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A REAL CHANGE

INQUIRY INTO WAGE THEFT IN QUEENSLAND SUBMISSIONS OF THE SERVICES UNION

Introduction

The Services Union is a member organisation committed to making positive and real change in Australian workplaces and communities. Our members work every day to build our community and to provide high-quality public and community services.

Across our industries, our members are frontline staff and managers working in local authorities, the electricity, water, rail, travel, ports and shipping industries, community services, information technology, airlines and the private clerical sector.

Incidence of Wage Theft Across our Union

Over the last 12 months, our Union has investigated approximately 73 underpayment claims from members across the industries that we cover.

Industry	Number of Complaints
Community Services	33
Private Clerical	2
Local Government	38

During this period our Union has been able to recover approximately \$18 639 in underpaid wages. The recovery of these wages has been through negotiation with employers and may not be reflective of the true underpayment.

Community Services Sector

Employees working in the community services sector are low paid workers who provide direct support to members of the community. Employees working in this sector are predominantly female employees who are Award reliant. The Social, Community, Housing and Disability Services Industry Award 2010 ("*SCHADS Award*") is the relevant industrial instrument.

A significant number of the complaints that our Union has received, relate to the misapplication of the SCHADS Award. Of particular note are the Sleepover Allowance, Weekend Penalties, Travel Allowances and the classification of the role.

With the transition to NDIS in Queensland, more and more community sector services have down graded the classification of roles despite the very clear descriptors contained within the SCHADS Award. This is to ensure compliance with funding requirements. The NDIS only funds to a level 2.3 of the SCHADS Award whereas previously employees may have been paid at a level 3 or 4 of the Award. There is concern that we will see more downgrading of positions if there is not a review of the funding arrangements.

Example One

Our Union is currently pursuing an underpayment claim that extends from 2012 to 2017 for three employees who were employed by a medium sized community sector organization. The organisation is a residential care facility to children who require care. It is effectively a last resort for children who can't be placed elsewhere.

The organisation receives funding from the Department of Communities, Child Safety and Disability Services and is required to apply for funding on a child by child basis, effectively through a tendering process.

The claim is a consequence of our members being required to work up to 72 continuous hours. Underpayments have also arisen because the employer did not correctly pay for overtime, or for Saturday, Sunday and public holiday work, sleep disturbances and

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travel. This is despite our members repeatedly raising concerns with the employer about wages and the amounts that were being paid.

The claim is more than \$150 000.

Example Two

Our Union is currently investigating a potential underpayment claim for employees at a large community sector organisation. The organisation has an Enterprise Agreement which includes an undertaking that ensures employees will not be worse off than if the SCHADS Award applied. Initial investigations indicate that employees are significantly worse off than if they had been employed under the SCHADS Award.

Provisions of the Enterprise Agreement that are inferior to the SCHADS Award include –

1. Hourly rate of pay
2. Sleepover Allowance
3. Shift Penalties
4. Weekend Rates
5. Overtime/TOIL

An estimate for one employee over a six-year period is in the vicinity of \$200 000.

Local Government

The Local Government Industry includes all Local Government Councils (Councils) and Local Government Owned Corporations (LGOs), including former Aboriginal and Islander Community Councils.

Our Union is the largest union representing workers employed by Local Government Industry in Queensland who are employed in Administrative, Technical, Community Service, Supervisory and Managerial Services.

The Queensland Local Government Industry Award – State 2017 is the Award that is applicable for Council workers.

A majority of Councils have Certified Agreements in place that regulate the employment of our members.

Example One

Our Union is currently pursuing an underpayment claim for over 30 employees at a large South-East Queensland Local Council. The claim has arisen because of a misapplication of both the applicable Award and Enterprise Agreement in relation to weekend penalty rates and the accrual of sick leave.

These matters are currently subject to dispute in the Queensland Industrial Relations Commission, however it appears arbitration will be necessary.

In the meantime, our members continue to be underpaid. The same public authority has also consistently refused to honour the casual conversion rights outlined in their Enterprise Agreement and is unreasonably prolonging the negotiation of a new Agreement (which would provide members with a much-needed pay rise) by insisting on an unfair two-tiered wage structure.

Difficulty with Recovery

The options to pursue an underpayment in Queensland are difficult to navigate, onerous, time consuming and costly for individuals. Quite often this is a deterrent for individuals to pursue underpayments.

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A Wage Recovery process needs to be established that is easy to navigate, cost effective and ensures a timely resolution of the claim. The onus of proof should heavily reside with an employer and stronger penalties should be applied to employers who fail to keep and provide accurate records.

The establishment of a new Agency to deal with underpayments would be a significant improvement on the current system and would assist in the eradication of wage theft in Queensland. This may further assist in reducing the resolution time for underpayment claims and provide a system that is designed to assist employees who have been disadvantaged as a result of employer wrongdoing.

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