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Friday, 31st July 2020

The Hon. Adam Hatcher
Vice President
Fair Work Commission

By Email: chambers.hatcher.vp@fwc.gov.au

Dear Vice President,

Re: AM2020/2013 – Health Awards – Paid Pandemic Leave;

AM2020/18 - Application to vary the Social, Community, Home Care and Disability Services Industry Award 2010

We refer to the matters above. We write seeking urgent action from the Fair Work Commission in response to recent developments in Victoria.

On Friday, 31 July 2020, the ABC has confirmed that three residents and seven staff in a Victorian disability group home operated by Aruma Services have contracted COVID-19.¹

In its Decision of 8 July 2020,² the Paid Pandemic Leave Full Bench indicated that it would grant an application regarding for paid pandemic leave there is evidence that elevated risk is *'manifesting itself amongst health and care workers in a discernible way'*. There is now evidence that the elevated risk is manifesting in the Social and Community Services and Crisis Accommodation Sectors ('SACS').

It is important that that the Commission act now to help prevent an outbreak in the SACS sector like that in Aged Care. SACS Sector workers, whatever their subsector, face insecure work and low pay.³ Like aged care workers, they need the protection of the safety net to isolate without being thrown into poverty.

The Commission must act to protect the vulnerable people in the care of SACS workers. Many SACS workers are employed in group homes and residential facilities where there is the coronavirus can spread rapidly.

Recent research from the United Kingdom suggests that people with a disability are particularly at risk of dying from COVID-19. The United Kingdom Office of National Statistics ('ONS') has reported

¹<https://www.abc.net.au/news/2020-07-31/disability-service-provider-aruma-confirms-10-coronavirus-cases/12509478>

²Health Sector Awards – Pandemic Leave [2020] FWCFB 3561, [11].

³Cortis Report, page 2.

that roughly two-thirds of the people who died of COVID-19 in the period between 2 March 2020 and 15 May 2020 had a disability.⁴

However, the Commission's response should not be limited to disability services. The ONS analysis suggests that much of the disparity in mortality between people with a disability and the general population is caused by social and economic factors, such as 'region, population density, area deprivation, household composition... and occupation'.⁵ This suggests that the people served by other parts of the Social and Community Sector are also vulnerable to COVID-19. The Commission should not limit its action to the disability services subsector.

Please see **enclosed** a draft determination varying the SCHDS Award in terms similar to those that apply in the Aged Care sector employees covered the *Aged Care Award 2010*, *Nurses Award 2010*, and the *Health Professionals and Support Services Award 2010*. The proposed variation would cover employees in the SACS Sectors (classified under Schedule B and Schedule C of the Award).

We believe that there is sufficient material before the Commission for it to make the variations sought by the SCHDS Award. However, if the Commission requires more evidence or submissions, we ask that directions are issued as a matter of urgency.

We also note that the Full Bench in AM2020/18 reserved its decision on 13 July 2020. We respectfully ask that the Commission grant the ASU's application as a matter of urgency.

Yours faithfully,



Robert Potter
NATIONAL SECRETARY
AUSTRALIAN SERVICES UNION

⁴Chris White and Vahe Nafilyan, *Coronavirus (COVID-19) related deaths by disability status, England and Wales: 2 March to 15 May 2020* (19 June 2020) United Kingdom Office of National Statistics, <<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/articles/coronaviruscovid19relateddeathsbydisabilitystatusenglandandwales/2marchto15may2020>>, ('**ONS Report**')

⁵ ONS Report, Section 5.