

Our Ref: ALG/5506404 (650)  
Your Ref:  
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15 September 2021

Associate to Hon Justice Ross  
Fair Work Commission  
11 Exhibition Street  
**MELBOURNE VIC 3000**

Maurice Blackburn Pty Limited  
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Dear Associate,

**Application to vary the Aged Care Award 2010 (AM2020/99)**

1. We refer to the above matter.
2. Please find attached our correspondence dated 14 September 2021 to the Australian Government Solicitor (**Correspondence**) in relation to documents produced to the Commission in this matter.
3. We consider it to be appropriate to provide the Correspondence to the Commission for the information of the Commission, and the parties to these proceedings. We have no objection to the Correspondence being placed on the Commission's website, should that be the preferred approach of the Commission.
4. If you have any queries then please do not hesitate to contact the undersigned.

Yours faithfully

A handwritten signature in black ink, appearing to be "A. Grayson".

**Alex Grayson**  
Principal Lawyer  
**MAURICE BLACKBURN LAWYERS**  
**EMPLOYMENT & INDUSTRIAL LAW**  
(Enquiries: Ilijana Radonic - 02 8267 0948)

A handwritten signature in black ink, appearing to be "P. Parker".

**Penny Parker**  
Lawyer  
**MAURICE BLACKBURN LAWYERS**  
**EMPLOYMENT & INDUSTRIAL LAW**

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14 September 2021

Stephen Reeves  
Senior Lawyer  
Australian Government Solicitor  
Level 34, 600 Bourke Street  
**MELBOURNE VIC 3000**  
**By Email: [stephen.reeves@ags.gov.au](mailto:stephen.reeves@ags.gov.au)**

Dear Mr Reeves,

### **Aged Care Award 2010 (AM2020/99)**

1. We refer to the above proceedings and to:
  - (a) Schedule 1 of the Health Services Union's (**HSU**) proposed directions filed on 22 June 2021 (**HSU's Request for Information**).
  - (b) The Australian Government Solicitor's (**AGS**) correspondence to the Fair Work Commission (**FWC**) dated 16 July 2021 (**16 July Response**);
  - (c) The AGS' correspondence to the FWC dated 23 July 2021 (**23 July Response**) and the attached spreadsheet (**Spreadsheet**);
  - (d) The AGS' correspondence to the FWC dated 31 August 2021 (**31 August Correspondence**); and
  - (e) Orders 4 and 5 of the orders made by the FWC on 2 August 2021 (**Orders**).
2. In order for the data contained in the Spreadsheet and the information provided in the 16 July Response, the 23 July Response and the 31 August Response (together, **the Information Responses**), to be of assistance to the Fair Work Commission and to the parties to these proceedings, some clarification on the data and information provided, is required. This will ensure that the data provided is correctly interpreted by the parties.
3. We have set out the HSU's requests for clarification on aspects of the information provided in the Information Responses in the paragraphs below (**Requests for Clarification**).

### **Item 4**

4. Item 4 in the 16 July Response does not provide a clear indication of the timeframe for the completion of the Government's improvements to the ANSIC and ANZSCO indicators. The HSU requests that the following further information be provided in response to item 4 of the HSU's Request for Information:

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- (a) when the Commonwealth Government expects the work in relation to the ANZSIC and ANZCO indicators will be completed; and
- (b) whether that work is anticipated to be completed before July 2022.

#### Item 5

5. Item 5 of the 23 July Response indicates that the Commonwealth Government has provided funding to the Aged Care Workforce Industry Council (**ACWIC**) which is working with BPA to produce the Aged Care Census Database. The HSU request that the following further information be provided and/or clarified in relation to this response:
- (a) when the Commonwealth Government expects the Aged Care Census Database will be completed;
  - (b) when the Workforce Narrative will be completed; and
  - (c) whether the above will be completed before July 2022.

#### Item 6

6. Item 6 of the 23 July Response refers to tables 2 and 4 in the Spreadsheet. The HSU requests that the following information be provided to assist in interpreting tables 2 and 4a and 4b:
- (a) why has data not been produced for home care and mixed care providers in response to Item 6 (as it would appear that the data provided in tables 2, 3, 4a and 4b only relates to residential care)?
  - (b) how have the figures in the row labelled 'Commonwealth funding' been calculated (**Yearly Commonwealth Funding Figures**) in Table 2?
  - (c) what is the definition of 'Commonwealth funding' that has been used in calculating the Yearly Commonwealth Funding Figures in Table 2?
  - (d) how have the figures in the row labelled 'revenue' been calculated (**Yearly Revenue Figures**) in Table 2?
  - (e) what income sources do the Yearly Revenue Figures include in Table 2?
  - (a) what is included in the definition of 'management fees' in tables 4a and 4b?
  - (a) how many operational residential care places do each of the providers in each quartile have in Table 4b? This information is required to ascertain the size of each provider in each quartile. We have prepared a draft table to be populated (**attached**), in order to assist you with collecting and presenting this data set.

**Conclusion**

7. We request that the requests for clarification set out above, be provided as soon as possible, and by no later than **5pm Tuesday, 21 September 2021**.
8. Should you wish to discuss the above, please do not hesitate to contact our office.

Yours faithfully



**Alex Grayson**  
**Principal Lawyer**  
**MAURICE BLACKBURN LAWYERS**  
**EMPLOYMENT & INDUSTRIAL LAW**  
(Enquiries: Ilijana Radonic - 02 8267 0948)



**Penny Parker**  
**Lawyer**  
**MAURICE BLACKBURN LAWYERS**  
**EMPLOYMENT & INDUSTRIAL LAW**

**Coronavirus Update**

*We are doing everything possible to ensure claims continue to progress and legal rights are not affected by the coronavirus pandemic. If any impact is identified we will advise clients as soon as possible.*

Provider count	Top	Total no. operational places	Next top	No. operational places	Next bottom	No. operational places	Bottom	No. operational places	Grand Total	Grand total operational places
<b>2016-17</b>										
For profit	54		69		75		99		297	
Not for Profit	125		136		136		104		501	
Government	44		18		12		21		95	
Total	223		223		223		224		893	
<b>2017-18</b>										
For profit	46		58		77		108		289	
Not for Profit	126		143		130		94		493	
Government	47		18		12		18		95	
Total	219		219		219		220		877	
<b>2018-19</b>										
For profit	39		57		76		104		276	
Not for Profit	128		136		128		96		488	
Government	47		21		10		15		93	
Total	214		214		214		215		857	
<b>2019-20</b>										
For profit	42		46		75		114		277	
Not for Profit	118		143		126		86		473	
Government	51		21		10		11		93	
Total	211		210		211		211		843	