



15 July 2021

Fair Work Commission

By email: amod@fwc.gov.au

Dear Fair Work Commission,

Re Feedback regarding the draft determination for the SCHADS Award.

We refer to the Fair Work Commission (Commission) and the recent fourth yearly review in respect of the Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS Award). We express our deep concerns of some of the proposed. We also wish to express support for some of the proposed changes and provide further feedback.

Home Care Assistance Australia is a home care franchise that services aged and disabled consumers in their homes. We provide over 350,000 hours of support to over 1,000 clients per annum. We employ approximately 450 staff under various classifications on both permanent and casual engagements. Our staff are covered by the SCHADS Award and more specifically, the Home Care Sector. As such, the proposed changes will directly impact our staff and consumers.

We at Home Care Assistance provide the following feedback.

Minimum Engagement

We refer to the proposed minimum engagement of 2 hours for Part Time and Casual employees who are under the Home Care Sector of the Award. Our current business model and funding requirements are based on the need to provide clients in the community that require home care assistance with flexibility and choice. We oppose a minimum engagement for the Home Care Sector of 2 hours for our casual and part time staff. Under both Aged Care funding and NDIS funding, we cannot force clients to receive a minimum of two hours service. The SCHADS Award current 1 hour minimum engagement was challenging and limiting in and of itself. If this minimum engagement time is increased to 2 hours, this will significantly disadvantage and hurt consumers, staff and organisations.

2 examples of poor outcomes are:

Example 1:

A consumer requires an 8pm to 9pm dinner service for meal prompt, medication prompt and assistance with getting to bed. A minimum engagement of 2hrs would either force the consumer to pay for 2hrs where 1hr would be sufficient or the provider to find an additional hour to roster for the

Example 2

3 consumers would like a 9am to 10am service on the same day.

This would require 3 staff to deliver on consumer choice, however the 2hr minimum engagement would mean that only 1 staff member could be employed for the 3 services – best case scenario is that the 3rd consumer would only have a choice of 12pm to 1pm, allowing travel time for the staff member between services. This also means that 2 employees lose out on the offer of regular work, with the opportunity for more services to be added. The intention is always to provide longer services, conveniently spaced however meeting the Aged Care Quality Standards requires providers to prioritise consumer needs and wants.

Another common example is a dinner service at 8pm to 9pm for meal prompt, medication prompt and assistance with getting to bed. With the same dynamics at play, the 3rd consumer would not be services until 11pm.

Our clients also receive limited funding and to maximise their funding they might request an hourly service each day over a week. This enables them to receive the personal care they need on a daily basis and remain in their home and their community as opposed to residential aged care. We believe that this is unique to the home care sector and the current 1 hour engagement is consistent with our clients' needs and allows us to provide the service our clients need. If the minimum engagement is increased, we are concerned that some of our key clients will most likely stop using our service altogether and need to consider residential care.

We also believe that the current minimum engagement accommodates our staff too. Workloads and job satisfaction is very important to our staff. If our staff had to remain for longer periods of time with our clients when the additional time was not required, they would be given work to do which will likely be un-meaningful to them such as cleaning or other manual labour. We have concerns that job satisfaction and Occupational Safety will be compromised for our staff.

The proposed changes also impact females in the workplace, with the risk of forcing many out. The current structure of the award supports flexibility for families. We would like to see this expanded rather than compromised.

We urge Fair Work to consider our opposing views to increase the minimum engagement time for our Part Time and Casual employees to 2 hours.

Broken Shifts

We refer to the proposed changes in reference to broken shifts. This amendment poses the biggest threat to a vibrant home care service for Australian employees and consumers.

If broken shifts were limited to 2 breaks alone, our clients would not receive the service they require. Again and similar to extending the minimum engagement, the home care sector must be flexible to accommodate the needs of our clients. A maximum of two breaks will limit the service and flexibility our clients receive. Further, our experience is that our staff also need flexibility due to other commitments such as university and/or carer responsibilities and often request multiple shifts across the day.

