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Sent: Monday, 6 May 2019 4:37 PM
To: Chambers - Ross J
Cc: Kyle Scott; AMOD
Subject: AM2018/26 - Social, Community, Home Care and Disability Services Industry Award 2010 [ABLAW-ImanageDocs.FID135800]

Dear Associate

We refer to the Statement issued 2 May 2019, [2019] FWCFB 2987 (**Statement**) and to the amended draft survey uploaded to the Commission's website 2 May 2019 (**Draft Survey**). We seek to make further comments on behalf of ABI, NSWBC, ACSA and LASA.

Specifically we refer to paragraphs [16]-[17] of the Statement dealing with employers covered by enterprise agreements. We note that the Draft Survey now includes an exclusion for employers covered by enterprise agreements, and that the survey will only be able to be undertaken by employers who are covered by the SCHCDS Award and do not have an enterprise agreement.

We consider this problematic. We understood that one of the main purposes for surveying members of employer/industry associations was to obtain data on the prevalence of 24 hour care shifts being worked in the industry. By excluding employers that use an enterprise agreement, the data will not be reflective of the number of employers in the industry that utilise 24 hour care shifts.

Employers rely on the existence of the 24 hour care clause in the Award to be able to include the clause within their enterprise agreements (from a BOOT perspective especially). If the clause were to be removed because of a perceived under-utilisation of it, it is likely that those employers would both have considerable difficulty including the clause within their enterprise agreement the next time they begin bargaining for the agreement and/or when it is before the Commission for approval. Given that those employers may use the clause (or one similar) we consider that they should be able to contribute to the data that is obtained.


While various parties have asserted that there is low incidence of enterprise bargaining in the industry, the evidence of prevalence of the existence of enterprise agreements tends to undermine that assertion. While it may be the case that funding restrictions limit the scope for bargaining in relation to wages, it appears the case that many employers in the industry do engage in enterprise bargaining.

We respectfully submit that while there should be a question that asks survey respondents to identify that they operate under an enterprise agreement, those employers should not be excluded from responding to the survey.

Yours Sincerely

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