

IN THE FAIR WORK COMMISSION

Matter No.: AM2018/18 and AM2018/20
Re Application by: Australian Childcare Alliance Inc. & Ors
4 Yearly Review of Modern Awards (commenced under s.156 - *Fair Work Act 2009* (Cth))

AMENDED STATEMENT OF KRISTEN CAROL MCPHAIL

I, Kristen Carol McPhail of [REDACTED] affirm as follows:

Background

1. I am the company director of Pachamama Pty Ltd (**Pachamama**) that operates two childcare services (Services) trading as:
 - (a) Pachamama Early Education and Childcare (**Long Day Care**); and
 - (b) Pachamama Activity Centre - out of hours school care OSHC care with babies (**Activity Centre**),
(collectively, **the Pachamama Services**).
2. I have been the sole company director and operated the Long Day Care since 2012 and the Activity Centre since 2014. The two services operate as one centre and are across the road from one another.
3. As well as being the sole company director, the senior management team of the Pachamama Services reports directly to me on a daily basis.
4. I hold a Bachelor of Arts Degree in Economics from St Olaf College in the United States and I also have a Master of Teaching degree from the University of Notre Dame Australia (Fremantle Campus).
5. During my career I have been in various senior management roles in different industries including insurance broking, financial planning, conference management, funds management and now childcare. I have also held an Executive Officer role for the peak industry body of the Financial Planning Association.
6. Pachamama is member of the Australian Childcare Alliance - Western Australia (**ACA-WA**).

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My role

7. As the sole director of Pachamama, I am ultimately responsible for all aspects of the management of both Pachamama Services. Pachamama employs a Centre Manager and an Office Manager to directly administer the day-to-day operations of the Pachamama Services, but I am actively involved in leading the senior management team, counselling educators, compliance matters, marketing, financial management and corporate development.
8. Pachamama Pty Ltd is the Approved Provider for the Pachamama Services. An Approved Provider has obtained a provider approval from the Australian Children's Education & Care Quality Authority (**ACECQA**) which is a prerequisite to operating an early education service in Australia. The approved provider is legally responsible for compliance with the laws and regulations that govern the early childhood education and care sector (**ECEC**).
9. All Approved Providers in Western Australia are obliged to adhere to the *Education and Care Services National Law (WA) Act 2012* and the *Education and Care Services National Regulations 2012* (**National Law and Regulations**).

The Pachamama Services

10. The Pachamama Services are dedicated to incorporating and enhancing creativity in an early education and childcare setting. The Services strive to improve the childcare industry through showcasing possibilities of excellence, and inspiring other operators and educators to reflect on their environment and practices to determine ways of enhancing their service delivery. Pachamama aims to influence the best possible outcomes for all children involved in early education and childcare.
11. The Pachamama Services encourages a 'child-centred approach' to educating young children. We do this through play-based learning in nature-based environments that are key to our multi-award winning history.
12. The Pachamama Services also promote and value positive relationships: between Educators and children, employees and families, each employee and our various animals which we keep at the Pachamama Services. Developing and valuing positive relationships is fundamental to Quality Area 4 and 5 of the National Quality Standards, part of the National Quality Framework that I will explain later.

Business Awards & Achievements

13. In 2018, Pachamama won both the WA State and the National Telstra Business Awards in the Small and Succeeding category. I believe that, in the 26-year history of the esteemed Telstra Business Awards, Pachamama is the first ever education provider to be crowned as a National Award Winner.
14. I was a WA State finalist in the 2002 Telstra Women's Business Awards. Last week I was advised, upon my second entry in these awards, that I am again a WA State Finalist in the 2019 Telstra Women's Business Awards in the Small Business category.

15. Following our first year of operation, our Activity Centre was awarded with the inaugural Innovation Award by the Western Australian peak body for out-of-school-hours care, OSHC (WA).

Licensed Number of Children & Location

16. Pachamama's Long Day Care Service is located in Lesmurdie and is licensed to care for 69 children, ranging in ages from 6 weeks to 5 years old.
17. Before and after school and vacation care is provided at the Activity Centre, situated directly across the street from the Long Day Care Service which is licenced to care for 81 children, comprised of 73 school-aged children and 8 babies.

