



IN THE FAIR WORK COMMISSION

**APPLICATION BY THE INDEPENDENT EDUCATION UNION OF AUSTRALIA –
EDUCATIONAL SERVICES (TEACHERS) AWARD 2020 (AM2018/9)**

**SUBMISSION IN RESPONSE –
COMMUNITY CONNECTIONS SOLUTIONS AUSTRALIA (CCSA) LTD**

30 JULY 2021

Introduction

1. On 19 April 2021 the Full Bench in this matter issued Decision [2021] FWCFB 2051 (the Decision) in which it concluded that a new classification and pay structure for teachers covered by the *Educational Services (Teachers) Award 2020* (the Award) is warranted [657]. In addition, the Full Bench concluded that an allowance based on the extant Leadership Allowance in the Award should be payable for any early childhood teacher appointed to the statutory role of Educational Leader [658].
2. Following Directions issued by the Full Bench on 7 June 2021, with subsequent amendment on 9 July 2021, interested parties filed proposed award variations to give effect to the Decision along with any evidence and submissions concerning the matters identified in paragraph [665] of the Decision. Submissions in response are to be filed by 30 July 2021. CCSA's submission in response to those filed by other parties is provided below in accordance with the Directions.

Submissions of the Independent Education Union (IEU) and Australian Business Lawyers & Advisors (ABLA) acting for the Australian Childcare Alliance (ACA) and Australian Business Industrial (ABI)

3. As indicated in our submission of 14 July 2021, CCSA supports the proposed consent position with supporting submissions that has been put to the Commission by the IEU and ABLA acting for the ACA and ABI. That support comes with the single caveat identified in our submission of 14 July 2021 that further clarification is required regarding the award coverage of diploma-qualified employees with conditional teacher accreditation.

Submission of Ms. I Arrabalde and Ms. E Arrabalde

4. CCSA supports the arguments provided in this party's submission regarding the proposed educational leader allowance, including the Decision's relationship to the separate 4-yearly review of modern awards (AM2018/18 and AM2018/20). We note that their draft variation would deliver largely the same outcome as that which would be achieved through the consent position proposed by the IEU/ACA & ABI.
5. However, it is CCSA's view that the IEU/ACA & ABI formulation is preferable. It will more effectively meet the requirements of Subsection 134(1)(g) of the *Fair Work Act 2009* by separating out the Educational Leader Allowance which is payable only in the early childhood sector from the Leadership Allowance which is payable only in the school sector. This should make understanding and applying the new allowance a more straightforward process, particularly for smaller employers and their affected staff.
6. The IEU/ACA & ABI formulation also has the benefit of explicitly clarifying that Educational Leaders Allowance is payable in addition to Directors Allowance, as well as identifying that Educational Leaders Allowance is payable pro rata based on the days of operation of a part-time early childhood service rather than the hours of a part-time employee appointed to the role.

Submission of Catholic Employment Relations (CER) Ltd

7. CCSA agrees with Catholic Employment Relations (CER) that the operative date should be after a final Determination is made by the Full Bench. CCSA had originally proposed a 1 July 2022 operative date at the Conference held before Deputy President Dean on 24 May 2021, as now proposed by CER in its submission.

8. However, as articulated in our 14 July 2021 submission, our view is that subsequent funding announcements, particularly in the NSW Government's 2021-22 Budget released on 19 June 2021, along with earlier announcements about the operation of the Commonwealth Government's Child Care Subsidy (CCS) arrangements from 2022 onwards, make a 1 January 2022 operative date practical. We note that CER have provided 1 January 2022 as an alternative operative date.

9. CCSA does not agree with CER's contentions regarding the requirement to phase in changes to award rates for early childhood teachers at the levels identified in the Decision and reflected in the IEU/ACA & ABI proposed consent position. Early childhood teachers usually make up the smallest component of an early childhood service's employees and, even in NSW with the highest mandated teacher-to-child ratios, will rarely exceed 25% of staff. This mitigates the effects of significant wage increases for that cohort on the overall operating expenses of providers and, ultimately, on costs to parents / guardians.

10. CCSA's analysis of the likely cost impact, included in our submission of 14 July 2021, was up to \$2.14 per enrolled child per day while ACA & ABI similarly identified in their submission that "the added cost is estimated to be in the order of \$2.30 per child per day"¹. These increases are gross amounts, calculated before government subsidies are considered. For example, in CCS-approved services, the actual cost increase to parents / guardians will be reduced by the family's CCS percentage (for families on the maximum rate of CCS this will reduce the out-of-pocket cost increase to approximately \$0.45 per day).

11. The increases also need to be taken in the context of current fee structures. In the most recent release (2018) of the Australian Bureau of Statistics *Childhood Education and Care, Australia* the mean cost after subsidies per week in 2017 dollars was \$110.50 for 16.0 mean hours per week of formal childcare, equating to \$55.25 per day. Relative to existing fees the cost impact of the Decision is, therefore, modest and does not necessitate a phasing-in arrangement.

12. As a relevant comparison, the largest early learning provider in Australia, Goodstart Early Learning Ltd, currently has an Enterprise Agreement awaiting approval in the Commission (AG2021/5487). The proposed rates of pay for early childhood teachers in that enterprise agreement exceed those included in the IEU/ACA & ABI proposed consent draft by up to 35% at the higher salary

¹ ACA/ABI Submission, 14 July 2021, para 21

levels. Yet, Goodstart Early Learning CEO, Ms. Julia Davison, has stated, “we will do that while keeping our fee increase below the long-term sector average”.²

13. Given that the economic impact on employers and, ultimately, parents / guardians is relatively low, phasing in any increase resulting from this case would simply serve to unnecessarily complicate the transition to the new classification and pay structure arrangements. Moreover, at [645] of the Decision, the Full Bench concluded that “an adjustment to the minimum rates of teachers covered by the EST Award is justified by the following work value reasons:

(1) The rates for teachers under the EST Award and its federal predecessors have never been fixed on the basis of a proper assessment of the work value of teachers nor are they properly fixed minimum rates. In particular, the rates of pay do not recognise that teachers are degree-qualified professionals and accordingly do not have an appropriate relativity with the Metal Industry classification structure.

(2) There have been substantial changes in the nature of the work of teachers and the level of their skills and responsibility since 1996. This constitutes a significant net addition to their work value which has not been taken into account in the rates of pay in the EST Award.” (emphasis added)

14. Phasing in of a new classification and pay structure, as proposed by CER, as well as being unnecessary for the reasons previously given, would have the effect of further deferring the appropriate recognition of teachers’ work value that the Full Bench has identified has existed since at least the commencement of the *Educational Services (Teachers) Award* in 2010.

² Goodstart Early Learning, ‘Goodstart to match Teacher rates and boost educator wages’, www.goodstart.org.au/news-and-advice/july-2021/goodstart-to-match-teacher-rates-and-boost-wages, 1 July 2021