

Fair Work Commission
Fair Work Act 2009
Annual Wage Review 2014-15
Post-Budget Submission and Response to Questions for Consultations
by the
Australian Catholic Council for Employment Relations
15 May 2015

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A. Preliminary matters: recent data on poverty lines

1. The *Statistical Report* of 14 May 2015, published by the Fair Work Commission (FWC) includes an updating of Table 8.2 following the recent publication of *Poverty Lines: Australia, December quarter 2014* by the Melbourne Institute of Applied Economic and Social Research. Table 2 of that publication showed that seasonally adjusted household disposable income per head (HDI) had risen to \$813.52 per week, \$5.26 per week more than the figure published in the previous quarterly publication. ACCER's initial submission of March 2015 used the September quarter 2014 figure as the basis for the calculation of median equivalent disposable household income (MEDHI) and poverty lines for January 2015. Those figures need to be revised in the light of the latest HDI calculation and the figures in the *Statistical Report*.
2. The *Statistical Report* shows that the 60% of median poverty line for the single person was \$504.81 per week at December 2014. The previous figure for September 2014 was \$501.72 per week. The MEDHI figure for December 2014 has increased to \$841.35 per week. The calculations and commentary at Tables 27 to 30 and Figure 4 of ACCER's March 2015 submission were based on a MEDHI estimate of \$836.20 per week. In the light of the most recent data, the MEDHI and poverty lines submissions need to be revised and increased slightly, ie by 0.6%. Table 8.2 of the *Statistical*

Report shows that the poverty line for the family of four has risen to \$1060.10 per week and that the poverty line for a sole parent with two children has risen to \$807.69. The summary conclusions in paragraph 616 of the Attachment to ACCER's submission need to be revised to read:

"Comparing the changes over the years January 2004 to January 2015, we find:

- the NMW-dependent family of four fell further into poverty: from 3.3% below the poverty line to 9.3% below it, with a poverty gap in January 2015 of \$98.40 per week;
- the C12-dependent family of four fell into poverty: from 1.7% above the poverty line to 5.9% below it, with a poverty gap in January 2015 of \$62.93 per week; and
- the C10-dependent family of four fell into poverty: from 7.6% above the poverty line to 1.8% below it, with a poverty gap in January 2015 of \$18.69 per week."

3. We should note a discrepancy between ACCER's calculations and the calculations of disposable for these households in the *Statistical Report*. Table 8.2 includes the disposable incomes of families who depend on the National Minimum Wage (NMW) and C10-dependent families. The estimate for the NMW family is \$953.63 per week, or \$8.07 per week less than ACCER's estimate (which is detailed in Table 28). The poverty gap based on the *Statistical Report* would be \$106.47 per week. This is shown in the report as 10% below the poverty line. The estimate for the C10 family is \$1033.72 per week, or \$7.69 per week less than ACCER's estimate (which is detailed in Table 30). Based on the estimate of disposable income in the *Statistical Report*, the C10-dependent family's poverty gap would increase to \$26.38 per week. This is shown as 2% below the poverty line in the report. Because the *Statistical Report* does not provide details of its calculations we are unable to explain the cause of the discrepancy.

B. The May 2015 Budget

Wage Price Index

4. The May 2015 Budget forecasts increases in the Wage Price Index (WPI) of 2.5% in each of the years 2014-15 and 2015-16. Aside from ACCER's wage claims in regard to the NMW and award rates under the C10 level, this is the same percentage claimed by ACCER in respect of award rates. ACCER's March 2015 submission argues that the WPI is an insufficient guide for wage adjustment because it is an index that inherently underestimates criteria that are relevant to wage setting and argues that award minimum wage rates should increase at a greater rate; see paragraph 81 and Chapter 5B of the

Attachment. This underestimate provides a further reason for the extra modest adjustment sought in respect of the NMW and award rates under the C10 level. At the C13 level the claimed increase of \$18.70 per week is the equivalent is 2.8%. For the wage rates between C10 and C13 the increases would be in the range of 2.5% to 2.8%. ACCER supports the targeting of poverty through increases such as these even if it involves some diminution of the increases otherwise available to higher income earners.