Hours of Operation

18. The Pachamama Services are open from 6.30am - 6.30pm. During school holidays, the Pachamama Activity Centre is open from 7.00am until 6.30pm. In my experience, parents are happy to drop off school-aged children a bit later during their school holidays for vacation care. Opening the service later at 7.00am rather than 6.30am means we can roster our staff to start a bit later in the morning.
19. The staff remuneration of the Pachamama Services are governed by the:
- (a) Children's Services Award 2010 (**Children's Services Award**); and
 - (b) the Educational Services (Teachers) Award 2010 (**Teachers Awards**),
- (together, **Awards**).
20. These Awards strongly influence our hours of operation due to overtime required to be paid to our employees if they work before 6.00am or after 6.30pm. Therefore, we do not offer our care to our local community outside of these times. Likewise, we do not roster our staff to attend shifts or meetings outside of these times. If we did, the cost of our care would most likely be prohibitive for most people to use, which is most unfortunate for our local community who would value an opportunity to have care available to them outside of these hours.

Types of Employees

21. Across the two Pachamama Services, the company employs the following types of employees based on an approximate %:

Full Time	Part time	Casual Employees
20 (45%)	10 (22%)	15 (33%)

22. Strategic combinations of full-time, part-time and casual employees are engaged to meet the

needs of all stakeholders. These stakeholders include children, parents, educators, and shareholders.

23. We ensure that our base of educators includes as many permanent employees as possible (taking into consideration our above-mentioned efficient mix) because, in my experience, permanency of employees is absolutely fundamental to a childcare centre performing at exceeding levels because permanent employees:
- (a) are more readily available to engage in a more continuous on-the-job training regime that results in an ability to deliver higher quality care;
 - (b) become deeply familiar with the systems and practices of our exceeding Services resulting in a higher degree of quality control;
 - (c) build stronger bonds and deeper relationships with the children and families resulting in a higher outcome of quality of care;
 - (d) build stronger relationships with fellow educators creating a stronger network of comradery and on-the-job support resulting in a greater ability to deliver higher quality of care;
 - (e) help to keep the cost of care as low as possible due to the inverse relationship between quality and transiency of both customers and staff (i.e. The higher the quality of care and the stronger the relationships are, the less likely families and staff are to leave the service thereby gaining fiscal efficiencies in administrative, hiring, training and marketing.)
24. Additionally, maintaining a workforce with a high percentage of permanent employees is a strong influence for the National Quality Framework's Quality Area 5 'Relationships with Children' on which services are assessed and rated due to the benefits it provides, (i.e. the ability to bond through continuity of staff).
25. Despite the reasons to maintain a highly permanent base of educators stated above, a significant challenge facing management in a high quality service is the need to maintain a degree of operational flexibility to comply with legislative requirements, resulting in a balance of permanent and casual employees.
26. Understanding this, we must focus on maintaining a knowledgeable and skilled pool of medium to long term casuals we can rely upon. The Pachamama Services have had many university students and older women who prefer casual employment for the flexibility and lifestyle benefits. These employees are engaged to backfill our rosters to meet the continuously changing needs of both our customers and employees due to the cyclical nature of registrations, the seasons, time of the school year, holidays, illnesses, training and the economy.
27. I employ mostly female staff simply due to availability when hiring. I would much prefer to have a greater gender balance in Pachamama's workforce, but this is not possible due to lack

of potential male employees in the ECEC. It appears uncontroversial that the early childhood education and care sector is female dominated.

Wages

28. We almost exclusively pay our staff an hourly rate according to what is stated in the Awards. There are some employees that are paid above award wages but this is discretionary and considered on a case-by-case basis. We conduct annual reviews for all staff members and determine wage levels through this process. We give the Award increases in July every year and budget for an increase each year.

Awards

29. Pachamama engages staff on the basis of either the Children's Services Award or the Teachers Award depending on the role they perform. Both of these Awards contain terms and conditions about:
- (a) the set days and hours that we can roster employees (depending on contract and award that applies);
 - (b) the requirement to provide 7 days notice of a roster to each employee;
 - (c) the maximum number of hours that we can employ staff per week (38 hours);
 - (d) the maximum number of hours that we can employ staff per day (8 hours); and
 - (e) the requirement to only roster casuals for temporary or relief purposes.
30. I find there are considerable difficulties with balancing the nature of the industry while meeting all of the legislative and Awards requirements. I find that aspects of the Awards are out-of-sync with the industry and the legislative requirements and, in fact, have the ability to detrimentally impact quality and safety of a centre to a significant degree. As an example, there is absolutely no way we can manage our Pachamama Services at an Exceeding the NQS level if we provide our rostered employees with 7 days notice at all times and roster casuals for temporary or relief purposes only. It is simply impossible. If we were to strictly comply with these requirements, we would not have consistency of care which is essential in the ECEC sector.
31. There are several examples as to why it is fundamental that an educator working in a before/after school environment or long day-care is familiar with the children.

