

**Fair Work Commission**

**Four Yearly Review of Modern Awards**

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

**Matter No: AM2014/285 and AM2018/26**

**STATEMENT OF WILLIAM ELRICK**

1. I am employed as an Area Organiser for the Health Services Union (**HSU**) Victoria No. 2 Branch, also known as the Health and Community Services Union (**HACSU Victoria**).
2. I have been employed with HACSU Victoria since March 2016. My previous roles at HACSU Victoria have included Project Organiser, HACSU Assist Organiser and Administrative Assistant.
3. HACSU Victoria primarily deals with members and employers working in the Social and Community Services (**SACS**) sector, as defined in clause 3 of the *Social, Community, Home Care and Disability Services Industry Award (the Award)*. A far smaller number of our members are classified under the Home Care sector, as defined in clause 3 of the Award.
4. As an Area Organiser I am regularly required to visit worksites and engage with members about issues they are experiencing at work. I also often represent members during disciplinary matters and prosecute disputes through the Fair Work Commission. As a HACSU Assist Organiser I regularly received industrial based calls and emails from members seeking advice. My roles have required an in-depth understanding of the Award and being able to interpret and apply the Award to issues members are dealing with at their workplaces.
5. Prior to working for HACSU Victoria, I held a number of roles in the SACS sector.
6. Between 2012 to 2016 I was employed as a Disability Development and Support Officer for the Department of Health and Human Services. This role involved supporting clients with their activities of daily living, such as personal care, transport, assistance with eating and drinking, community outings, regular grocery shopping and

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other community-based activities. In this position I was responsible for development and completion of individual care plans, which involved engagement with community stakeholders and family members.

7. Between 2009 to 2011 I was employed as a Personal Support Worker for Karingal Support Services. This role involved providing complex care to adults with severe physical disabilities in relation to all aspects of daily living activities. Shifts varied between one to two-hour home visits, and seven to nine-hour respite days assisting clients while family members worked or were otherwise absent. I also undertook active night shifts, where I assisted clients overnight whilst family members slept. I often assisted clients over mealtime; this involved preparing meals for clients and general household duties. I was also trained and competent in feeding clients through PEG (percutaneous endoscopic gastrostomy) tubes. Many of my shifts involved primary care for clients whilst they were undertaking social and community activities. I was responsible for their care and transport in varied situations such as shopping, going out for meals, attending movies and other activities as requested.
8. Between 2009 to 2010 I was employed as a Respite Support Worker for Gateways Support Services Geelong. In this role I was often responsible for transporting clients within the Geelong area, such as driving primary school age clients from school to home. I would frequently be involved in providing respite for families with young members who are mentally disabled. This would involve transporting and caring for the clients during recreational activities such as swimming, visits to parks and walks on beaches as requested. My duties included all aspects of clients' personal care such as hygiene, toileting and feeding plus dealing with physical aids such as wheelchairs. I was responsible for communicating with families and my supervisors as to the care provided during my shifts and the clients' responses and needs.

#### **Coverage of members under SCHCDS Award**

9. The majority of the members I have supported in my role at HACSU Victoria are classified under the SACS stream of the SCHCDS Award.
10. It is not always a straightforward task to advise about the appropriate classification for a particular worker, often because organisations engage in activities which overlap classification boundaries. For example, in one instance I received a referral from our HACSU Assist member advice line, about a member who was unsure of their classification in a role which mainly involved working in a client's home.
11. I spoke with the member, who detailed their role as largely involving cleaning and who worked for an organisation that was largely staffed by former council workers. To the

best of my recollection, neither the employment contract nor payslips correctly referred to their classification.