Family Tax Benefit Part B

5. The Government is still pressing the proposed changes to Family Tax Benefit Part B (FTB B) that were introduced by the May 2014 Budget and which are yet to pass the Senate. The Government has argued that the childcare package in the 2015 Budget (proposed for commencement in July 2017) is conditional upon the passing of those 2014 proposals, but the Government has indicated that it is prepared to negotiate on this issue; *PM hints at wriggle room on childcare, The Australian* 12 May 2015, page 5.

6. In commenting on the childcare package, Paul Kelly, Editor at Large of *The Australian* has written:

"Yet the economic credentials of the extra \$3.5bn childcare package are dubious. It is far too generous at the top end and the Minister, Scott Morrison, faces a major task in negotiating the childcare package through the Senate by seeking savings from family tax benefits. The problem is the former rewards well-off women and the latter punishes low-income women."; *The real aim is to save the Coalition, The Australian*, 13 May 2015, pages 1-2.

7. ACCER sees the FTB B issue as a matter of great significance because the payment is an important part of the support provided to couple and sole parent families and, in regard to wage setting, because of the need for wages to rise in order to compensate for any reductions in transfers to families. It is a payment that reflects the value of the work that parents do in the caring for their children and is essential if they are to have an *effective choice* as to how they balance their work and family responsibilities.

8. This issue is discussed in the extract from the report of the Commonwealth Commission of Inquiry into Poverty (Poverty Commission) reproduced at paragraph 631 of the Attachment to ACCER March 2015 submission.

"A further way in which many low income families are often placed under great stress is in relation to the freedom parents have to decide how they will divide their time between working, looking after children, and other activities. Because of financial pressures some parents are confronted with the choice of spending more time earning money and less time at home or struggling on an income below the poverty line....

Some fathers compensate for their low wages by working more hours or working two jobs. In many instances this may create considerable pressure on parents and their children....

Inadequate wages and pensions place considerable pressure on mothers to work...The mere fact of a mother working is not necessarily detrimental to the family. The relationship between a mother working and child development has been hotly debated in recent years, but the research on the subject has been inconclusive. *The pertinent issue is the freedom of mothers to choose whether or not to work, so that each family can reach a solution which is satisfactory for its members. The pressure to work created by an inadequate income means that some mothers are less free to choose.*" (First Main Report, April 1975, volume 1, page 204, footnote omitted, italics added.)

9. The purpose and history of FTB B is set out in the Attachment to this submission. The Attachment includes extracts from two speeches by Prime Minister Paul Keating. One of the two is from a speech on 6 December 1993 to launch the International Year of the Family. Mr Keating made the same kind of point as the Poverty Commission had made in 1975:

"Our policies must address the diverse nature of Australian families, and the diverse nature of their employment and assistance needs.

A major issue to address in this context is how families balance the responsibilities of work and family life.

Governments should, I believe, promote policies which recognise and support choices families are making in combining paid work and family care.

We have to make these aspects of peoples' lives fit more harmoniously together.

We have to keep pressing for more "family-friendly" workplaces.....

We recognise that childcare needs are neither uniform or identical.

We recognise that women, throughout their lives, have a range of equally legitimate choices about being in the workforce or being at home.

We appreciate the value of caring and nurturing provided by women who do choose to stay at home while their children are growing up, and the value of the unpaid work they carry out both in the household and in the community.

That is why we have introduced the Home Care Child Allowance for supporting parents caring for their children full time at home.

By paying the allowance directly to the caring parent, usually the mother, we have provided many women at home with a source of independent income which otherwise they would not have."

10. It should be stressed that the views of Prime Minister Keating represented a broad consensus between the main political parties on the need to support families, whether or not the principal carer of the children was in the employed workforce or not. The increase in the real value of the FTB B since 2001 and the introduction of the annual supplement by the Coalition Governments is evidence of this; see Table 18 of ACCER's submission, March 2015. It is apparent that both sides of politics recognised

and accepted the kind of points that were made by Prime Minister Keating in his launch of the International Year of the Family.

11. The nature and policy objective of FTB B is relevant to the FWC's consideration of the needs and protection of single breadwinner couple families. ACCER has argued that a minimum wage should lift these families, with two children, above the poverty line to an acceptable standard of living without the need for the breadwinner to work overtime or take a second job or for the other parent to undertake, or apply for, paid employment. FTB B is also very important for sole parent families. The capacity of sole parents to lift their children out of poverty and provide them with a decent standard of living is compromised by the high costs of childcare and the frequent incapacity to gain full time employment.