Transporting to and from school

32. Pachamama Activity Centre services nine local schools twice per school day using our fleet of five vehicles.

33. At any one time, we could have 73 primary school children in our care ranging in age from 3 to 12 years old. Each child has their own unique set of logistical, medical, developmental, nutritional and social needs. Some of our children legally require a five-point harness car seat depending upon their age, while others require booster seats. Some of our children have very serious medical needs such as type 1 diabetes in which they have no insulin producing cells and their medical equipment must be read and recorded at transition time (and at regular intervals during the duration of care) with remedial action required of glucose or insulin injections. Some of our other children have challenges such as autism and can have an 'episode' at a moment's notice causing considerable distress to the other children. Some of our children are under the care of the Department of Child Protection and can panic with a new person and run away while being picked up due to deep psychological disturbances. Knowledge of these matters is fundamental.
34. Additionally, each school has different logistical dynamics due to varying school layouts, policies and practices that must be met. Some year groups need to be delivered to each individual student's classroom, while other age groups must be dropped off in certain locations. Some classrooms are attended to at certain times by teachers while others are notoriously late and must be waited for causing time pressures. Some children are to be collected from the office, while others are to be gathered by walking through the courtyards and common areas. Some schools provide parking for childcare buses, but do not mark this adequately. Knowledge of these matters is fundamental.
35. Throw into the mix our different buses demanding different skills and operational requirements. One is a large manual 24-seat Toyota Coaster; one is a manual 14-seat Toyota Commuter, while others are automatic 12-seat or 14-seat Toyota Commuters. Some vehicles require the driver to have a manual drivers license, others require a special Light Rigid drivers license, while yet other vehicles require the driver to have both a manual and a Light Rigid license. Different vehicles attend different schools depending upon the numbers of children registered from that school for that particular day. And every day is different is based on a core knowledge of the children, environment, policies and practices. Knowledge of these matters is fundamental.
36. Proper training of staff to perform these duties at an exceeding level is a lengthy process that requires *regular and consistent engagement* with the changing ebb and flow of our families' needs.

Familiarity with Children

37. At the Activity Centre, if we rostered our casual educators for temporary or relief purposes only, they would not have the opportunity to become familiar with the children, their school environment and logistical processes to a degree that they would be able to implement a relatively high risk bus run to a high standard.
38. In my experience with speaking with my casual employees, they generally do not want permanent contracts – hence the nature of their engagement as casuals otherwise, I would permanently employ them. In my experience, they are very happy, though, to accept regular rostered-in-advance shifts for a certain period of time that can change depending upon how

their changing needs intersects with the needs of the company. Doing this meets the needs of the employees, the children, the families, the company but is not allowed in the Awards.

39. Therefore, in my considerable experience of managing our multi-award winning Pachamama Services that have been consistently rated as Exceeding the National Quality Standards, I find that aspects of the Awards are out-of-sync with the industry and its legislative requirements. I also believe, in fact, that such Awards have the ability to detrimentally impact quality and safety of a financially-viable service to a degree that it unacceptable as explained above.
40. The only solution I see to be able to meet all the legislative requirements, quality standards and Awards simultaneously is to overstaff our Pachamama Services to such a degree that would simply make it financially unviable. At least four extra Diploma-qualified staff members would need to be rostered on a full time basis each day, resulting in significant increase to the Services bottom line.

Ordinary Hours

Extending the Ordinary Hours

41. I have read the ACA claim to extend ordinary hours from 6.30pm until 7.30pm. This extension of ordinary hours would assist services when parents are running late and cannot pick their children up by 6.30pm. It would also help centres hold staff meetings during normal work hours to which mandatory staff attendance is required because the meetings could be held once the last child leaves the centre. It would also help us to provide the community more regularly with much valued additional care opportunities such as occasional 'date nights' for our parents that are currently financially out of the question.

