

From: [Calver, Richard](#)
To: [AWR](#)
Subject: Response to correspondence - Australian Catholic Council for Employment Relations (ACCER)
Date: Tuesday, 12 July 2016 11:27:07 AM
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Thank you for drawing the Australian Chamber's attention to a letter dated 24 June 2016 to the President of the Commission from the Australian Catholic Council for Employment Relations (ACCER). The ACCER alleges that there has been an error in the 31 May 2016 decision of the Expert Panel [\[2016\] FWCFB 3500](#). The nature of that error is said to be a conclusion of the Panel thus: "Our overall assessment is that the relative living standards of NMW and award-reliant employees have improved a little over recent years, although the relative position of low-paid workers has deteriorated over the past decade." The ACCER argument is that this conclusion is "based on erroneous data regarding the ratio for household disposable income to a median income poverty line, which is outlined in Table 5.7 in paragraph 436 of the decision. In fact, there has been no improvement in the relative living standards of award-reliant households over the five years to December 2015". The ACCER appears to be opening up matters of argument by referring to a generalised conclusion as representing an "error." There is no power in the Fair Work Act for the matter to be re-opened in the manner sought. The specific power in relation to errors (not conceding that there has been an error in the relevant sense) is contained in s296(1) Fair Work Act. That provision permits the Commission to make a "determination varying a national minimum wage order to remove an ambiguity or uncertainty or to correct an error." This power clearly relates to the order itself rather than the decision giving effect to the order.

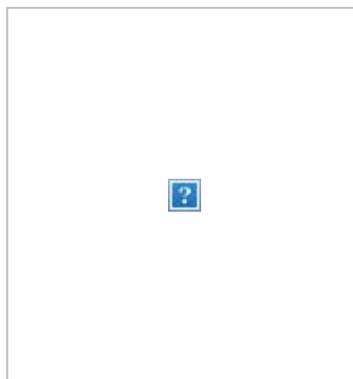
How this matter is capable of being re-agitated in the manner proposed has not been addressed by the ACCER and the Australian Chamber therefore submits that the matter that it has raised in its letter dated 24 June 2016 should be raised with the Expert Panel in the 2016-2017 review process. If the President, however, seeks further input on the substantive issue at this time, then we would be take up an opportunity to provide further submissions.

Regards

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