C. Responses to Questions for Consultations

Question 7.2

12. This question refers to submissions on the single person household by ACCER and Australian Chamber of Commerce and Industry (ACCI). ACCER responded to the ACCI submission in paragraphs 21 to 27 of its Reply. ACCER's response was that ACCI had considered the FWC's view on the single person household benchmark and, after drawing on other paragraphs in the June 2014 decision, it argued a position that was inconsistent with the single person benchmark. We return to ACCI's submission in response to Question 8.2.

Question 7.5

13. This question concerns the ACTU's argument that the failure to maintain the relative value of safety net wage rates has contributed to increased levels of inequality in Australia. ACCER agrees with the ACTU's contention. Relevant evidence on this matter is found in ACCER's March 2015 submission; see Figures 2 and 3 and paragraphs 422 to 427 of the Attachment to the submission.

Question 8.2

14. Question 8.2 arises out of submissions made by ACCI under the heading "Whose needs and living standards?". Question 8.2 notes that those submissions claimed that the Panel's consideration of both data derived from actual circumstances and data from modeling hypothetical households is inconsistent or contradictory. The question asks the other parties for their views on the utility of information about the actual circumstances typically found in award-reliant households and information about the

circumstances of hypothetical households.

15. The relevant part of the ACCI submission is introduced by a question:

“145. A key step in evaluating relative needs and living standards is determining whose needs and living standards are being considered – i.e. who should be the reference point?”

16. The following paragraphs of the submission note that living standards are determined by a variety of factors in addition to wage levels. In response to its own question it states:

"149. One approach to choosing a reference point is to use the actual circumstances typically found in award-reliant households; another other option is use the circumstances of some hypothetical household or group of households as a benchmark."

17. The submission refers to passages in the FWC's 2014 decision where each approach is taken. The submission treats the single person household benchmark as falling in the hypothetical category. ACCI prefers the consideration of actual circumstances rather than hypothetical circumstances:

"152. ACCI submits the most appropriate approach is to use the typical circumstances of award-reliant employees as the benchmark. This means that the Panel's considerations will be focused on the circumstances of those who will be most affected by its considerations."

18. Although the paragraph refers to "the benchmark", we take the proposal to mean that various kinds of existing and observable award-reliant households would be considered, i.e. the reference to "actual circumstances *typically* found" (emphasis added) would cover a number of kinds of households rather than the formulation a single composite household reflecting some kind of averaging of the varying circumstances. This it would generate a range of typical households for consideration.

19. In responding to the matter raised in Question 8.2, it is important to clarify the FWC's use of the term "hypothetical". The term has not been used in its strict sense. It does not assume the existence of non-existent facts and circumstances. The term was not used in the *Annual Wage Review 2009-10, decision*. It was first used in the June 2011 decision in the recitation of material from the tribunal's own research section (see Table 4.2) and material from the Australian Government in respect of calculations for "hypothetical" households (see paragraph [266]). In both cases the figures presented were actual figures for the selected households. The term hypothetical was not used

in its strict sense. Since then it has been used to describe examples of households or selected households for the purpose of showing matters such as levels of disposable income, changes in disposable income over time and the relationship between disposable incomes and poverty lines. The term has been used to represent selected actual, and not hypothetical, households. Question 8.2 is based on a false dichotomy.

20. It has been accepted over these years that there is a variety of the award-reliant households, including those comprising single persons, couples with children and sole parents. Calculations are based on selected characteristics, such as the age of the children and the level of rental assistance given to families. These are realistic and not hypothetical assessments for making decisions.
21. Table 8.2 of the *Statistical Report* covers 12 household types at five levels of disposable income. These household types do exist and are not hypothetical. At least some of them would be regarded as typical, including those comprising a single person, a couple with two children and a sole parent with two children. Various kinds of households are not covered by these 12 household types; for example, families with three or more children. Nor do they cover the position of the single worker or the sole parent who is unable to secure full time employment. There may be argument about whether these kinds of households are "typical".
22. The selection of the 12 households in Table 8.2, and its predecessors since 2008, has not been based on any survey of household types. There is no evidence of the number of award-reliant households falling into each household category. However, the 2011 Census, for example, provides the data on the income and working characteristics of couple parent and sole parent families with two children; see ACCER submission March 2015, at Tables 32 and 33. The Census shows that 106,223 families were living in poverty: 424,892 people, half of them children. Within that number were 110,000 children living in poverty even though there was a full time worker in the home. These are not surprising figures because we know, from the "hypothetical" calculations provided by the FWC that these kinds of families would be living in poverty even when they are paid a wage substantially in excess of the NMW, including when the breadwinner is receiving an overaward payment on a low minimum wage rate.
23. ACCER has identified three households that are actual, not hypothetical, households and are ones which occur in the ordinary and expected circumstances in which workers find themselves: the single person, the sole parent with two children and the