Late Pick Up

42. If a child does not get picked up on time by 6.30pm, a staff member will have to stay with the child until they are picked up. Although this is not a common occurrence at Pachamama Services, it can occur and did so only this week when a parent was 30 minutes late picking up their child. Due to a communication problem, both parents thought the other was picking up their daughter resulting in nobody picking her up until 7.00pm. We do not charge our parents for picking up their children late unless it becomes a regular occurrence, which is rare. When we do charge, our late fee is \$1.00 per minute.
43. Our parents are usually on time because we are located in the Perth Hills and a lot of our parents work locally as school teachers at one of the 12 public or private schools in the area. These parents will pick up their children on their way home, generally before 5.00pm. In my experience, it is common for parents to put their children into services that are either close to work or close to home as this is the most convenient for them.

Legislation

44. The National Quality Framework of the childcare industry includes the National Quality Standards (NQS) as overseen by the Australian Children's Education & Care Authority.
45. Quality Area 4 of the NQS relates to 'Staffing Arrangements,' and involves the way in which we organise the engagement of our educators. Ensuring continuity of staff is a significant feature of this quality area. For example, we must ensure the organisation of educators across the service is carried out in a way that supports children's learning and development. We also must ensure every effort is made for children to experience continuity of educators at the service.
46. Western Australian services should also comply with the following requirements which all fall within Quality Area 4 and/or 5 of the NQS, as supported by the Early Childhood Australia's Code of Ethics:
 - (a) ensuring we treat staff ethically and respectfully (NQS Standard 4.2);
 - (b) ensuring employees have appropriate qualifications to be caring for children (more specifically, they need to have at least a Certificate III and 50% of staff at all times must be working towards or have a Diploma or higher qualification);
 - (c) ensure the correct number of staff (with appropriate qualifications) can be placed on shifts with other staff with complementary skills;
 - (d) ensure that the overall qualification requirement is met 'under the roof' when one staff member covers for another staff member during lunch breaks;
 - (e) ensure staff are qualified to open/close (e.g. must be Diploma-qualified or higher) and, due to Pachamama operating 2 separate services across the road from each other, we require 4 employees to open and close per day;
 - (f) ensure an appropriate number of employees are university qualified as Early Childhood Teachers (ECT). In Western Australia there is also a change that is being made in January 2020 which will see a requirement for a second ECT for services with 60 or more children.
47. All of these many different variables need to constantly fit together like a glove for us to be able to comply with the legislation in a financially viable manner and in the best interest of the children and staff.
48. The Pachamama Services are rated 'exceeding' by the National Quality Framework for Early Childhood Education and Care, an achievement of which we are very proud. Exceeding is the highest rating a service can receive following an on-site assessment and ratings visit from ACECQA. It indicates that a service goes beyond the requirements of the National Quality Standards in at least 4 of the 7 quality areas, with at least two of these being quality areas 1, 5, 6, or 7.
49. Pachamama Early Education and Childcare is currently the highest rated service in Western Australia under the new 2018 National Quality Framework with all 15 standards and 7 quality

areas rated as Exceeding the NQS. Annexed and marked '**KCM-1**' is a copy of the Guide to the National Quality Standard Assessment and Rating Process which contains a copy of:

- (a) Quality Area 4 and its two standards; and
- (b) the 15 standards against which all centres in Australia are rated and assessed. Within the 15 standards are the elements that form the foundation of our specific criteria.

Ratios

50. In Western Australia, we have certain ratios detailed in National Law and Regulations that we must adhere to at all times. I believe that Western Australia's educator to child ratios is among the most stringent in Australia.
51. The easiest way to comply with these ratios is to group the children at the Pachamama Services into categories that align with the legislative requirements. Those children are then allocated to a room with other age and developmentally appropriate children, together with an appropriately allocated number of educators in accordance with the below table:

<u>Age of Children</u>	<u>Educator to child ratios in Western Australia</u>
Birth to 24 months	1:4
Over 24 months and less than 36 months	1:5
Over 36 months up to and including pre-school age	1:10
Over preschool age	1:13 (or 1:10 if pre-kindergarten children are in attendance)

52. The approximate age groupings across Pachamama Services are as follows:

- a) Infants: 6 weeks to 18 months
- b) Babies: 12 months to 24 months
- c) Toddlers: 18 months to 36 months
- d) Junior Kindy: 30 months to 4 years
- e) Kindy: 3.5 years - 6 years
- f) Junior Primary: 3 to 7 years
- g) Senior Primary: 7 to 12 years

Qualification Requirements

- 53. As well as the legislative requirement to meet staff:child ratios at any one time, we are also required to meet certain qualification requirements as stated in the National Law and Regulations.
- 54. Firstly, all employees working with children must hold a certificate III in early childcare or be actively working towards this certificate after 3 months of employment.
- 55. Secondly, each centre must also ensure that at least 50% of staff on site at any one time must have, or be actively working towards, at least the Diploma-qualified Level.
- 56. Thirdly, depending on the number of children the centres must employ an appropriate number of early childhood teachers. Under current requirements, our Long Day-Care is required to employ one ECT according to the National Law and Regulations.
- 57. The above qualification requirements further complicate rostering in our sector.

