

FAIR WORK COMMISSION

Fair Work Act 2009 (Cth) s 302 – Application for an Equal Remuneration Order Matter C2013/5139

Application by United Voice and the Australian Education Union

Submissions by Independent Education Union of Australia

1. The Independent Education Union of Australia (IEU) has made an application for an equal remuneration order for early childhood teachers in long day care centres and preschools pursuant to s302(3)(b) of the *Fair Work Act 2009* (Cth) (the FW Act) (C2013/6333). Early childhood teachers are not covered by the application in C2013/5139 but they are employed along-side early childhood educators and other employees in pre-schools and long day child care centres which are the subject of this application. As such both applications are in regard to employees employed in the early learning education sector.
2. The IEU's application asserts that the overwhelming majority of employees employed in the sector are female, whose remuneration has been adversely effected by historical and or structural systematic undervaluation based on gender.
3. The IEU supports the application by United Voice and Australian Education Union for equal remuneration for early childhood educators and other employees in pre-schools and long day child care centres.
4. The question posed by the Full Bench of the Fair Work Commission on 13 September 2017 in *Application by United Voice, Australian Education Union and Independent Education Union of Australia for an Equal Remuneration Order* [2017] FWCFB 26900, does not directly impact on the IEU's case as the comparators identified are not university degree qualified.
5. The IEU's position is that there is utility in answering the question posed by the Commission as a preliminary question. The question of whether or not

and in what circumstances the Commission can determine the comparable value of work performed by employees based on previous decisions that have considered work value is a question of broad application in regard to the operation of Part 2-7 of the FW Act. Such a proposition was considered in the *Equal Remuneration Decision 2015* [2015] FWCFB 8200 at [288].

6. It is accepted that if the question is answered in the affirmative, the applicants would be required to lead evidence as to the remuneration paid to the male employees in the comparator group as well as satisfying the Commission of other jurisdictional facts as set out in the *Equal Remuneration Decision 2015*.
7. Any decision of the Commission that would ensure that substantive claims are able to be processed in an efficient and manageable way is consistent with s577(b) of the FW Act and is supported. The identification of appropriate comparators and guidance to the parties on how to adduce evidence of comparator groups would be of significant benefit.



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