

**SOUTH AUSTRALIA**  
**IN THE EMPLOYMENT TRIBUNAL**

**494 of 2019**  
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**IN THE MATTER** of Triennial Review of  
Awards Section 99 Fair Work Act 1994 (SA)

**SUBMISSION**

**Local Government Association of South Australia**

In accordance with the Commissioners Directions the Local Government Association of South Australia provides its Submission in respect of the above proceedings (Schedule 1 hereto).

## Triennial Review of Awards

### SUBMISSION

#### Local Government Association of SA

- (1) The Statement of Position for the **LGA** in respect of the 2019 Triennial Review of Awards are in the following terms:
1. The inclusion of a Domestic Violence Clause in the Awards subject to this review ought to be written in the same format as currently exists in the Local Government Industry Award (annexure A);
  2. The LGA proposes to support the 'Right of Entry' clause appearing in Clause 11.3 of the Local Government Employees Award being replicated in all other awards under review and in replacement of any existing 'Right of Entry' clauses in those Awards (Annexure B);
  3. The LGA proposes that employees engaged to perform tourism and/or visitor information services ought to have its own classification and that the work performed best fits in the Local Government Cafes, Restaurants and Snack Bars Award as the service is provided extensively through weekends and public holidays and is not administrative in nature. The LGA further proposes that the Award be renamed as the Local Government Tourism, Hospitality and Retail Award (Annexure C);
  4. The LGA supports the AWU submission on clause 5.3.2.9 of the Local Government Employees Award;
  5. The LGA supports the AWU submission on clause 5.3.6 of the Local Government Employees Award;
  6. The LGA supports the AWU submission to vary clause 6.1.4 of the Local Government Employees Award;
  7. The LGA supports the AWU submission to vary clause 10.1.2.5 of the Local Government Employees Award;
  8. The LGA supports the AWU submission to remove the words "pursuant to subclause (c) (i) in clause as appearing Schedule 4 (12);
  9. The LGA supports an adjustment to mileage rates that appear in Schedule 5(1) of the Local Government Employees Award but not to the extent as proposed by the AWU. Similarly, the mileage rates applicable in the South Australian Municipal Salaried Officers Award Clause 4.4.5.2 require review. The LGA seeks to amend the per kilometre rate in both Awards to reflect, regardless of motor vehicle type, the Australian Taxation Office cents per kilometre taxation deduction method which is currently 68c/km. The AWU proposal for 32 cents per kilometre for a motor cycle is supported.
  10. The LGA supports the AWU submission to vary the Schedule 5(2) meal allowance to \$15.45 in the Local Government Employees Award;
  11. The LGA supports the AWU submission to vary the Schedule 5(3) tool allowance to \$12.00 per week in the Local Government Employees Award;
  12. The LGA supports the AWU submission to vary the definition of "Act" to be *Fair Work Act 1994 (SA)*, "Commission" to mean the South Australian Employment Tribunal acting as an Industrial Relations Commission

**ROBERT WALLACE**  
**for the Local Government Association of SA**

**7<sup>th</sup> June 2019**

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Authorised by Matt Pinnegar CEO of the Local Government Association of South Australia



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Matt Pinnegar

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**IN THE MATTER** of Triennial Review  
of Awards Section 99 Fair Work Act  
1994 (SA)

**SUBMISSION**

**Local Government Association of SA**

This submission was issued by Robert Wallace for and on behalf of the Local Government Association of SA whose address for service is:

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(Email: [rob@balancehr.com.au](mailto:rob@balancehr.com.au) )

## **ANNEXURE A**

### **30. Leave to deal with Family and Domestic Violence**

**30.1** This clause applies to all employees, including casuals.

#### **30.2 Definitions**

(a) In this clause:

***family and domestic violence*** means violent, threatening or other abusive behaviour by a family member of an employee that seeks to coerce or control the employee and that causes them harm or to be fearful.