Rostering

- 58. We aim to give staff two weeks' notice in advance of their rostered shifts. I note that the Awards provide that we need to give seven days' notice in advance of the change in our employees rostered shifts.
- 59. Our Office Manager will roster full-time employees on for 4 days of 7.5 hours shifts (generally plus an hour lunch break) and 1 day of an 8.0 hour shift (also plus an hour unpaid lunch break).
- 60. Across the services, we stagger our rosters so that we have employees commencing their shift every half hour in the morning (such as 6.30am 7.00am, 7.30am and 8.00am) and then equally leaving in a staggered manner in the afternoon (at 2.00pm, 3.00pm, 3.30pm and 4.00pm etc.) We do this because the middle of the day is our busiest period and the early morning and late afternoon is usually quieter because parents drop their children off in a staggered pattern.

Unexpected changes to the roster

- 61. Unfortunately, in practice, rostering of our employees to suitable shifts is never smooth because both staff and children get sick and there are other personal issues for which we cannot be plan.
- 62. Our procedure when someone is sick is that ideally, we refer to our casual list. Unfortunately, it is not usually that straightforward.
- 63. It would seem that referring to our casual list to replace a staff member who becomes unexpectedly unavailable with little notice is a simple process. But this is not the case at all.

64. Last minute staff absences (most often caused by personal or family illnesses) can often cause considerable upheaval to our rostered shifts across both Services.
65. For example, it is common to have a number of staff whose absences are planned for well in advance due to training, holidays, or other personal matters. Trained casuals from our casual list are scheduled to temporarily replace them on our roster released usually 2 weeks in advance.
66. At the same time, Pachamama could have a contagious disease (such as the cold or flu) causing unexpected illnesses of multiple staff members concurrently.
67. We again would refer to our casual list to engage a trained casual on short notice, which is not always easy because there is no obligation for them to be available as they are not paid to be 'on call'.
68. In these circumstances, what becomes even more difficult to manage is when an available trained casual has a Certificate III qualification but we need to replace a Diploma-qualified staff member to say open or close a Service. Although our staff:child ratio will be met, our 50% Diploma-qualified ratio requirement will not be.
69. What we must do in this situation is to switch shifts of other staff at short notice (always subject to their approval and availability) to ensure that we meet the legislated ratios.
70. Our employees usually say 'yes' if they are available to assist. If they don't, then we need to approach another staff member to seek their availability, and so on until we are in a position to meet legislated ratios.
71. Enlarging the pool of available trained casuals is not 'the answer' because if casuals are not receiving regular work from a Service, then they will cease to make themselves available.
72. Additionally, if casuals are not receiving enough regular work from Pachamama, we find that they lose touch with our policies, procedures and very important child-specific knowledge to a degree that jeopardises our Exceeding levels of operations and, can even in some circumstances, jeopardise the safety of our children. We refuse to use casual employment agencies for this exact reason.

Other considerations

73. On top of all this regulation, we also need to consider that the employees who are chosen to be in a room together with children have the ability to comfortably work together while also being able to deal with the children in the room (i.e. that a particular trained casual might be more qualified for babies instead of the kindy children.) In these scenarios we might have to further change the other shifts around (ie. from a morning shift to an afternoon shift) so that the children and their welfare are put first.
74. It is preferable that both parents and children are familiar with our employees because they need the comfort of attachment and certainty. Parents need to know who is looking after

their precious children. Additionally, in order for children to part with their parents easily and have a sense of belonging to their environment, they need the continuity.

75. We are constantly looking at the overall picture to make sure that we meet all stakeholders' needs. With a base of around 40 to 50 staff to educate and care for the 150 children at Pachamama every day, we are continuously 'in battle' to make sure we have the correct ratios and to provide in a cost effective manner for what is best for the staff, the parents and the children.

7 days notice is absolutely impossible for the ECEC

76. Embedded within our sector are constantly changing variables in a framework of high regulation because we have young lives in our hands. If a staff member has to leave work because their own child is sick and we have agreed to swap their shift with another staff member's shift, my understanding is that this scenario is contrary to the 7 day notice period requirement in the Awards.