couple with two children (see paragraph 73 of the Attachment to ACCER's March 2015 submission). These can be regarded as benchmarks. ACCER has argued that minimum wages should be sufficient for all three. An averaging across all three, for example, would not be acceptable.

24. This does not rule out the consideration of any other kind of household, or other benchmark, that may be suggested by ACCI, having regard to the variety of actual circumstances. However, apart from drawing attention to the frequency of poverty among working families, it would have no practical effect unless it could be established that the proposed benchmark household is in greater need than the neediest of the three already proposed. ACCER has proposed a section 290 inquiry for the purpose of obtaining evidence regarding the needs and relative living standards of low paid workers and their families. This would be an appropriate context in which parties could advance views and proposals about other benchmark households.

Award-reliant households

25. There is another matter of substance raised by the consideration of the actual circumstances of the relevant households. They are referred to as "award-reliant" in ACCI's submission. The term "award-reliant" needs to be used with some care. In various kinds of surveys "award-reliant" employees are defined as those who only receive the rate of pay specified by the NMW or by the award. This is an inappropriate classification for dealing with the sufficiency of minimum wages because even with an overaward payment many workers and their households will be living in poverty. In determining the adequacy of the wages safety net, the position of a worker on the award rate is not relevantly different to a worker on the award rate plus an extra \$20.00 per week if both of them are living in poverty. Poverty is conventionally measured by reference to the 60% relative poverty line: see *Annual Wage Review 2013-14, decision*, paragraph [399]. In any event, the difficulties of identifying which of the households living in poverty are award-reliant and which are not would be insuperable.
26. The FWC's approach to the consideration of living standards appears to support the broader approach and not a narrower approach based on award-reliance; see, for example the following passages in the *Annual Wage Review 2013-14, decision*:

"[323] In assessing the needs of the low paid, we accept that if the low paid are forced to live in poverty then their needs are not being met. We also accept that those in full-time employment can reasonably expect a standard of living that exceeds poverty levels."

"[370] We agree with ACCER that "[t]he setting of wages based, in part on need, should not be limited to finding the poverty line and placing the lowest paid workers on it. Work should deliver something above poverty."

27. Workers and their families who are unable to gain a decent standard of living through individual or collective bargaining are totally *reliant* on the NMW and the award system to protect them from poverty and lift them to a decent standard of living. The concern with actual circumstances should concentrate attention on workers and their families who are living in poverty, whether they are award-reliant (in the narrow sense) or are receiving a further, but inadequate, margin over the relevant minimum wage rate.

ATTACHMENT

The history and purpose of Family Tax Benefit Part B (FTB B)

1. For decades taxation law provided a rebate for taxpayers supporting a dependent spouse and children. By 1993 the rebate was worth up to \$27.40 per week for the mostly male breadwinners.
2. In the 1993 Federal election the Labor Party proposed the abolition of the dependent spouse with children rebate and its replacement by a Home Child Care Allowance (HCCA). The policy included:

"Labor has already announced a major reform of child care policy to address the three key concerns of working parents: the availability, cost and quality of childcare. Labor is committed to increase places to meet the demand for work - related child care and will introduce a 30 per cent cash rebate for the cost of care. This will ensure that Labor has in place a soundly based child care system able to provide the right kind of assistance to women who will continue to enter the workforce in growing numbers in the 1990s.

But child care assistance is not just about providing necessary support for mothers in the paid workforce or who undergo training or education, Recognition should also be given for the important role and contribution of women caring for children at home. These women also need support as they deal with the additional expense of children, often in a situation where the family has only one income earner.

