

WORK VALUE CASE – AGED CARE INDUSTRY

COMMONWEALTH RESPONSES TO QUESTIONS FROM THE FULL BENCH

1. This document sets out the responses by the Commonwealth of Australia to the questions posed by the Full Bench in Background Document 6 and 7, and at the hearing on 24 August 2022.

Background document 6

Q1 Can the Commonwealth explain its estimate that there are 365,000 employees in the aged care industry?

2. The 365,000 figure is the result of de-duplication work, based on the results of the 2020 Aged Care Workforce Census (**2020 Census**). As the Joint Employers note, several aged care workers are engaged at multiple sites and hold more than one job.
3. The de-duplicated figure of 365,000 takes into account that workers can work across programs and gives a more accurate indication of the true size of the aged care workforce.

Q2 How does the Commonwealth respond to ANMF's reply submission that DoHAC is incorrect in relation to the number of AINs classified under the Nurses Award?

4. The Commonwealth accepts that there are Assistants in Nursing employed under the Nurses Award.
5. Deloitte's modelling was based on data from the 2020 Census and data collection through the 2020 Census did not include a separate category for Assistants in Nursing. As the ANMF has noted in its submission in reply, data collection in this space is difficult.

Q3 Does the Commonwealth contend that a comparison of relativities is a necessary process?

6. The Commonwealth submits that a comparison of relativities is not necessary in that it is not a prescribed mandatory requirement, but says that having regard to relativities across awards and within awards remains an appropriate and relevant exercise. The Commonwealth accepts that an examination of relativities should not be seen as a constraint on the statutory task, which involves an exercise of discretion.

7. In assessing relativities, the Commonwealth submits that the Commission should bear in mind the particular circumstances of the aged care sector and the gendered and other biases that may have informed an undervaluation of the work in that sector.
8. The Commonwealth submits that the Commission should also bear in mind that, in the past, when the wages in a particular award have been increased, there have been occasions where this has led to claims to increase wages under other awards on the basis of 'restoring' relativities.¹ This depends on the work in the awards being comparable in terms of its value, which will need to be assessed in the circumstances of each case.

Q4 How is the impact of Covid-19 pandemic relevant to the Commission's consideration of work value?

9. The Commonwealth was not and is not making a submission that there is now prestige associated with work in the aged care sector due to the circumstances of the pandemic. Nor was it suggested that the pandemic has led to a risk of the work of the sector being overvalued. Rather, the Commonwealth's submission (consistent with that advanced by the HSU) is that the Commission should exercise caution in approaching the task of minimum wage setting by reference to express or implicit biases of some work amongst some occupations in some sectors or industries being regarded as more prestigious than others.
10. The point of the Commonwealth in noting in its earlier submission that there has been community recognition of the importance of frontline workers, such as aged care workers, arising from the COVID-19 pandemic (at [4] and [91]) was to convey that this is a circumstance which has highlighted the tremendous social and economic value of work in the sector, which often goes unrecognised. This is why the notions of prestige of particular work should be avoided because it should not take a pandemic to recognise the essential social and economic value of work in a sector.
11. This is a recognition by the Commonwealth of the challenges the sector has recently experienced and continues to experience. The Commonwealth did not intend to say that this gave rise to a risk of overvaluing the work of aged care workers.

Q5 Is the omission of a reference to RNs in [111], [115] and [117] of the Commonwealth submission an oversight?

12. Yes, it was an oversight.

Background document 7

Q2 Does the Commonwealth's funding support extend to the associated on-costs?

¹ See Preston, A *The Structure and Determinants of Wage Relativities Evidence from Australia* (2019), p.55-56. See also, eg, *Re The Railways Professional Officers Award 1954* (1954) 78 CAR 753.