Bookings - Quikkids

77. The system both parents and staff use at the Pachamama Services to book children into the centre is called Quikkids which is a management application that over 7,000 providers use across Australia. With Quikkids, we often have parents book into the Services at late notice (as late as the night before) and therefore our occupancy might not be finalised until that morning. If a single child is booked last minute into our Service, the ratio levels can change and we may urgently need more staff. It is impossible for me to roster on employees (and give them 7 days notice) if I do not know the ratios until the morning that the children are arriving. It is a common occurrence that there are no casual employees available last minute and so a permanent staff member will agree to come in half an hour earlier or whatever is required.
78. Pachamama aims to meet the demand of the parents with the best customer service possible. If we did not let our parent's roster their children at the last minute, I believe that the parents would just move to another service that did.

7 day notice contrary to Staff/Children/Parents needs

79. Scenarios such as this arise every week. We find it impossible to support our staff's needs and the children's needs whilst also complying with this element of the Awards.
80. If we were to comply with the Awards (in terms of rostering and 7 days notice), we would have to manage our Services using casual employees constantly, which is not in the best interests of the staff and their entitlements nor the children and their welfare nor our parents and their peace of mind.

The Unions' Claims

81. I been informed of the changes to the Awards proposed by the Arrabalde (**Individuals**), United Voice (**UV**) and the Independent Education Union (**IEU**) (**Unions**).

82. I respond to each of these claims below.

UV Claim - Responsible Person Allowance

83. I have been informed that UV seeks to insert a provision into both Awards which would apply to the person who is the designated Responsible Person on an hourly basis based on the amount of children at a centre. Under s 132 of the National Law, a Responsible Person must be designated as being on-site at all times and there are penalties if an Approved Provider does not comply with this regulation. According to the National Law the Responsible Person could be:

- (a) the Approved Provider;
- (b) a person with management or control of the service; or
- (c) a Nominated Supervisor or a person in day-to-day charge of the service.

84. If I had to administer an allowance for an employee serving as the Responsible Person this would be incredibly difficult due to the person being allocated to the role constantly changing.

85. At Pachamama's Long Day Care, our Responsible Person is usually the Centre Manager who is also the Nominated Supervisor and Educational Leader. Because of these many valued roles, she is on a salary and bonus structure significantly above her applicable Award.

86. Our Centre Manager is engaged to work 4 days per week. When the Centre Manager is not on-site to be the Responsible Person for whatever reason, our Office Manager is second in line to be the Responsible Person at Pachamama's Long Day Care. They work together to make sure that, depending on the needs of the Centre and their own personal needs that one of them is on-site at all times.

87. At this time, a third person would step in the position of Responsible Person.

88. But this third person works a normal 7.5 to 8.0 hour shift and often does not open or close the Long Day Care. In these instances, a fourth and fifth person will step in the position of Responsible Person.

89. The diploma qualified employees that both open and close the service rotate amongst all of our pool of qualified educators in order to provide our employees with the best working conditions possible. Therefore, during any one payroll period, we could have up to 8 to 10 employees performing the role of Responsible Person for our Long Day Care for an hour here and an hour there.

90. These employees are paid on a higher classification level already to remunerate for the extra responsibilities in general for opening and closing the centre and managing other employees. We currently pay employees who can temporarily act at the Responsible Person at a Level 4 (Diploma) because the indicative duties of those levels include:
- (a) Being responsible, in consultation with the Assistant Director/Director for the preparation, implementation and evaluation of a developmentally appropriate program for individual children or groups;
 - (b) Being responsible to the Assistant Director/Director for the supervision of students on placement;
 - (c) Being responsible for ensuring a safe environment is maintained for both staff and children;
 - (d) Being responsible for ensuring that records are maintained accurately for each child in their care;
 - (e) Developing, implementing and evaluating daily care routines;
 - (f) Ensuring that the centre or service's policies and procedures are adhered to; and
 - (g) Liaising with families.
91. On any one day and across both Pachamama's Long Day Care and Activity Centre Services, we could have up to 9 to 10 people fulfilling the Responsible Person roles. This could consist of anywhere from 5 - 10 minutes to 3 - 4 hours at a time.
92. If Pachamama was required to pay an hourly allowance, we would need to record and calculate down to the minute who was fulfilling that role at any one time. This is practically next to impossible to calculate and administer who receives the nominal amount chosen for every hour of every day across both Centres.
93. Employees that accept the Responsible Person role are already being paid more than other employees who are not accepting that duty. The requirement to have a Responsible Person is simply a legislative requirement that can be complied with by allocating the title to qualified employees who are already have the responsibility as listed as a duty of their position under the Award.
94. It is so difficult administratively giving allowances to individual employees that when we have a split-shift allowance that we must award, I find it easier to just build it into those employees hourly rate.
95. The difference between an employee performing a split-shift and being the Responsible Person, however, is that the duties of a split-shift are not listed as a normal responsibility for their role in the Awards as are those generally of the Responsible Person. Additionally, we only have a few employees who do split-shifts and we usually know this well ahead of time allowing us to build this allowance into their hourly remuneration package.
96. If we were to apply this logic to the proposed Responsible Person allowance, we would have to raise majority of our staff's hourly rate whether or not they were actually a Responsible

