

2 August 2021

Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

Full Bench of the Fair Work Commission,

AM2018/26: Four Yearly Review of Modern Awards – Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS Award)

The Fair Work Commission on 4 May 2021 issued a decision in relation to the Four Yearly Review of Modern Awards for the *Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS Award)*.

Fighting Chance is an employer which uses the SCHADS Award to regulate the terms and conditions which it provides to various cohorts of employees in its accommodation and employment support businesses.

The Decision will have a direct impact on the way in which Fighting Chance arranges the work and training activities of its employees. Fighting Chance provides this submission specifically on the issue of the appropriate minimum engagements which should operate in this industry for employee training.

The Work of Fighting Chance

Fighting Chance commenced in 2009. Our mission is to identify the challenges and barriers that people with disabilities confront in their everyday lives and then design and build sustainable social businesses to bridge these gaps. Fighting Chance currently operates three social businesses, **Jigsaw** – which seeks to train and transition employees with disability into award wage employment, **Avenue** – which is a coworking space where people with all levels of ability are supported to complete meaningful and supported work tasks, and **Base** – which operates a number of supported independent living homes for people with disability.

Avenue

There are four co-working spaces that Avenue operates (Frenchs Forest x 2, Botany, Parramatta with Newcastle opening in Sept-21). Participants that attend these locations are supported in the activities they undertake by support workers who are covered by the SCHADS Award. There are currently 390 participants who undertake activities through

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Avenue and they are supported by 256 of employees, all of which are covered by the SCHADS Award.

Base

Fighting Chance operates an accommodation business, Base which provides supported independent living to people with disabilities. Base currently operates four supported independent living homes (Hornsby, Narraweena, Frenchs Forest and Roseville) and employees in these homes work on a 24hr 7-day per week basis providing disability services under the social and community services stream or the home care stream of the SCHADS Award. There are currently 11 participants who undertake activities through Avenue and they are supported by 75 employees, all of which are covered by the SCHADS Award.

Training and Minimum Engagements

Within the Avenue business we endeavour to make arrangements so that when employee training is undertaken it is done in conjunction with the normal performance of work but this is not always achievable. Within the accommodation business this approach is generally not possible at all due to the nature of their work and also the physical environment in which the work is being performed. Within the accommodation business it is generally one-to-one care arrangements (that is one employee to one or more participants), it is therefore not possible to fold training into an employee's normal working pattern – as they cannot stop the provision of care for a period so that they can then focus their attention on the completion of training.

It is also not practical to undertake training at the end or start of a working shift (when those one-to-one care responsibilities have been picked up by the next carer) because the physical space within the care homes is not set-up to allow for training to be undertaken. It must be kept in mind that the workplace in a supported accommodation setting is a person's home. The environment is set up to maximise the needs of the clients that are living in that environment, it is not set-up to provide space for workers to undertake administrative activities or to have a space designated for where training might be undertaken.

For example, in the four independent living homes that Fighting Chance operates, there is:

- In three of the houses there is a desk in the sleep over room provided for the staff. This room is not adequate for group training sessions and during the day is sometimes used for housemates as an additional space. It can also be used by the manager to complete their daily work;
- In one of the houses there is no additional space, and all administration is undertaken at the dining room table. There would be no specific space for training to be undertaken.

The way in which our homes are configured is common for equivalent operations in the sector.

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For this reason, within the accommodation business, training is generally delivered by specifically scheduling a longer block of off-site training at a designated location for a larger cohort of employees to attend (for example we have connected with local community centres to rent a space in order to conduct group training sessions), or through the making available on-line training for employees to complete.

On-line training is almost exclusively undertaken by employees away from the care-home and usually at the employee's own residence. On-line training is by far the predominant way in which training is delivered to these employees. Generally, the training modules that are delivered on-line are relatively short in duration (approximately 30 minutes however can be less depending on the nature of the training and how rapidly the employee completes it) and employees determine when they choose to complete the training as opposed to being directed by Fighting Chance to complete the training at a particular time or on a particular day.

Training subject to a 2hr Minimum Engagement

As indicated, the vast majority of training which employees undertake in a home care or supported living context is undertaken on-line and away from the care-home. This is a necessity of the environment and the nature of work which is performed by employees in this sector. Employees select the time that they complete the training, and other than specific long-block off-site training, the time and manner in which the training is completed is not directed by the employer.

In that context, a minimum engagement of 2hrs which could be triggered by the performance on on-line at home training, could have a significant impact on employers in the industry with employees receiving compensation for a significant portion of time beyond the actual time spent undertaking the training. There is also no underlying funding model which would support such an outcome, when applying for funding for a Participant, this includes the support hours needed and does not provide an option to apply for training – this is expected to come out of our own Fighting Chance budget.

It could also have the detrimental effect of requiring employers to aggregate a number of training modules together to try to attain the minimum engagement period at the expense of an appropriate learning outcome for employees.

Fighting Chance submits that on-line at home training should be excluded from any minimum engagement obligations which generally apply under the Award. The disruption and inconvenience which would justify applying a minimum engagement obligation is simply not there in the context of on-line remotely completed training. Employees complete it at a time and on a day that suits their lives it is rarely if at all employer directed.

Finally, it is important in our view that the undertaking of training is not regarded as a matter which is regarded as performing a "broken shift" or which enlivens any additional compensation for broken shifts where an employee is determining the date and time when they choose to undertake the training. If the performance of training in that circumstance could be regarded as part of a broken shift which might attach extra compensation for an

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employee, then the performance of training could be manipulated at a time which maximises the reward which an employee might receive for that undertaking.

We thank the Commission for its consideration of our submissions on these matters.

Regards,



Tim Powell
Executive Director



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