

From: Hamish Procter [REDACTED]
Sent: Wednesday, 7 March 2018 11:50 AM
To: AMOD; Chambers - Sams DP
Cc: Chris Campbell
Subject: FW: AM2017/52 - Fitness Industry Award 2010 - substantive issues - classifications

Dear Award Modernisation Team,

We continue to act on behalf of the Australian Swimming Coaches and Teachers Association.

We refer to the conference with Deputy President Sams on 21 February 2018.

As discussed at that conference, please find attached Statement from Brendon Ward, CEO for ASCTA, and supporting statements from State Swim Swimming Schools and State Swim Systems.

Kind Regards,

Hamish Procter

Lawyer

www.aitkenlegal.com.au

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STATEMENT OF BRENDON WARD

I, Brendon Ward, of [REDACTED], provide this statement to the Fair Work Commission in respect of the Modern Award Review for the Fitness Industry Award 2010.

1. I am the Chief Executive Officer of the Australian Swimming and Coaches and Teachers Association (ASCTA) and this organisation also operates the organisation known as Swim Australia.
2. I have been the Chief Executive Officer of ASCTA since 5 June 2017.
3. I refer to the Submissions provided to the Fair Work Commission ('FWC') on behalf of ASCTA, and in particular through the communications of 10 January 2017 and 9 March 2017.
4. I will in this statement repeat some of those submissions, and I do so on the basis that because of ASCTA's direct involvement with the Swim Industry, I am very much aware of the position of our members about the Classification issue and in particular the submissions that ASCTA has made.
5. In support of the submissions made by ASCTA I have, on behalf of ASCTA, received support documentation from those within the Swim Industry for those submissions, as well as the direction of attention to the submission of the AWU on its proposed Level 2A.
6. Examples of the support for the Submissions of ASCTA, as I have just referred to are attached to this my Statement.
7. I have attached to my statement the initial submissions of ASCTA made on 10 January 2017 and confirm the position of ASCTA that the items in blue be incorporated as changes to the Award, and on the basis these particular amendments will assist our members in the operation of their swim schools and businesses and are as a result of the experience with the Award since its original inception.
8. As to the issue of Trainee Swim Teacher I also repeat the submissions made by ASCTA within the Submission of 9 March 2017. I confirm:

ASCTA supports a position that 'trainee swim teacher' be referenced in the *Fitness Industry Award* and only at Level 1 of the Award.

ASCTA rejects the positions taken by the AWU in respect of trainee swim teachers, and in particular the insertion of any reference to a trainee swim teacher within Level 2 of the Award.

That the references currently at Level 1 include reference to "appropriate in-house training" and ASCTA makes the clear submission that what has been sought to be achieved here, by the inclusion of a direct reference to a trainee swim teacher, is an incorporation of that reference as supporting, and as part of, the reference to in-house training (as already provided for within Level 1).

Further on this issue, in respect of Level 2 there is a reference to the completion of 456 hours training. ASCTA submits that it is incomprehensible and without complete justification to insert a trainee at Level 2, as an employee who has completed 456 hours training is usually no longer a trainee. In addition the wording proposed cannot be comprehended when one cross references the completion of 456 hours training with the words proposed by the AWU (*or is undertaking training to become a swim teacher or coach*). ASCTA's position is to ask the question – how can those requirements be comprehended as complimenting or working together?

ASCTA's position is that the clear intent of Level 2 is that it has worked well and provides for an employee having completed at least 456 hours training at Level 1 or has a swim teacher or coach qualification.

The clarification by insertion of wording relevant to a trainee within a Level 1 sits well and is appropriate in respect of Level 1.

It is recognised that a nominal number of hours must be undertaken by a trainee before being accredited, an accreditation is not granted until the person is competent, and this may take longer than the nominal hours (thus the reference at Level 2 in its current wording). Note that a trainee is required to work under supervision of another qualified teacher and cannot earn any income for their employer in their own right, and requires directions as to what tasks to perform and how to perform them.

