comments regarding particular issues are addressed below.

C. DEFINITIONS

5. It is preferable to define "ATSI" as "Aboriginal and Torres Strait Islander" rather than to include reference to Torres Strait Islander persons within the definition of "Aboriginal Person". Torres Strait Islander people are a distinct and separate group of people to that of Aboriginals. The terminology in the Award should also reflect common industry usage and refer to both Aboriginal health workers and Torres Strait Islander health workers in an equal manner.
6. Clause 2 of the Exposure Draft currently contains a definition of "Aboriginal health worker". NATSIHWA supports amending this defined term to "ATSI health worker", but not to "ATSI community health worker" (see paragraph 48 of the HSU Submissions and paragraphs 5 and 15(a) of the United Voice Submissions).

7. NATSIHWA notes that the classification definitions contained in Schedule A of the Exposure Draft refer to both "Aboriginal health worker" and "Aboriginal community health workers." NATSIHWA submits that it is simpler and more consistent with common industry usage to limit the terminology to "ATSI health worker". The inclusion of the word "community" also detracts from the professional status of ATSI health workers.
8. NATSIHWA respectfully submits that the ATSI health worker definitions proposed at paragraph 48 of the HSU Submissions and paragraph 5 of the United Voice Submissions are too general and do not capture essential hallmarks of the ATSI health worker profession, for example:
 - (a) the requirement that the worker identify as an Aboriginal and/or Torres Strait Islander and be recognised by their community as such; and
 - (b) the requirement that the worker possess the minimum Certificate III qualification in Aboriginal and Torres Strait Islander primary health care, or equivalent skills and experience.
9. NATSIHWA recognises that the level of generality in the ATSI health worker definition proposed by the HSU and United Voice may be a consequence of the current Grade 1 ATSI health worker classification, which covers workers without any relevant experience or qualifications.
10. NATSIHWA presses its proposed definition for ATSI health workers and the introduction of an ATSI health assistant definition to cover workers without relevant experience or qualifications (see paragraphs 9 and 10.2 of the NATSIHWA Submissions). This approach is consistent with industry norms and preserves the status of ATSI health workers as professionals.
11. NATSIHWA agrees with the HSU's proposed addition of an ATSI health practitioner definition (see paragraph 49 of the HSU Submissions) and notes the similarity between the HSU's proposed definition and the definition proposed in the NATSIHWA Submissions (see paragraph 10.1 of the NATSIHWA Submissions). NATSIHWA submits that it is preferable for the ATSI health practitioner definition to set out some of the requirements for registration (for example, ATSI status and the minimum qualification) in the interests of greater clarity.
12. NATSIHWA does not support the proposal at paragraph 6 of the United Voice Submissions to adopt the position title "ATSI Primary Health Care Practitioner" or the proposal in paragraph 15(a) of the United Voice Submissions to adopt the position title "ATSI Community Healthcare Practitioners". The terminology adopted by the Australian Health Practitioner Regulation Agency is "ATSI health practitioner."

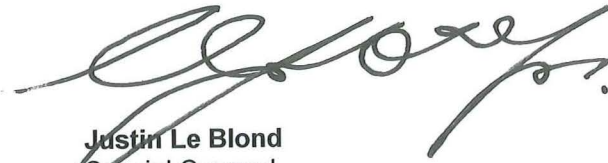
Should you have any enquiries in relation to the above, please do not hesitate to contact Justin Le Blond, Persephone Stuckey-Clarke on (02) 9334 8746 or Laura Gavan on (02) 9334 8677.

Yours sincerely



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