12. I advised that she was indeed a Home Care employee, as defined in clause 3, as she didn't undertake any plan driven support work and mostly undertook domestic duties.
13. There were rare occasions where the member took the client out to do shopping, which would in my view be SACS work. However, the member was concerned about the requirement to perform those duties and sought advice about approaching the employer to stop those duties.
14. The majority of employers I deal with in the SACS sector are medium to large, not-for-profit disability service providers.
15. I have never dealt with a small business (according to the *Fair Work Act* definition). I do not think it would be economical to operate a disability service with less than 15 employees.
16. The providers I regularly organise within include: Yooralla, Scope, The Tipping Foundation, Jewish Care, Focus, Statewide Autistic Services, Autism Spectrum – Aspect, Connect GV, PALS, Melba, Life Without Barriers, Villa Maria, GenU and Melbourne City Mission (MCM).
17. With the exception of disability support workers in public sector roles, the vast majority of disability support workers are paid award wages only. Bargaining in the sector isn't common. However, many workers are on enterprise agreements that have long expired and were developed during the "Work Choices" period. When new enterprise agreements are negotiated, wages are almost always in line with the rates in the Award. The HSU has been successful in bargaining with a couple of organisations for a term providing for the greater of a 2.5% increase or the annual minimum wage increase. Thus far, the minimum wage increase has always been greater.

### **Minimum Engagement**

18. Some of the most common issues of concern for workers we deal with who are covered by the Award are around rostering issues and lengths of shift.
19. Because there is no minimum engagement for part-time and full-time employees under the Award, the HSU sees a lot of cases of 0-hour contracts and 30-minute shifts. The shortest shift I've heard of is 15 minutes, although in that case the worker was paid for 45 minutes. In that particular workplace the employer would often pay a rate of 45 minutes or 30 minutes for a short shift. Some of the larger employers have a minimum two hour engagement policy, but this is not always adhered to.

## **Broken shifts**

20. Broken shifts are very common in this sector.
21. Some workers enjoy working broken shifts, as they provide them with the ability to undertake personal tasks during the breaks.
22. However, many workers strongly dislike them. This is especially the case for workers living some distance from work, as the transportation to and from home becomes very tedious.
23. In group homes workers will often do a morning and afternoon shift, such as 7am – 10am and then 3pm – 10pm. In-home support workers generally have a more fragmented working pattern and may be required to do several shifts in a day. For example, rosters of 7am - 9am, 11am - 1pm, and then 5pm – 7pm are common. These shifts are normally for the purposes of providing meal assistance and personal care to clients.

## **Sleepovers**

24. As a disability support worker, I would regularly be rostered to work sleepovers. There are many pros and cons to sleepovers, the biggest positive is for the client who is able to be supported overnight in a manner that supports less restrictive practice. As a worker, considering most sleepovers have several hours of work either side, sleepovers provide an opportunity to work significant hours in one stint, allowing more days off work. Sleepovers also allow for reduced travel time in between shifts, this is particularly advantageous if the worker regularly has short shifts.
25. Nonetheless, sleepovers can have an impact on a worker's wellbeing, productivity, and employment satisfaction. Firstly, my colleagues and I use to always say you'd "have to sleep with one eye open", this was due to the perceived risk that incidents could happen overnight. When working with clients who are suffering medical issues it is only natural that many workers will have anxiety or concerns and will be alert to the point where they are unable to get a regular night's sleep. There are other issues that can occur overnight that result in workers irregular night's sleep, such as, some clients can soil themselves over night and not be able to communicate this to the sleeping worker. Sleeping through a client who has soiled themselves can cause health impacts for client and take up time during the morning routine to assist in cleaning the client.
26. The allowance for sleepovers and the disturbance clause don't sufficiently remunerate for the work done overnight. The SCHADS rate of \$47.04 works out to be \$5.88 an hour, while I understand that it is an allowance and not an hourly rate, a sleepover is

still 8 hours away from your own home and loved ones. It isn't uncommon to be woken up overnight whilst on sleepover for reasons that most workers wouldn't claim for remuneration, such as, a client getting up to use the toilet and slamming doors, clients who knock on the door for no reason, and various other matters that don't require direct support. All the aforementioned can result in the worker being too tired to pick up additional shifts the next evening, or having to sleep through the day when they return home.