9. As to Classification 2A I also repeat the submissions made by ASCTA within the Submission of 9 March 2017. I confirm:

ASCTA's submission is that this should not occur. It appears that this has only been suggested because of the attempt to insert a trainee within Level 2, and then becomes unnecessary once that argument is rejected.

Further ASCTA says that it creates another layer of administration and assessment for an employer that is unnecessary in the circumstances where the levels (subject to inclusions within such levels) of themselves work well with respect to classification and related payments as currently provided for.

ASCTA repeats that it is recognised that a nominal number of hours must be undertaken by a trainee before being accredited, an accreditation is not granted until the person is competent, and this may take longer than the nominal hours (thus the reference at Level 2 in its current wording). Note that a trainee is required to work under supervision of another qualified teacher and cannot earn any income for their employer in their own right, and requires directions as to what tasks to perform and how to perform them. The creation of a Classification Level 2A is not supported by the level of training and qualification – the Levels (subject to inclusions within such levels) should remain as they are at present.

10. As to Updated Competencies I also repeat the submissions made by ASCTA within the Submission of 9 March 2017. I confirm:

Attachment E to the material filed by ASSA and uploaded to the award modernisation page on 23 January 2017 needs to be addressed. ASCTA is aware that these competencies are reviewed every three years by the Australian Skills Quality Authority. The competencies then listed by ASSA in those submissions have now changed, and ASCTA provided updated competencies for reference.

ASCTA considers that perhaps a reference to these competencies in the Award, with words to the following effect, may assist in keeping the Award current between reviews:

"The Award relates to the following competencies as amended from time to time by the Australian Skills Quality Authority".

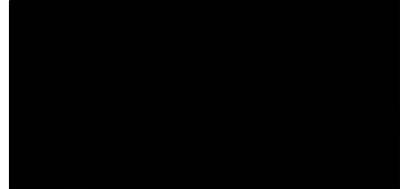
Signed



Brendon Ward

Date: 6/3/2018

Witness



Date: 6/3/2018

Schedule A—Classification Definitions

A.1 Level 1

A.1.1 An employee at this level works under direct supervision with specific instructions and procedures and after appropriate in-house training. Duties may include any or all of the following:

- (a) general counter duties including reception, taking bookings, members and membership enquiries, sale of products, activities organising and customer liaison;
- (b) general tidying/cleaning of immediate work area;
- (c) undertaking structured training/learning in the following areas:
 - (i) clerical assistant duties including switchboard operation, reception, information services, taking bookings;
 - (ii) providing general assistance to employees of a higher grade, not including cooking or direct service to customers;
 - (iii) cleaning, tidying and setting up of kitchen, food preparation and customer service areas, including cleaning of equipment, crockery and general utensils;
 - (iv) assembly and preparation of ingredients for cooking;
 - (v) handling pantry items and linen;
 - (vi) setting and/or wiping down tables, removing food plates, emptying ashtrays and picking up glasses;
 - (vii) general cleaning, gardening and labouring tasks; and
 - (viii) door duties, attending a cloakroom or car park not involving the handling of cash; and
 - (ix) providing general assistance to tennis coaches in the delivery of tennis coaching or classes.
 - (x) [Trainee Swimming Instructor working under direct supervision](#)

A.2 Level 2

A.2.1 An employee at this level has completed 456 hours training at Level 1 so as to enable the employee to perform work within the scope of this level or has a swim teacher or coach qualification.

