

**AM2018/18 & AM2018/20 - FOUR YEARLY REVIEW OF MODERN AWARDS  
CHILDREN'S SERVICES AWARD 2010 AND EDUCATIONAL SERVICES (TEACHERS) AWARD  
2010  
SUBSTANTIVE ISSUES**

**1. JOINT REPORT**

1.1 This Joint Report is endorsed by the following parties:

- (a) Australian Childcare Alliance (**ACA**);
- (b) Australian Business Industrial (**ABI**);
- (c) NSW Business Chamber Limited (**NSWBC**);
- (d) United Voice (**UV**);
- (e) **National Outside School Hours Services Alliance (NOSHSA)**;
- (f) Junior Adventures Group Pty Ltd (**Junior Adventures Group**);
- (g) Two Individuals (Ms Isabelle Arrabalde and Elizabeth Arrabalde); and
- (h) Community Connections Solutions Australia (**CCSA**); and
- (i) Australian Federal of Employers & Industries (**AFEI**),  
**(the Parties)**.

1.2 For clarity, the Independent Education Union of Australia (**IEU**) has filed separate submissions which contain a differing view to the Parties.

1.3 The Parties submit that:

- (a) all the substantive claims in the Children's Services Award<sup>1</sup>; and
- (b) all of the substantive claims in the Teachers Award (apart from the IEU's claims)<sup>2</sup>,

should be heard together as they impact the Early Childhood Education and Care sector (**Childcare Industry**).

1.4 For ease of reference, the substantive claims in each award appear at Attachment A and Attachment B to this Joint Report.

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<sup>1</sup> See Attachment A to this Joint Report

<sup>2</sup> See Attachment B to this Joint Report

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## **Directions**

- 1.5 Given the position of the Parties, the Parties respectfully request the Draft Directions at Attachment C be adopted by the Full Bench.
- 1.6 The Draft Directions contemplate the hearing of all substantive claims related to the Childcare Industry (apart from the IEU's claims) in a 4 day hearing to be held in early May 2019. In practice this would result in:
- (a) all the substantive claims in the Children's Services Award being heard as soon as possible (having regard to the time it has taken to complete the current 4 yearly review);
  - (b) all but three<sup>3</sup> of the substantive claims in the Teachers Award being heard as soon as possible;
  - (c) claims that are common across the two awards being heard together and by the same Full Bench; and
  - (d) the avoidance of duplication of the cross-examination of witnesses who would otherwise be required to appear at two hearings.

## **IEU Claims**

- 1.7 The IEU's three substantive claims in the Teachers Award are highlighted in Attachment B (**IEU Claims**).
- 1.8 The Parties agree that Claim 3 of the IEU Claims does not impact the Childcare Industry and can be heard separately as it relates to distance teaching.
- 1.9 There is currently no agreement on the remaining two IEU Claims for the following reasons.

## **Quarter Day Claim**

- 1.10 The Parties (excluding UV and CCSA) are unsure whether Claim 2 of the IEU Claims relates to the Childcare Industry and will seek for the IEU to further expand on this claim at the Directions Hearing scheduled for 5 December 2018. If this claim does relate to the Childcare Industry, the Parties (excluding UV) will press for it to be heard with the other Childcare Industry claims.
- 1.11 CCSA notes that, under clause 14.5 (b) (ii) of the *Educational Services (Teachers) Award 2010*, the only employees to whom payment of a quarter day pay rate is relevant are casual employees in a children's service or early childhood education service. It is CCSA's opinion, that it would be appropriate to have that matter heard with the other Childcare Industry claims.

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<sup>3</sup> See highlighted substantive claims in Attachment B

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### **Definition of Teachers**

- 1.12 The Parties (excluding UV) are seeking to have Claim 1 of the IEU Claims heard with the other Childcare Industry claims. These parties submit that it would be appropriate to hear this claim in the “Childcare Hearing” as it impacts whether directors of childcare centres (who hold a teaching degree) are covered by the Children’s Services Award or the Teachers Award and thus, it seems entirely appropriate that both unions and all parties with an interest in both awards address these matters simultaneously.

### **ERO/Work Value Proceedings**

- 1.13 By way of confirmation, the Parties seek to have the substantive award matters heard separately and in advance of any ERO/Work Value proceeding. The Draft Directions enclosed with this Joint Report have been prepared on this basis.

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## **ATTACHMENT A – List of substantive claims in the *Children’s Services Award 2010***

**United Voice** seek to vary the award by:

- introducing a training allowance;
- inserting a note under the clothing and equipment allowance clause regarding on site laundry facilities;
- inserting the words “hat, sun protection (including sunscreen lotions)” into the clothing and equipment allowance clause 15.2(c);
- deleting the higher duties clause or alternatively, amending it to remove the words “(including in-service training)”;
- reducing the maximum amount of leave without pay for a Christmas close down from 4 to 2 weeks;
- introducing the following allowances: a weekly allowance for an employee appointed as an educational leader; an hourly allowance for a responsible person physically present at a child care centre; a programming and administrative tasks allowance for children service employees that are required to perform additional programming and administrative duties in addition to their rostered hours; and
- amending the non-contact time clause by extending non-contact time to 8 hours per week.

**The Australian Childcare Alliance, Australian Business Industrial and the New South Wales Business Chamber** seek to vary the award by:

- amending the ordinary hours of work and the rostering clause to provide employers with greater flexibility to change rosters other than with 7 days’ notice and to allow ordinary hours to be worked before 6.00 am or after 6.30 pm.

**An Individual** seek to vary the award by:

- insertion of an Educational leadership allowance for employees with educational leadership responsibilities in early childhood education and care settings; and
- insertion of a Responsible Person allowance.

**Business SA** seek to vary the award by:

- amending the casual employment clause by removing the restriction on employing casuals for temporary and relief purposes

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**ATTACHMENT B – List of substantive claims in the *Educational Services (Teachers) Award 2010***

**United Voice** seeks to introduce the following allowances:

- a weekly allowance for employee appointed as educational leader and
- an hourly allowance for responsible person physically present at a child care centre.

An individual seeks to vary the award by:

- extending the Leadership allowance to teachers with educational leadership responsibilities in early childhood education and care settings.
- including a Responsible person allowance.

**ACA and ABI & NSWBC** seek to vary the award by:

- providing employers with greater flexibility to change rosters;
- allowing ordinary hours in the children's services and early childhood industry to be worked after 6.30pm.

**Independent Education Union of Australia** seeks:

1. a variation to the definition of “teacher” to ensure the award covers teachers employed as Directors
2. a variation to the award to ensure teachers are only paid the quarter day rate when employed for less than two hours and, correspondingly, paid the half day rate when employed for less than 3.8 hours
3. a variation to the award to cap, at 205, the number of days teachers in distance education can be required to teach.

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**ATTACHMENT C - Draft Directions**