Person at any time during their 2 week payroll period. Furthermore, they would receive this additional amount for the vast majority of other times they were not the Responsible Person. The cost of this increase would definitely result in increased daily fees for parents, which is something that Pachamama very much tries to avoid.

UV Claim - Educational Leader Allowance

97. The UV also seeks an allowance in both Awards which would apply to the person who is the Educational Leader, on a weekly basis.
98. Our Education Leader is our Centre Manager who is already remunerated at a level significantly above the Award. In any event, without this above-the-Award remuneration package, our Educational Leader would be paid in a higher classification (as a Centre Manager) to other employees (who are educators) because it is the Centre Manager's job to manage and inspire our educators and drive the educational program as a significant part of our high quality service delivery.
99. It is not necessary to add an allowance for an Educational Leader as many Educational Leaders would hold another senior role in the Service such as Manager, Director or Approved Provider. The duties of Managers, Directors and Approved Providers (usually a level 5 or above in the Children's Services Award) already include the duties allocated to an Educational Leader in the National Law.

UV Claim - Training Clause

100. UV is seeking an insertion of a training clause in the Children's Services Award which requires an employer to pay for training and course fees when an employee is directed to participate in training. The employer will also be required to pay for time worked at ordinary rates. UV gives an example of First Aid Training. The National Regulations state that at least one employee must have a First Aid certificate at all times on-site. First Aid certificates must be updated every three years, whereas emergency Asthma and Anaphylaxis must be updated every year. UV claims, therefore, that the employer should be paying for them.
101. As our management team is First Aid trained, the requirement to have one person on-site at all times who is First Aid trained would easily be met. However, all permanent Pachamama employees are provided with the opportunity to be First Aid as well as Emergency Asthma and Anaphylaxis Trained as we believe that this is best practice when we are looking after young lives. We believe it is also a benefit to our employees.
102. We conducted a first aid training only last weekend. The two founders of Pachamama who work on the premises on a daily basis (and therefore would meet the National Regulations with respect to First Aid qualifications) attended this training. Thirteen other employees also attended this training. Pachamama paid for the course fees for all of our employees to attend this training. However, we do not direct the employees to attend these sessions and therefore do not remunerate them for their time. From speaking to my staff, I believe that they take the opportunity to up-skill for free in a convivial environment with their colleagues.

103. It is a large cost for us to provide this First Aid and Emergency Asthma and Anaphylaxis training at approximately \$125 per person. As such, I would not holding this training if I also had to pay overtime to staff as well as paying for the course. I am concerned that requiring employers to pay for the course and the time worked (plus overtime) may serve as a deterrent for best practice standards and services may go back to complying only with what is legislatively required (eg; 1 person on site at all times with a First Aid certificate).
104. It would be impractical for me to host the training during the working hours (in the week) as I need to ensure the ratios of staff:children are legislatively compliant. I could roster the employees so that half went to training one day, and the other half the next - but this would mean Pachamama would not receive a bulk discount paying for the training twice plus backfilling the roles of those being trained with casuals to fill in whilst the others were at training.

UV Claim - Laundry allowance

105. UV seeks to add into the Children's Services Award a note that the laundry allowance should be payable even if employees are able to use washing machines (and detergent) provided at the service. Inserting a note that requires the allowance to be paid in situations where the employee is not "required to launder" any clothing is contradictory.
106. For example, I provide my employees with two polo shirts, a hat and a warm jacket and state that they may wash their clothes on-site (although my employees never do). If they did wash their clothes on-site during or after the work day, or myself or another staff member washed their uniform for them it seems odd that I would also have to pay the laundry allowance when the centre is bearing the cost of water, detergent and time spent cleaning the clothes. The same applies if employees are washing their clothes during work hours. This is time spent off the floor, which the employee is already remunerated for.