A.2.2 An employee at this level:

- (a) performs work above and beyond the skills of an employee at Level 1 and to the level of their training; and
- (b) works from instructions or procedures and under direct supervision either individually or in a team environment, and is primarily engaged in one or more of the following duties:

- (i) assisting with classes and directing activities in a centre;
- (ii) attending to equipment and displays, e.g. pool attendant; [and Pool Plant operations](#)
- (iii) providing customer advice, sales and services;
- (iv) operating a switchboard and/or telephone paging system;
- (v) clerical duties, involving intermediate keyboard skills with instructions;
- (vi) program/ticket selling and general sales involving receipt of monies and giving change, including operation of cash registers, use of electronic swipe input devices;
- (vii) laundry and/or cleaning duties involving the use of cleaning equipment and/or chemicals;
- (viii) maintaining general presentation of grounds;
- (ix) door duties, attending a cloak room or car park;
- (x) serving from a snack bar, buffet or meal counter;
- (xi) supplying, dispensing or mixing of liquor, including cleaning of bar area and equipment, preparing the bar for service, taking orders and serving drinks;
- (xii) non-cook duties in a kitchen;
- (xiii) beginner swimming and water safety teacher, being a holder of any current qualification with the following competencies: SRC AQU 003B Respond to an aquatic emergency using basic water rescue techniques; SRC AQU 008B Apply the principles of movement in water to aquatic activities; SRC AQU 010B Instruct water safety and survival skills; SRC AQU 009B Instruct the strokes of swimming; and SRC CRO 007B Operate in accordance with accepted instructional practises, styles and legal and ethical responsibilities.
- (xiv) coaching beginner swimmers (including mini and junior squads), being a holder of a current Australian Swimming Coaches and Teachers Association (ASCTA) "Junior Squad and Assistant Coach" qualification or equivalent;
- (xv) coaching beginner tennis or providing general assistance to tennis coaches in the delivery of tennis coaching or classes, having completed an introductory coaching course or equivalent.

A.3 Level 3

A.3.1 An employee at this level works under general supervision which requires operation within defined areas of responsibility with adherence to established guidelines and procedures and who is employed to carry out work associated with the centre's operations.

A.3.2 An employee at this level is able to fulfil a role at Level 1 and 2 where relevant and supervises Level 1 and 2 employees where requested.

A.3.3 An employee at this level may also be:

- (a) an intermediate swimming and water safety teacher, being a holder of any current qualification with the competencies detailed in clause A.2.2(b)(xiii) above, who has:
 - (i) **performed attended** 12 hours per year of recognised workshops and 250 hours of swimming and water safety teaching, **at Level 2**, and who holds a second recognised instructing qualification, or
 - (ii) delivered 350 hours of swimming and water safety teaching; **at level 2** or
- (b) a coach of beginner swimmers (including mini and junior squads), being a holder of a current ASCTA "Bronze Licence for Coaching" or equivalent.
- (c) a pool lifeguard who has completed a nationally-recognised Lifeguarding qualification, and has been appointed to the position of pool lifeguard by the employer.

A.4 Level 3A

A.4.1 An employee at this level performs the duties of a Level 3 and who:

- (a) holds an Fitness Industry or Sport Coaching (specialising in tennis) AQF Certificate Level III qualifications relevant to the classification in which they are employed or equivalent; and
- (b) utilises the skills and knowledge derived from the Fitness Industry or Sport Coaching (specialising in tennis) AQF Certificate Level III competencies relevant to the work undertaken at this level.

A.4.2 Any dispute concerning an employee's entitlement to be paid at Level 3A may be referred to the Fair Work Commission for determination. The Fair Work Commission may require an employee to demonstrate to its satisfaction that the employee utilises skills and knowledge derived from the Fitness Industry Certificate III competencies, and that these are relevant to the work the employee is doing.

A.5 Level 4

A.5.1 An employee at this level works under limited supervision and guidance and is required to exercise initiative and judgment in the performance of their duties and who is employed to carry out work associated with the centre's operations.

A.5.2 An employee at this level receives broad instructions and their work is checked intermittently.