13. The Commonwealth reiterates it will provide funding to *support* any increases to award wages made by the Commission in this matter.
14. The government is considering the most appropriate approach to funding to ensure any wage increases are appropriately supported, which would be the subject of a future decision of government. As such, the Commonwealth is not in a position at the present time to state with certainty the precise quantum or the extent of the funding it will provide to:
 - 14.1. support the wage increases; and
 - 14.2. fund associated on-costs.
15. Despite what is in paragraph 14 above, the Commonwealth affirms its commitment to provide funding to support any increases to award wages made by the Commission. It is further anticipated that the Commonwealth's funding response will necessarily take into account associated on-costs.
16. The Commonwealth would welcome an opportunity to work with the Commission and the parties regarding the timing of implementation of any increases.
17. The Commonwealth submits that the details of its funding response is a matter which the Commission should take into account at the stage of determining commencement date, implementation and any phasing in arrangements.

Q3 The Commonwealth is invited to provide the Treasury modelling to the parties and the Commission.

18. Annexed to this document is a paper prepared by the Department of Treasury which sets out:
 - 18.1. An explanation of the Treasury modelling, and
 - 18.2. the scenario design used for the modelling, including the limitations, and the results.
19. As stated at the hearing on 25 August 2022 by Senior Counsel, the Commonwealth does not propose to provide the modelling itself having regard to the stage of these proceedings and the impracticality of filing such a model.

Question during the hearing on 24 August 2022

20. In answer to a question posed by the presiding member, Ross J, the Commonwealth next addresses how it reconciles the following two propositions:
 - 20.1. section 157(2A) of the *Fair Work Act 2009 (FW Act)* is a comprehensive or exhaustive definition of work value, and

20.2. the Full Bench should have regard to the objects of the FW Act in assessing work value.

21. The Commonwealth submits that s 157(2A) is an exhaustive definition. However, it is a definition that includes a number of broad concepts in each of its subsections, which are not defined and that require interpretation. Consistently with the *Pharmacy Decision* (at [165]-[168]), the Commonwealth submits that those concepts leave it to the Commission to exercise a broad evaluative judgment as to what may constitute work value reasons. The Commonwealth's point is that in either interpreting the meaning of the words of the subsection of s 157(2A) or exercising such a broad evaluative judgment, the Full Bench would have regard to the objects of the FW Act to guide it in the correct interpretation and application of s 157(2A). The short point is that the objects merely inform the interpretation and application of the concepts contained therein.

Date: 29 August 2022

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Paul Vermeesch
AGS lawyer
for and on behalf of the Australian Government Solicitor
Solicitor for the Commonwealth

These submissions have been settled by Yaseen Shariff SC and Vanja Bulut, counsel for the Commonwealth.

Submission of the Commonwealth to the Fair Work Commission Aged Care Work Value case: Annexure on Treasury modelling

This Annexure provides additional detail on the methodology underpinning Treasury's input into the Commonwealth's submission to the Fair Work Commission Aged Care Value case.

Treasury undertook two exercises to understand the likely economic impact of an immediate 25 per cent increase in wages in the aged care sector on the supply of labour and aggregate wages (reflecting the magnitude of the wage increase sought by the Applicants).

Impact on the labour market

Treasury modelled the likely impact on labour supply of an immediate 25 per cent increase in wages in the aged care sector using the Treasury Industry Model (TIM). TIM is an economy-wide model of the Australian economy. Its design and use follow well-established practice in the academic and public policy-advising community.

TIM is best characterised as a dynamic general equilibrium (DGE) model. This type of economic model is the dominant approach in academia and has been used widely to study the potential effects of public policy on the economy for more than two decades. In contrast to partial equilibrium modelling, DGE modelling assumes the outcomes in one market affect all other markets. For example, a change in wages in one sector will have implications for the labour supply in all other sectors. This means the interactions between markets can be captured, which facilitates understanding of how a change in one sector may impact the broader economy.

The appendix to this briefing contains additional detail on TIM.

Scenario design and results

To model this scenario, a payroll subsidy was applied to the aged care sector in TIM, which has the effect of indirectly increasing sector wages.

Treasury's modelling found that an immediate increase in wages in the aged care sector of 25 per cent would increase labour supply in the sector in the long run. The impact on aggregate demand was found to be modest (that is, it was essentially zero).

