

FAIR WORK COMMISSION

4 YEARLY REVIEW OF MODERN AWARDS

AM2014/196 and AM2014/197 – Casual employment and part-time employment

Submission of the Western Australian Local Government Association

September 2018

Local Government Industry Award 2010

Minimum daily engagement period for casual employees

1. This submission is made on behalf of the Western Australian Local Government Association (WALGA) in response to the decision of the Full Bench issued by the Fair Work Commission on 9 August 2018 ([\[2018\] FWCFB 4695](#)) and the publication of the draft determination on 30 August 2018 (Draft Determination) allowing a period of seven days for further comment in relation to the introduction of a minimum engagement period for casual employees in the *Local Government Industry Award 2010* (LGIA).
2. We refer to the supplementary submission of the combined Local Government Associations (LGA) dated 1 February 2018 and the comments of counsel at hearing on 2 February 2018 regarding the absence of evidence led to support the claims of the LGA outlined in the former submission filed on 2 August 2017.
3. WALGA submits that the position of the LGA as detailed in the 2 August 2017 submission regarding the minimum engagement period for casual employees in Local Government is supported by Local Governments in Western Australia and relied on by WALGA. Further comments for the consideration of the Commission are detailed below.
4. Local Governments applying the LGIA in Western Australia provide many varied services to their communities. Of specific relevance to the introduction of the two hour minimum engagement period are services provided in recreation centres, swimming pools, aged and personal care providers in community services and cleaning services for Local Government buildings and facilities.

Recreation employees

5. The operation of recreation centres and swimming pools by Local Governments in Western Australia relies on the engagement of casual employees for less than the proposed two hour minimum engagement for the safe and sustainable delivery of these services.
6. Within these operations, Local Governments regularly engage casual employees as personal trainers, referees and umpires for sporting matches and fitness and swim instructors. These employees are often engaged to provide services in accordance with client availability, fitness class schedules and sporting match schedules where the work activity required is less than two hours. For example, due to the physical intensity often required of these positions in delivering high intensity fitness class instruction, rostering two hours of work for employees undertaking this task can pose a risk to the employee's health and safety.

7. Where casual employees are engaged in recreation centres and swimming pools for a one hour session or shift, they are generally paid well in excess of the minimum LGIA rates to incentivise employees to provide the service for the one hour time period.
8. Therefore the cost implication for Local Governments to pay the casual employees in recreation centres and swimming pools their current rate of pay for a minimum of two hours may jeopardise the Local Government's ability to continue providing those recreation services to the community. Services provided by Local Governments need to be financially viable in order to ensure their sustainability.
9. WALGA refers the Commission to the casual minimum engagement provisions included in the *Fitness Industry Award 2010* (FIA), specifically clause 13.5, which is appropriately tailored to the needs of similar operations outside the Local Government industry.
10. Relevantly, clause 13.5 of the FIA is set out below:

13.5 Notwithstanding clause 13.4 and subject to clause 26.3(c), a casual employee who is classified as a Level 2, 3, 3A, 4 or 4A instructor or trainer or as a student undertaking practical work involvement may be engaged for a minimum period of one hour's work at the appropriate rate or be paid per engagement for a minimum of one hour's work at the appropriate rate.
11. WALGA submits that while it does not advocate for the introduction of a three hour minimum engagement period as provided in the FIA, it would be appropriate for the LGIA to contain similar exclusions to the minimum engagement period for casual employees engaged in Local Government operated recreation centres and swimming pools.
12. It is submitted that a one hour minimum engagement period be considered for casual employees engaged as personal trainers, referees and umpires, and fitness and swim instructors under the LGIA.

Community services employees

13. A number of Local Governments in Western Australia deliver aged and personal care services. These services include the provision of home care services and activities which can require employees to work less than two hours per engagement.
14. To the extent that the services delivered by Local Governments represent operational similarities to those delivered by home care employees under the *Social, Community, Home Care and Disability Services Industry Award 2010* (SCHDSA), WALGA respectfully requests the Commission consider a similar exclusion to the minimum engagement period for casual employees provided in clause 10.4(c)(ii), as set out below:

(c) Casual employees will be paid the following minimum number of hours, at the appropriate rate, for each engagement:

(i) social and community services employees except when undertaking disability services work—3 hours;

(ii) home care employees—1 hour; or

(iii) all other employees—2 hours.

15. WALGA submits that a one hour minimum engagement period be considered for casual employees engaged in the delivery of home care services under the LGIA, where operationally similar to those services provided by employees under the SCHDSA.

Cleaning services employees

16. A number of Local Governments in Western Australia engage cleaners to clean Local Government buildings and facilities. Cleaners can often be engaged by Local Governments for less than two hours per engagement, particularly for smaller Local Governments where there are limited buildings and facilities to clean.

17. It is important for Local Governments to retain these smaller cleaning jobs, particularly for the more regional Local Governments, as it generates employment opportunities in locations where there are often very few jobs.

18. WALGA refers the Commission to clause 24.2(c) of the *Cleaning Services Award 2010 (CSA)* which is appropriately tailored to the needs of similar cleaning services provided outside the Local Government industry.

19. Clause 24.2(c) of the CSA provides:

(c) Where only one employee is engaged at a small stand alone location with a total cleaning area (as defined) of 300 square metres or less, and where it is not practicable for a longer shift to be worked across two or more locations, the minimum engagement will be for one hour.

20. WALGA submits that a one hour minimum engagement period be considered for casual cleaners under the LGIA on the terms set out in clause 24.2(c) of the CSA.

21. If the Commission is minded to consider the inclusion of a one hour minimum engagement period for casual employees in recreation and leisure services, community services and cleaning services as outlined in this submission, WALGA requests a further period to:

(a) submit statement evidence in support of this submission; and

(b) provide draft wording to amend the clause set out in the Draft Determination regarding minimum engagement for casual employees.



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