

FAIR WORK COMMISSION

AM2020/99; AM2021/63; AM2021/65

WORK VALUE CASE – AGED CARE INDUSTRY

ADDENDUM TO QUESTION 49 (ACCPA)

On 7 March 2023, ACCPA and ABI (the **Joint Employers**) indicated they wished to file further submissions in addition to that already before the Full Bench in Stage 1 in relation to indirect care employees.¹ Having considered that position further, the following submission is made.

In Stage 1 of the proceedings, the Full Bench held it was “*satisfied in respect of direct care workers that the evidence establishes existing minimum wage rates do not properly compensate employees for the value of the work performed*”. However, in respect of indirect care employees,² the Full Bench held the evidence “*is not as clear or compelling and varies as between classification*”; such that a justification based on work value reasons could not be found in Stage 1.³ For that reason, the Stage 1 increase did not apply to indirect care employees.

The FWC did however make it clear that they had not completed their consideration of the 25% claim for administrative and support aged care employees and the extent of the increase justified by work value reasons for direct aged care workers.⁴ The FWC conferred these matters onto Stage 3 of the proceedings where the parties would be invited to make further submissions on those outstanding matters.

Since the interim increase has been publicised across the residential aged care sector operators have faced the very practical issue of managing perceptions of inequality between care and indirect care employees in their operations.

Operators value all their employees equally and these concerns are amplified in the current tight job market and broader inflationary economy placing pressures on both operators and employees.

¹ The Joint Employers’ Response to Questions by the Full Bench in Background Document 10 (7 March 2023) at [87].

² Described as “*administrative and support aged care employees*”.

³ *Stage 1 decision* [2022] FWCFB 200 at [899]-[901], [922] (4 November 2022); see also Report to the Full Bench—Lay Witness Evidence Report published by Commissioner O’Neill on 20 June 2022.

⁴ *Stage 2 decision* [2023] FWCFB 40 at [6] (21 February 2023); *Stage 1 decision* [2022] FWCFB 200 at [56], [57], [1098] (4 November 2022).

Against this backdrop rests the Commonwealth's recent commitment to fund any work value increase determined by the Commission⁵ including any work value increase for indirect care employees.

The Full Bench have stated further increases will be the subject of further evidence and submissions by the parties in Stage 3.⁶

Such further evidence and submissions in Stage 3 may support an increase to minimum award wages based on work value grounds for some or all administrative and support employees.

ACCPA would support an outcome of any such increase being applied to all staff.

30 March 2023

⁵ The Commonwealth's Response to Background Document 10 (7 March 2023) at [3].

⁶ *Stage 1 decision* [2022] FWCFB 200 at [937], [56].