

Australian Industry Group

Work Value Case – Aged Care Industry

Position Paper

(AM2020/99, AM2021/63 & AM2021/65)

15 September 2023



AM2020/99, AM2021/63 & AM2021/65

WORK VALUE CASE – AGED CARE INDUSTRY

1. The Australian Industry Group (**Ai Group**) files this position paper in response to paragraph 9 of the directions made by the Fair Work Commission (**Commission**) on 2 August 2023. It refers to the *‘[s]ummary of issues’* published by the Commission on the same date (**Summary**) and the questions posed in *‘Background Document 10’*, dated 23 December 2023. Further, it has been prepared in consultation with the Australian Federation of Employers and Industries, who support the positions advanced.
2. Ai Group’s interest in these proceedings lies primarily in the following three areas:
 - (a) Potential variations to the classification structure of the *Social, Community, Home Care and Disability Services Industry Award 2010* (**SCHCDS Award**) and associated matters.
 - (b) The maintenance of relativities between minimum wage rates, *inter-award* and *intra-award*.
 - (c) The relevance and application of the *‘C10 Metals Framework Alignment Approach’*.
3. Our position paper focuses on the above matters.
4. At this stage, we do not propose to advance a position in relation to the other issues identified in the Summary. Nevertheless, Ai Group may seek to file submissions and / or evidence in reply regarding any issue being considered in these proceedings in due course, in accordance with the aforementioned directions of the Commission. Relatedly, we observe that in respect of some of those issues, at this stage, it is not clear whether any party is in fact seeking a variation to the SCHCDS Award or any other award. We anticipate that the position of the parties in this regard will crystallise once they have filed the draft determinations required.

5. If the Commission is inclined to deal with any of the issues identified in the Summary of its own motion; it should, as a matter of fairness, ensure that all interested parties have a reasonable opportunity to be heard in respect of any variation that it proposes to make.

| Issue | Question | Comment |
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| 3. Potential changes to SCHCDS Award classification structure | Question 3 for all parties: Does any party propose any amendments to the classification structure under the SCHCDS Award? | Ai Group does not propose any amendments to the classification structure in the SCHCDS Award. We may seek to advance material in response to any proposed variations advanced by other parties. |
| 6. Principles / Classification progression - time v competency based | Question 7 for all parties: Do the parties agree that the principles that should be applied by the Commission when establishing an appropriate classification structure are that: 1. It should be a career-based classification structure 2. It should clearly state the skills, qualifications and experience required at each level 3. It should provide a clear means to transition from one level to another | Ultimately, the Commission should, and can only, implement terms that are necessary to ensure a fair and relevant safety net of minimum safety net, as per s.138. Within that context, there is scope for adopting an approach that recognises the merit of pursuing the identified objectives. However, this would need to be balanced against a consideration of the practical requirements of employers. For example, it may not always be necessary or appropriate, having regard to the needs of industry, that employees to have a guaranteed pathway to progress from one classification to another. |
| | Question 8 for all parties: Do parties have further suggestions regarding specific changes to the classification structure for HCWs under the SCHCDS Award? | Ai Group does not propose any variations to the SCHCDS Award. We may seek to advance material in response to any proposed variations advanced by other parties. |
| | Question 10 for all parties: Does any party seek changes to the incremental pay points in the SCHCDS Award? | Ai Group does not propose any variations to the SCHCDS Award. We may seek to advance material in response to any proposed variations advanced by other parties. |
| | Question 11 for all parties: Does any party wish to present any further evidence and/or make any further submissions in addition to the evidence and submissions already before the Full Bench in Stage 1 in relation to this issue? | Ai Group may seek to file material in response to any proposed variations and / or material advanced by other parties, in accordance with the directions issued by the Commission. |

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| 14. Issues relating to application of the C10 framework & internal & external relativities. | Question 41 for all parties: Should the key classification for the purposes of the C10 Metals Framework Alignment Approach in the SCHADS Award be Home Care Employee Level 3? | Yes. |
| | Question 42 for all parties: Is it appropriate to benchmark a different or an additional key classification contained in the Manufacturing and Associated Industries and Occupations Award 2020? | We do not propose to advance a position in response to this question; however; in general terms, it is our view that the C10 Framework has an important role to play in ensuring the maintenance of a fair, stable and sustainable modern awards system. |
| | Question 44 for all parties: What changes, if any, are sought to the existing internal relativities of classifications in the Aged Care, Nurses, and/or SCHCDS Awards? | Ai Group does not propose any such variations. We may seek to advance material in response to any proposed variations advanced by other parties. |
| | Question 45 for all parties: Do parties propose any re-alignment between rates external to the relevant awards, considering the C10 Metals Framework Alignment Approach and AQF? | Ai Group does not propose any such variations. If any proposals are advanced by other parties to vary minimum rates ' <i>external to the relevant awards</i> ', they should be the subject of separate proceedings, in which all interested parties are provided with an opportunity to be heard. |
| 15. SCHADS Award – Impact of an increase on disability workers of separate classification structure for home care aged care workers. | Question 46 for all parties: Parties are invited to comment on what extent there is evidence currently before the Full Bench suggesting that HCWs work across multiple sectors and with clients with multiple care needs (aged care and disability care). | Ai Group has not directly participated in these proceedings to date and thus, does not propose to advance a position in response to this question. We are, however, aware of various employers covered by the SCHCDS Award whose home care workers provide both aged care and disability care. This arrangement is, in our experience, not uncommon. |
| | Question 47 for all parties: If a separate classification structure is created for home aged care workers, how will this apply to HCWs who work with both aged persons and people with a disability or who also work in the social and community services sector? | The answer to this question will likely depend upon the nature of the terms of the classification structure. |
| 16. Distinction between home care and residential aged care. | Question 48 for all parties: Does any party consider that there should be any changes to the classification structure to take account of any differences between the home care and residential care settings? | Ai Group does not propose any such variations. We may seek to advance material in response to any proposed variations advanced by other parties. |