



INSTITUTE OF CLINICAL PSYCHOLOGISTS

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Fair Work Commission
GPO Box X2206,
Perth, WA, 6001
Sent via email: perth@fwc.gov.au

Dear Fair Work Commission

On behalf of the Institute of Clinical Psychologists I write to seek a variation to the Health Professionals and Support Services Award (HPSS) (2020) impacting Psychology Private Practice working under this award.

Under the rulings of this award Psychologists in Private Practice are disadvantaged as it places uncompetitive obligations on psychology clinics compared to other health professions.

This award does not meet the distinctive requirements of the private psychology industry. The adopted terms and rulings align specifically with hospital-based service environments, and large-scale enterprises.

As such I would request Fair Work Commission to vary this award on the grounds of:

1. Relevance
2. Fairness

I have outlined below my reasoning behind this request:

1. Relevance

The Commission is required to consider whether the award being reviewed provides a “*relevant*” minimum safety net of terms and conditions. The Full Bench has held that the term “*relevant*” is “*intended to convey that a modern award should be suited to contemporary circumstances.*”

Clause 13.2 (which applies to psychology practices) provides that: “*Unless otherwise stated, the ordinary hours of work for a day worker will be worked between 6.00 am and 6.00 pm Monday to Friday.*”

Our industry is dominated by private clinic small business employers. Most of these businesses operate outside of traditional business hours to accommodate working clients, including evenings and Saturdays. I do not know of any psychology practices that are open at 6am but many are open up until 9pm to meet client demand and accommodate clients who are working.

A review of psychology practices in my area would suggest that many are open from 8am to 8 or 9pm Monday to Friday and Saturdays 8am to 3pm. Thus, the relevance of 6am to 6pm seems arbitrary at best and unrelated to contemporary circumstances.

The implications of our ordinary span of hours being set from 6am to 6pm Monday to Friday is that Psychologists must either charge higher rates for after-hours appointments, or to cease operating after hours if they cannot meet the financial obligations of this ruling. Either way this negatively impacts on clients seeking assistance.

Psychologists operate on a fee-for service basis. Increased costs have either to be passed onto clients (which may inflate the cost of healthcare and affect healthcare affordability) or absorbed in the margins (which for small and micro businesses may not always be possible). In the current climate where demand for mental health care is at an all-time high, the ramifications are that our community remain unserved and in need of psychological assistance. This in turn may have much wider implications for our economy and health of our nation.

2. Fairness

The HPSS Award operates unfairly on both private practice psychology employers and employees, when compared to other employers and employees also covered by the HPSS Award.

Psychologists are allied health workers just like chiropractors, physiotherapists and osteopaths. However, unlike chiropractors, physiotherapists and osteopaths, psychologists are unable to operate according to the same working hours (7.30 am and 9.00 pm, Monday to Friday; and 8.00 am and 4.30 pm on Saturday) given the restrictive impost associated with the HPSS Award.

Similar to these other allied health professions, psychologists operate 'after hours' to meet the demands of our clients. Yet due to the nature of the "*ordinary span of hours*" (as currently specified un the HPSS award), we are met with additional costs due to the requirement of workers being classed as a 'shift worker' if they work any hours past 6pm. Under these

“ordinary hours”, employees working past 6pm in the evening must be paid a shiftwork penalty, not just for the hours worked outside of 6pm but for the entirety of their shift. This has been confirmed by my HR consultant in a submission to Fair Work.

Shift work as it is traditionally understood (i.e. where shifts are continuously rostered 24 hours a day for 7 days a week) is not a feature of our industry. However, in this instance we are required under the award to pay employees in this manner irrespective of how long they work outside standard hours. The award treats all shiftwork the same. For example, an employee who works the majority (or all) of their hours outside of the span of hours for a day worker is compensated in exactly the same way as an employee who works the majority of their hours within the span of hours for a day worker (e.g. an employee who works from 12.00pm to 6.15pm is entitled to the same rate of pay as an employee who works from 6pm to 12.15am. This appears to be grossly unfair to the worker who is not compensated for working what would be considered by most to be ‘after hours’.

Similarly, employees working on Saturdays in a Psychology Practice must be paid overtime rates under this award. Yet for Physiotherapy, Osteopathy and Chiropractic clinics ordinary rates of pay are awarded from 8am to 4.30pm. Again this is a unfairness imposed on Psychology business owners in comparison to our similarly aligned allied health business owners.

The objective of the modern award was not intended to increase costs for employers but the inclusion of psychology practices under the general span of hours and the consequential application of the shift work and overtime provisions has certainly had this effect. Whilst I am in agreement that workers should be compensated for working outside ordinary hours, I strongly argue this should only be for the portion of time worked outside of these hours.

Proposed Variation

On the basis of these arguments, I would like to propose the following variation to the award:

*Amend Clause 13.2 to Private medical, dental, pathology, physiotherapy, chiropractic, osteopathic and **psychology** practices*

By doing so we can ensure that the HPSS Award, together with the NES, provides a “fair and relevant” minimum safety net for the psychology industry while removing anti-competitive components of the Award.

Thank you for your consideration of this matter. I welcome you contacting me on 0406 490 151 to discuss this it further.

Kind regards

A handwritten signature in black ink that reads "K Cassidy". The signature is written in a cursive style with a small mark above the 'y'.

Dr Kellie Cassidy
BSc (Hons), DPsych(Clinical), MAPS
Treasurer ICP/Clinical Psychologist