Accordingly, a Keating Government will increase the dependent spouse rebate and pay it directly to the spouse at home caring for children. The new Home Child Care Allowance will be \$30 a week and will provide some source of independent income for women at home caring full time for children. Fee relief will also be increased for occasional child care."

3. In his Policy Speech on 24 February 1993 Prime Minister Keating said:

"Our recently announced child care policy recognises that the future growth of the Australian economy and the living standards of Australians need women's participation in the workforce.

We recognise that child care is essential if women are to take a job, undertake training or study or look for work.

Our commitment to meet total demand for work-related child care by 2001 will aid women's participation in the economy, as our 30 per cent cash rebate on fees will make child care more affordable - especially for middle income earners.

It is not good enough to say that a woman is either in the paid workforce or in the home. Chances are these days, in the course of their lifetimes, most women will spend periods of time doing both.

The needs of mothers caring for children at home are often overlooked in the child care debate.

But we have not forgotten them.

I recognise and appreciate the important role played by women who choose to stay at home while their children are growing up.

We propose to introduce a new cash payment of \$60 each fortnight to be called the Home Child Care Allowance.

This allowance is more generous than the Dependent Spouse Rebate it will replace, and has the added advantage of being paid directly to the mother at home. This will provide a source of independent income for women while they are out of the paid workforce caring for children.

In a further measure to meet the needs of women at home caring for children, we will extend fee relief to occasional care. This is in addition to my earlier announcement that we will double the funding for playgroups.

Labor's child care policies recognise the reality that different families choose to deal with the responsibilities of work and family in different ways."

4. In a speech on 6 December 1993 to launch the International Year of the Family, Mr Keating said:

"Our policies must address the diverse nature of Australian families, and the diverse nature of their employment and assistance needs.

A major issue to address in this context is how families balance the responsibilities of work and family life.

Governments should, I believe, promote policies which recognise and support choices families are making in combining paid work and family care.

We have to make these aspects of peoples' lives fit more harmoniously together.

We have to keep pressing for more "family-friendly" workplaces.....

We recognise that childcare needs are neither uniform or identical.

We recognise that women, throughout their lives, have a range of equally legitimate choices about being in the workforce or being at home.

We appreciate the value of caring and nurturing provided by women who do choose to stay at home while their children are growing up, and the value of the unpaid work they carry out both in the household and in the community.

That is why we have introduced the Home Care Child Allowance for supporting parents caring for their children full time at home.

By paying the allowance directly to the caring parent, usually the mother, we have provided many women at home with a source of independent income which otherwise they would not have."

5. The Second Reading of the *Social Security (Home Child Care And Partner Allowances) Legislation Amendment Bill 1993* occurred shortly afterwards, on 15 December 1993. The Second Reading speech included:

"The home child-care allowance reform consolidates the government's provisions that assist families with children. It provides more direct recognition of the considerable time, energy and personal support devoted to children by parents, generally mothers, who decide to stay at home to raise their children. For the first time, this support will be provided directly to the parent caring for children, rather than to the other partner as a tax concession.

The allowance will replace the dependent spouse rebate currently available to couples with dependent children and will be paid at a higher maximum rate of \$60 a fortnight." (Hansard, House of Representatives, pages 4090-1)

6. In July 1995 the HCCA was amalgamated with the Partner Allowance to become the Parenting Allowance. In May 1998, the Howard Government rolled the Parenting Allowance into the Parenting Payment. FTB B emerged from the Parenting Payment as part of the reforms associated with the introduction of the Goods and Services Tax (GST). FTB B was the successor to the HCCA and the earlier dependent spouse with children rebate, and extended to sole parents. Over the six years it had grown from \$30.00 to \$34.79 per week, very close to the rate of inflation over those years.
7. Under the GST package the weekly payment for a family with the youngest child aged 5 to 18 was \$34.79 per week, but if the youngest child was aged under 5 it was \$49.91 per week. By July 2014 these amounts had increased to \$75.18 and \$52.50 per week, respectively. In July 2004 an annual supplement was introduced. Since July 2010 it has been frozen at \$354.05 per year . Details of the changes to FTB B over the period January 2001 to January 2015 are found in Table 18 of ACCER's March 2015 submission to the *Annual Wage Review 2014-15*.