We note that the additional shift will attract an additional and higher entitlement, which will act as a deterrent to provide our employees with that additional shift on request rather than reward them financially. We are particularly concerned that broken shifts worked outside the ordinary hours of work will attract overtime. The current provisions of SCHADS Award provide shift penalties to

employees who work outside the ordinary hours of work and overtime if they work beyond the shift span time. If overtime pay is applied to broken shifts beyond its current provisions, this would add an unnecessary financial burden which will make broken shifts untenable. We urge the Commission to consider our concerns and not limit broken shifts to a maximum of two breaks and not remunerate higher rates for a pattern of work that we find accommodates the needs of our workforce. Finally, we are also concerned that additional rules and allowances in an already complex Award clause will increase the risk of accidental non-compliance for our business and that of other similar businesses too.

The Home Care workforce have chosen the industry to meet their need. They can drop kids to school in the morning, leave work and pick up kids from school and then do a 3rd shift after kids are in bed or their partner gets home. Secondly, the ability of a student to complete a one hour shift before and after study that suits both the needs of the employee and the client.

In short, the broken shift amendment poses real risk to flexible work arrangements for staff, additional opportunity for work/remuneration and a reduction in consumer choice to a consumer group that is vulnerable and requires continuity of staff at a time they prefer and the ability to alter their service schedule to meet their dynamic needs (eg: appointments, deteriorating health and more)

1 hour minimum engagement for staff meetings and training or professional development

We support the proposal for a minimum engagement of 1 hour for staff meetings and/or training. We find that the SCHADS Award at present does not prescribe a minimum engagement time for training or professional development. Our default position which is at best an assumption is to pay our staff for meetings at either their contracted hourly rate or minimum work engagement times as per the SCHADS Award. This poses issues for both our staff and the business. We find that holding staff back for any more than 1 hour is not conducive to learning. A request for a minimum engagement time of 1 hour for training or staff meetings is reasonable.

Travel Time

We support the Commission's position that employees should be compensated for travel time however not as time worked. We support the payment of travel time as an allowance only. If it is paid as time worked, it will count towards daily maximum of 10hrs or weekly maximum of 38hrs which will reduce the hours of client service they can provide. This will reduce the productivity of a workforce that is already desperately under resourced, causing harm to the community.

Client Cancellation

We support the proposed changes to client cancellations and that the Employer should have the right to direct its employee to perform other work during that time or provide the employee with make up time that should be worked within 6 weeks. We find that our employees often ask for alternate work when client cancellations occur and would be happy to be given make up time to make up their cancelled shifts at a time mutually agreed.



Clothing and equipment allowance

We support the changes to the clothing allowance and would be happy to reimburse costs associated with cleaning personal clothing that has been damaged in the course of duty. Our only concerns are that this will add an additional administrative burden on the business. We ask that the onus is put on the employee to provide evidence such as receipts and photos.

Complicating an already complicated award

The SCHADS award continues to be one of the most complex of industrial instruments. We argue that the removal of complex loadings and allowances will lead to positive outcomes for staff. Complexity leads to accidental breaches of the award. It adds cost to organisations to implement controls to adhere to the award, including investment in administrative staff and technology. With a less complex award, these costs could be invested into remuneration of staff employed under the SCHADS award.

A complex award only serves to deter smaller entrants to the home care market due to the costs of adhering to it. A more simple award will support smaller organisations which will continue to put downward pressure on prices by adding competition to the larger providers, which will serve the community with more affordable home care.

We are disappointed that this review does not address complexity concerns.

In closing, we wish to thank Fair Work for considering our feedback on the impact proposed changes will have on consumers, workers and organisation. We aim to support our staff as passionately as we support our clients and hope that any changes do not result in unintended consequences.

Yours sincerely

Jeremy Cochineas

Director of Home Care Assistance Sydney East on behalf of Home Care Assistance Australia.