

From: Employee Relations [mailto:employeerelations@walga.asn.au]

Sent: Friday, 5 April 2019 2:04 PM

To: AMOD

Cc: Tony Brown; Tony.Tapsell@lgant.asn.au; Michael.Edrich@lgat.tas.gov.au

Subject: Sub-group 3B Award - Submission on the Exposure Draft of the Local Government Industry Award

Dear Sir/Madam

We refer to the Fair Work Commission Statements [2019] FWC 932 and [2019] FWC 1262, and the Exposure Draft of the Local Government Industry Award.

Please find **attached** a submission prepared on behalf of the WA Local Government Association, the Local Government Association of the Northern Territory and the Local Government Association of Tasmania.

Should you have any questions, please do not hesitate to contact us.

Kind regards

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FAIR WORK COMMISSION

FOUR YEARLY REVIEW OF MODERN AWARDS

AM2014/234 – Exposure Draft of the Local Government Industry Award

Submission of the WA Local Government Association (WALGA), the Local Government Association of the Northern Territory (LGANT) and the Local Government Association of Tasmania (LGAT)

1. We refer to the Statements issued by the Fair Work Commission on 13 February 2019 ([2019] FWC 932) and 28 February 2019 ([2019] FWC 1262) relating to the finalisation of exposure drafts (**Statements**).
2. The Statements confirm the direction for interested parties to comment on the revised exposure drafts.
3. We make our submission on behalf of WALGA, LGANT and LGAT regarding the Exposure Draft of the Local Government Industry Award published on 8 March 2019 (**Exposure Draft**).

Clause 10.5(a) – Higher duties

4. We refer to the plain drafting amendment made to clause 10.5(a) of the Exposure Draft titled “**Higher duties**”.
5. In the Exposure Draft clause 10.5(a) reads:

“An employee required by the employer to relieve in a higher level position where the employee is required to perform the substantive functions for more than one day will be paid the minimum hourly rate applicable to that higher level pursuant to clause 10.1.”

6. In the current version of the Local Government Industry Award 2010 (incorporating all amendments up to and including 21 November 2018) (**Current Award**) clause 18.1 reads:

“An employee directed or appointed to relieve in a higher level position where the employee is required to perform the substantive functions of the role for more than one day will be paid at the higher hourly ordinary award rate pursuant to clause 14.1.”

7. WALGA, LGANT and LGAT submit that part of the amendment to clause 10.5(a) of the Exposure Draft, specifically the insertion of the wording “*An employee required by the employer...*” is unclear and may encourage employees to take on higher duties in circumstances where they are not directed or appointed to perform higher duties by their employer.
8. WALGA, LGANT and LGAT respectfully request the Fair Work Commission to consider reverting to part of the wording in the Current Award (which we have underlined below) for the complete clause 10.5(a) of the Exposure Draft to read:

“An employee directed or appointed to relieve in a higher level position where the employee is required to perform the substantive functions for more than one day will be paid the minimum hourly rate applicable to that higher level pursuant to clause 10.1.”

Clause 23.6 – Clause reference

9. We refer to clause 23.6 of the Exposure Draft which makes reference to *“any of the matters defined at clause 23.6.”*
10. WALGA, LGANT and LGAT submit that the clause reference to “23.6” appears to be incorrect and the reference should be to clause 23.5.

EClements

**Emma Clements
Employee Relations Service Manager
Western Australian Local Government Association**

5 April 2019