27. Lastly, the sleepover arrangements in many workplaces aren't conducive to a good sleep. For a period while I was undertaking sleepovers where bed was located in the office. The head of the bed was coming out of the cupboard that had the doors removed, the office had hums from the computer and fax, along with a bright light from the handset of the house phone. I have had reports from other members who have had to sleepover with the sleepover door open, having to deal with uncomfortable beds, and various other issues that result in poor sleep.

#### **24 hour care**

28. I am unaware of any workers being rostered for 24-hour shifts or being paid under the 24 hour care provision in the Award.

29. I have myself worked more than 24 hours straight when I was working in the industry. I am also aware of other workers who have worked such hours, usually including a sleepover as per the award clause, however, this is normally not a rostered 24 hour shift, but overtime which is required due to an emergency. For example, an employee may be about to finish a 12-hour shift after 8-hour sleepover, but the client is suddenly required to be rushed to hospital. In that case the employee may be required to go to hospital with a client and isn't able to leave. I've never come across an employee who has been engaged according to this clause.

#### **Telephone allowances**

30. Generally speaking, most workers will only use their personal phone for the purposes of being contacted for shifts, and not during work.

31. However, there is a growing trend amongst employers in the industry to have 'bring your own device' practices or policies that require employees to complete notes and other work-related duties using on-line apps on their personal phones. This is a problem because it isn't uncommon for workers in this sector not to have "smart" phones.

32. HACSU Victoria has recently prosecuted a dispute in the Fair Work Commission about the employer PALS ('Providing All Living Supports') requiring employees to use their personal phone for work duties. The employer had intended to compensate their employees with just \$5 per month, without any extra money for those who needed to upgrade their phones to a smart phone.
33. Part of supporting people with disabilities requires research for social activities, making reservations, and sending emails to stakeholders. In group home settings, many houses only have one computer that is primarily for the group home managers. Some employers such as Scope do not let their workers access the computer at all. As computers are often inaccessible, many workers will use their personal phones to carry out the necessary research and communications.

### **Travel**

34. Our members working in in-home support and day services are required to do a great deal of driving in their own vehicles between shifts and worksites.
35. In group homes, many worksites will have a van for transporting clients. However, some employers have suggested to me that they won't be keeping those vans in the future.
36. Where an employee is required to use their vehicle for work, they will often be required to have comprehensive business insurance. This can come at a large cost for workers and they generally aren't compensated for the added insurance costs by the employer.
37. There is also the problem for employees working with clients with behaviors of concern that their vehicle may be damaged.

### **Clothing**

38. When supporting a person with a disability it is best to be dressed casually as it creates less barriers between the client and support worker, and makes clients feel comfortable and at ease, it assists in avoiding unwanted attention in the public. inclusion. I'm only aware of a few disability services employers who require uniforms to be worn.
39. Uniforms are common in the home care services which undertake a cleaning heavy practice.
40. For employees in disability services in the SACS sector, a damaged clothing allowance is more appropriate than a uniform allowance.
41. Clients with behaviors of concern will often damage clothing to the point they need replacing.

42. There are other ways a worker's clothing also suffers greater wear and tear in the course of work. If you are cleaning you may spill or splash cleaning products on your clothes which causes fading and a breakdown of the clothing. In services that require medical supports, a worker will often want to have two separate wardrobes, one for work and one for personal. Work clothes will often be looser fitting for ease during manual handling, and washed more regularly due to close proximity with bodily fluids.
43. Some employees will have extra pairs of shoes that they use while showering clients. The additional pair of shoes are just a pair that can get wet and be dried out over the shift, to avoid having to wear wet shoes all days.
44. Many worksites will provide surgical booties although these aren't always effective of stopping water from a shower.

### **First aid allowances**

45. The cost of renewing first aid qualifications is something that is often raised by members as an issue. First Aid and CPR are essential to work in disability services. Without a first-aid certificate, an employee can't work this sector. Costs vary depending on the training provider, but, for example, St John Ambulance Australia charges \$159 for a one-day refresher course for those who hold a current first aid certificate less than 2 years old, and \$75 for a CPR course.

**WILLIAM ELRICK**

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