Labour was found to move from all sectors of the economy towards the aged care sector. Labour in the aged care sector was found to increase by between 5 and 10 per cent in the long run, over what would occur without the introduction of the payroll subsidy. Aggregate labour supply remained unchanged, meaning most of the changes in labour across the economy were due to the reallocation of existing labour supply.

Limitations of this modelling

Treasury's modelling of labour market impacts may overstate the movement of labour towards the aged care sector:

- TIM does not incorporate different types of workers, either by occupation or skill level. Workers also do not have a preference for working in any one sector over

another. An increase in wages in any given industry will therefore move labour towards that industry (that is, the market is perfectly competitive).

- In reality, workers face many barriers to changing occupations, such as preferences to work in different industries and the geographic location of work.
- Additionally, the Submission outlines that aged care award rates undervalue the work performed by the sector's workers. It may therefore not hold that any increase in wages will induce workers into the aged care sector (as per the modelling assumptions). To encourage workers to enter the aged care sector, wages would need to increase such that working in the aged care sector is more attractive than a worker's current occupation.

Impact on aggregate wages

Treasury estimated the impact on aggregate wages by taking the 'wage bill' or total labour costs as provided by Health and dividing it by the Pre-election economic and fiscal outlook forecast for total compensation of employees (COE). Treasury found an immediate increase in wages in the aged care sector of 25 per cent would result in an increase of less than a one per cent in aggregate wages.

Ordinarily, the impact on aggregate demand of a 25 per cent nominal wage increase confined to aged care workers would not be material. However, in the current economic environment of above-target inflation and persistent global price shocks, there are risks that nominal wage increases of 25 per cent could be inflationary if similar wage rises are subsequently demanded in associated industries or impact inflation expectations.

For example, Health estimates the current aged care workforce makes up around 2.4 per cent of workers, which results in an estimated aggregate wage impact of less than one per cent. If flow-on wage rises were demanded for all workers in related professions, this would amplify the impact on aggregate wages.

Rising wages can have flow-on effects to inflation if the increase in demand from higher consumption generates sufficient price pressure. Inflation in Australia is at a multi-decade high and is expected to remain above the RBA's target band over the remainder of 2022 and into 2023.

The RBA is responding to emerging economic conditions to ensure inflation does not become entrenched and inflation expectations remain well-anchored.

Appendix: Additional detail on the Treasury Industry Model (TIM)

TIM captures the behaviour of the Australian economy by modelling the interactions between its key agents. This includes households who consume goods and services and supply labour; firms that employ workers, undertake investment and supply goods and services; a government that raises revenue through taxes, consumes goods and services, and provides transfers to households; and the rest of the world that consumes Australian exports and supplies imports. As a general equilibrium model, TIM ensures that the responses to policy changes or exogenous changes to the economy are both feasible and consistent with the objectives of households and firms. However, as with all whole-of-economy models, TIM is necessarily a simplified representation. By removing some detail and complexity, it allows the user to understand the potential cause and effect of a policy change and other shocks on the economy.

Models like TIM are matched to data using a process called calibration. Because the model is a stylised representation of the actual economy, the model cannot fit the data perfectly. It is therefore designed to match aspects of the economy considered most important to the analysis, while striving to minimise discrepancies elsewhere. This is a common feature of dynamic general equilibrium models. However, TIM's considerable industry detail means it can match data much better than more simplified models, consequently providing greater accuracy when understanding the industry impact of specific shocks.

TIM is one of several economy-wide models maintained by Treasury. Each has its advantages and disadvantages. TIM's comparative advantage is in analysing the effects of sector-specific shocks. To do this, the model contains considerable detail on the production side of the Australian economy, including 114 sectors that are identified by the Australian Bureau of Statistics Input-Output tables.

TIM's considerable industry detail means it is well suited to informing advice where a policy change or shock to the economy has different effects across industry sectors (such as the aged care sector wage increase scenario outlined below). Its sectoral detail allows the model user to trace the transmission of the shock from the initially-affected sector to other sectors, while providing insights on the aggregate effect on the Australian economy.