***family member*** means:

(i) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or

(ii) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee; or

(iii) a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

(b) A reference to a spouse or de facto partner in the definition of family member in clause [30.2\(a\)](#) includes a former spouse or de facto partner.

#### **30.3 Entitlement to unpaid leave**

An employee is entitled to 5 days' unpaid leave to deal with family and domestic violence, as follows:

(a) the leave is available in full at the start of each 12 month period of the employee's employment; and

(b) the leave does not accumulate from year to year; and

(c) is available in full to part-time and casual employees.

Note:1. A period of leave to deal with family and domestic violence may be less than a day by agreement between the employee and the employer.

2. The employer and employee may agree that the employee may take more than 5 days' unpaid leave to deal with family and domestic violence.

#### **30.4 Taking unpaid leave**

An employee may take unpaid leave to deal with family and domestic violence if the employee:

(a) is experiencing family and domestic violence; and

(b) needs to do something to deal with the impact of the family and domestic violence and it is impractical for the employee to do that thing outside their ordinary hours of work.

Note: The reasons for which an employee may take leave include making arrangements for their safety or the safety of a family member (including relocation), attending urgent court hearings, or accessing police services.

### **30.5 Service and continuity**

The time an employee is on unpaid leave to deal with family and domestic violence does not count as service but does not break the employee's continuity of service.

### **30.6 Notice and evidence requirements**

#### **(a) Notice**

An employee must give their employer notice of the taking of leave by the employee under clause [30](#). The notice:

(i) must be given to the employer as soon as practicable (which may be a time after the leave has started); and

(ii) must advise the employer of the period, or expected period, of the leave.

#### **(b) Evidence**

An employee who has given their employer notice of the taking of leave under clause [30](#) must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in clause [30.4](#).

Note: Depending on the circumstances such evidence may include a document issued by the police service, a court or a family violence support service, or a statutory declaration.

### **30.7 Confidentiality**

(a) Employers must take steps to ensure information concerning any notice an employee has given, or evidence an employee has provided under clause [30.6](#) is treated confidentially, as far as it is reasonably practicable to do so.

(b) Nothing in clause [30](#) prevents an employer from disclosing information provided by an employee if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the employee or another person.

Note: Information concerning an employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the employee. Employers should consult with such employees regarding the handling of this information.

### **30.8 Compliance**

An employee is not entitled to take leave under clause [30](#) unless the employee complies with clause [30](#).

## **ANNEXURE B**

### RIGHT OF ENTRY

11.3.1 An accredited Officer of the Union as defined by this Award, will be permitted to enter the premises of an employer subject to the Award, or any other premises where employees of the employer may be working for the following purposes.

- To inspect time books and wage records as the employer is required to keep or cause to be kept at those premises.
- To inspect the work carried out by the employees and note the conditions under which the work is carried out.
- To interview employees (being employees who are members or are eligible to become members of the Union) in relation to membership and business of the Union.

11.3.2 No right of entry is exercised under this clause unless:

- An accredited Officer of the Union (in normal circumstances and where practicable) gives at least 24 hours notice to the employer whose premises are to be entered of the Officer's intention and states to the employer the purpose for which right of entry is sought.
- The accredited Officer of the Union complies with all security and safety procedures and restrictions normally in force on the employer's premises.

Where practicable the exercise of any right of entry under this clause on an employer's premises will take place during meal or tea breaks.

Where an accredited Officer of the Union seeks to interview employees either individually or as a group during meal or tea breaks at the premises of the employer, the accredited Officer will make arrangements with the employer for the time and place of the interview as necessary to prevent disruption to the employer's business. Interviews will either be held in the meal/lunch room on the employer's premises or another suitable place nominated by the employer. If no suitable place is nominated by the employer, interviews may take place at an employee's work station.

Any interviews by an accredited Officer of the Union during working hours (exclusive of meal and tea breaks), shall be kept to the minimum time necessary.

## **ANNEXURE C**

Please see attachment titled Local Government Tourism, Hospitality and Retail Award.