A.5.3 An employee at this level may also be:

- (a) an experienced swimming and water safety teacher, being a holder of any current qualification with the competencies detailed in clause A.2.2(b)(xiii) above, who has:
 - (i) **performed attended** 12 hours per year of recognised workshops and 500 hours of swimming and water safety teaching, **at Level 3**, and who holds a third recognised teaching qualification, or
 - (ii) delivered 700 hours of swimming and water safety teaching; **at Level 2** or

(b) a coach of beginner swimmers (including mini and junior squads), being a holder of a current ASCTA "Bronze Licence for Coaching" or equivalent, who has:

- (i) performed attended 12 hours per year of recognised workshops and 500 hours of coaching beginners and attended a recognised seminar/conference within the past 12 months, or
- (ii) delivered 700 hours of coaching beginners.

(c) a senior pool lifeguard, being a holder of industry-recognised pool lifeguard qualifications and who has been appointed by the employer to lead a team comprised of qualified pool lifeguards, and/or persons undertaking a nationally-recognised course of lifeguarding to become pool lifeguards.

A.6 Level 4A

A.6.1 An employee at this level performs the duties of a Level 4:

- (a) holds an Fitness Industry or Sport Coaching (specialising in tennis) AQF Certificate Level IV qualifications relevant to the classification in which they are employed or equivalent;
- (b) utilises the skills and knowledge derived from the Fitness Industry or Sport Coaching (specialising in tennis) AQF Certificate Level IV competencies relevant to the work undertaken at this level;
- (c) is employed to carry out work associated with the classification of tennis centre Club Professional. A.6.2 Any dispute concerning an employee's entitlement to be paid at Level 4A may be referred to the Fair Work Commission for determination. The Fair Work Commission may require an employee to demonstrate to its satisfaction that the employee utilises skills and knowledge derived from the AQF Certificate Level IV competencies, and that these are relevant to the work the employee is doing.

A.7 Level 5

A.7.1 An employee at this level:

- (a) holds a Fitness Industry or Management (specialising in tennis) AQF Diploma level or equivalent;
- (b) utilises the skills and knowledge derived from the Fitness Industry or Management (specialising in tennis) AQF Diploma Level relevant to the work undertaken at this level;
- (c) is employed to carry out work associated with the classification of Fitness Trainer, or Fitness Specialist, tennis centre Master Club Professional or tennis centre High Performance Coach; and
- (d) has demonstrated an ability to train or develop programs for special groups.

A.7.2 An employee at this level exercises high levels of initiative and judgment with broad instruction in the performance of their duties. An employee at this level would be able to supervise Level 4 employees where requested.

A.8 Level 6

A.8.1 An employee at this level has duties which include but are not limited to:

- (a) supervision of front desk, including customer liaison and rostering of front office staff;
- (b) supervision, training and co-ordination (including rostering) of employees within their respective work area to ensure delivery of service;
- (c) those of a trade qualified person in a single trade stream and the giving of trade directions to Level 1 to 5 employees;
- (d) supervision of floor staff; or
- (e) overseeing the day to day activities and operations of the business.

A.9 Level 7

A.9.1 An employee at this level is engaged in supervising, training and coordinating employees, is responsible for the maintenance of service and operational standards and exercises substantial responsibility and independent initiative and judgment with a requisite knowledge of their specific field and of the employer's business.

A.9.2 An employee at this level has:

- (a) worked or studied in a relevant field and/or has specialist knowledge, qualifications and experience;
- (b) formal trade or technical qualifications relevant to the employer in more than one trade or technical field, which are required by the employer to perform the job; or
- (c) specialist post-trade qualifications which are required by the employer to perform the job and organisation or industry specific knowledge sufficient for them to give advice and/or guidance to their organisation and/or clients in relation to specific areas of their responsibility.

A.9.3 Indicative duties at this level are:

- (a) general supervision of catering or retail functions;
- (b) centre administration involving supervision of staff and systems and coordinating events; or
- (c) development of in-house training programs for instructors and co-ordinators.