UV Claim - Hats and sunscreen

107. UV seeks to add into the Children's Services Award, reimbursement for a hats and sunscreen purchased by employees (if they are not provided). In Pachamama, we provide our employees with a hat. We do this for their safety and to role model sun protection as a good example for the children.
108. Regarding sunscreen, we do not control how much sunscreen our employees use. At Pachamama, we have never told an employee nor had a conversation with an employee regarding their sunscreen usage. We have, in fact, had discussions with our educators about their lack of sunscreen usage and strongly encourage our educators to apply sunscreen at a level they feel appropriate in the presence of the children for their own protection, as well as to role model sun protection practices as a good example for the children.
109. I strongly believe these allowances are unnecessary because the employees are provided with hats as part of their uniform for branding and employee identification purposes, as well as sunscreen. Requiring reimbursement to employees of these items could result in employees purchasing expensive hats or designer sunscreen instead of using the facilities

that are available to them that serve multifactorial purposes.

UV Claim - Higher Duties

110. UV is seeking for employees that are performing “higher duties” to be paid for these duties if the employee they are covering for is attending a paid training course. At Pachamama if we send someone to a training course, it will usually be on the weekend when the children are not around. However, if it was during opening hours and we have to back-fill the role, we will do it with the same level of person.

UV Claim - Non-contact time

111. The requirement under the Children’s Services award is to give any employee:

“responsible for the preparation, implementation and/or evaluation of a developmental program for an individual child or group of children ... a minimum of two hours per week, during which the employee is not required to supervise children or perform other duties directed by the employer, for the purpose of planning, preparing, evaluating and programming activities.”¹

112. At Pachamama, the above stated duties belong to our Room Leaders and we give them 2 hours of non-contact time. However, we also provide most every other educator at least one hour of non-contact time per week so that they can learn and participate in the educational program and become trained as part of our up-skilling and succession planning.
113. If the UV claim was implemented (and we were required to give 4 hours non-contact time to Room Leaders and Educational Leaders), Pachamama would simply cut off the non-contact time for everyone else who is not a Room Leader/Educational Leader in order to increase the Room Leader’s non-contact time. I strongly believe that the ramifications of this UV claim if successful would be to effectively decrease the training and involvement of all the other educators in the programs because there is only so much expense for non-contact time that we have budgeted for (and therefore built into the fees) and only so much time we can have staff off the floor in order to comply with ratio requirements.
114. Where an Educational Leader is also a Room Leader, I rely on my comments above. Where an Educational Leader is not a Room Leader – such as is the case at Pachamama with our Centre Manager being our Educational Leader, they are in a management role guiding Room Leaders and generally the vast majority of their time is non-contact time. If this is the case, this change to the award is not necessary.
115. I believe that 2 hours of non-contact time for Room Leaders has been sufficient at both of Pachamama’s services to complete planning and programming. My employees are not required to complete these tasks outside of work hours.

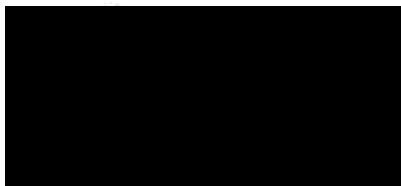
¹ Clause 21.5 of the Children’s Services Award

IEU Claim - Coverage of degree qualified Directors

116. The IEU is seeking for Directors with teaching qualifications to be paid under the Teachers Award whether or not that person directly performs day-to-day teaching activities.
117. At the Pachamama Centres, the 'Director' is our Centre Manager and she is on a wage and bonus structure remuneration package that rewards her at a rate significantly above the Children's Services Award for either a director or a teacher. I do not employ any degree qualified teachers who are not also in charge of implementing the educational program for the whole service as I believe this is the role of the Centre Manager as part of their responsibility to manage staff and deliver a quality service.

IEU Claim - Casual minimum engagement

118. The IEU is seeking confirmation that casual teachers are paid for a minimum of a 'quarter day' when required to attend the workplace for a quarter day. Pachamama does not have any casual teachers as the National Regulations (s130 - s 134) because we have more than 25 children in attendance and we meet the regulations by employing a full time teacher. I do not know any centres that employ casual teachers because of the strict requirements of the National Regulations which are easier to comply with if centres employ a part-time or full-time teacher with set hours.



Kristen McPhail
12 April 2019