A.10 Employees classified under the provisions of A.2.2(a), A . 2 . 2 (b), A . 3 . 3 , A.4.1, A.5.3 , A.6.1, A.7.1, A.8.1, A.9.2 will hold, at all times, the relevant accreditations required by both this award's classification descriptors and State and Territory legislation permitting work with children (e.g. Child Protection Police Checks). In the event of any employee losing, having suspended, or being refused such accreditation, they will advise their employer(s) within 14 days of such loss, refusal or suspension.



State Swim

Safety, Fun and Fitness

Head Office

[REDACTED]

6th March 2018

State Swim Swimming Schools supports the position that 'trainee swim teacher' be referenced within the Award and only at Level 1 teacher of the Award, and on the following basis:

- There is currently no reference to Swim Teacher in level 1 for those who are training to be a teacher of swimming and water safety;
- Level 2 refers to 456 hours of training at level 1 for a swim teacher;
- Level 2 is too high for an introductory training level for a teacher of swimming and water safety;
- The length of time it takes for someone to train to be a teacher of swimming and water safety ranges from 4 weeks to one year;
- There are a number of swim schools who employ unqualified swim teachers because there is no statutory requirement to hire qualified teachers. In addition, swim schools may employ unqualified teachers to train them up their own way, or it takes them up to 6-12 months to achieve a qualification (depending on a number of factors including the time taken to submit paper work, the age of the trainee etc.);
- The learn to swim industry is very transient with a large number of students employed during their period of study. This results in a significant number of trainees each year;
- If the trainee rates were at Level 2 a significant number of swim schools and swim teacher employers will either reduce the number of trainees or increase the price of learn to swim classes to be able to cover this additional cost;
- Trainee teachers of learn to swim and water safety are typically under direct supervision of an experienced swim teacher therefore have none of the responsibilities that a level 2 position holds;
- That because of the above reasons our organisation rejects the creation of a Classification Level 2A.
- Further a Level 2A is not supported by the level of training and qualifications.
- Further such a Level 2A will create another layer of administration and assessment for an employer that is unnecessary in the circumstances where the Levels of themselves work well (and will work very well within the inclusion of trainee swim teacher at Level 1) with respect to classification and related payments as currently provided for.

Signed

[REDACTED]

(DIRECTOR)

Dated

6/03/2018

Thank you for the opportunity to submit a statement in support of the Australian Swimming Coaches and Teachers Association (ASCTA) submission on classifications for the Fitness Industry Award which is currently under review.

State Swim Systems supports the position that 'trainee swim teacher' be referenced within the Award and only at Level 1 teacher of the Award, and on the following basis:

- There is currently no reference to Swim Teacher in level 1 for those who are training to be a teacher of swimming and water safety;
- Level 2 refers to 456 hours of training at level 1 for a swim teacher;
- Level 2 is too high for an introductory training level for a teacher of swimming and water safety;
- The length of time it takes for someone to train to be a teacher of swimming and water safety ranges from 4 weeks to one year;
- There are a number of swim schools who employ unqualified swim teachers because there is no statutory requirement to hire qualified teachers. In addition, swim schools may employ unqualified teachers to train them up their own way, or it takes them up to 6-12 months to achieve a qualification (depending on a number of factors including the time taken to submit paper work, the age of the trainee etc.);
- The learn to swim industry is very transient with a large number of students employed during their period of study. This results in a significant number of trainees each year;
- If the trainee rates were at Level 2 a significant number of swim schools and swim teacher employers will either reduce the number of trainees or increase the price of learn to swim classes to be able to cover this additional cost;
- Trainee teachers of learn to swim and water safety are typically under direct supervision of an experienced swim teacher therefore have none of the responsibilities that a level 2 position holds;
- That because of the above reasons our organisation rejects the creation of a Classification Level 2A.
- Further a Level 2A is not supported by the level of training and qualifications.
- Further such a Level 2A will create another layer of administration and assessment for an employer that is unnecessary in the circumstances where the Levels of themselves work well (and will work very well within the inclusion of trainee swim teacher at Level 1) with respect to classification and related payments as currently provided for.

Signed



Dated

6/3/18