

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Re: variation of the Award for Operational Employees in Disability and Forensic Services – State 2016 [2020] QIRC 197*

PARTIES: **State of Queensland (Department of Communities, Disability Services and Seniors)**
(Applicant)

v

The Australian Workers' Union of Employees, Queensland
(First Respondent)

&

Together Queensland, Industrial Union of Employees
(Second Respondent)

CASE NO: MA/2020/22

PROCEEDING: Application to vary a modern award

DELIVERED ON: 19 November 2020

MEMBER: Dwyer IC

HEARD AT: On the papers

ORDER: **1. Application granted. Full Orders as per final pages of decision.**

CATCHWORDS: INDUSTRIAL LAW – VARIATION OF A MODERN AWARD – application to vary a modern award

LEGISLATION: *Industrial Relations Act 2016 (Qld), s 147*

Reasons for Decision

- [1] The State of Queensland (Department of Communities, Disability Services and Seniors) ("DCDSS") has filed an application pursuant to s 147 of the *Industrial Relations Act 2016* to vary the *Award for Operational Employees in Disability and Forensic Services – State 2016* ("the Award"). The application is made with the consent of both the union parties involved.
- [2] The proposed variations are purposed to include a new OO7 classification level in the operational stream and a corresponding role descriptor for the OO7 role. The variations will also rename the OO5 role in the operational stream, which is currently known as 'Forensic Disability Worker (Clinical Support)', to 'Forensic Officer'.
- [3] The table contained at cl 12.1(a) of the Award currently includes only classification levels OO3 to OO6 with the role equivalent of OO5 referred to as 'Forensic Disability Worker (Clinical Support)'. This is reflected at cl 12.1(b) which does not include a role description for an OO7 classification level and similarly makes reference to a 'Forensic Disability Worker (Clinical Support)'.
- [4] In her affidavit sworn on 9 October 2020, Ms Clare O'Connor, Director-General of the DCDSS, deposed that the DCDSS had accepted recommendations from the Ombudsman's review tabled in parliament (The Forensic Disability Service Report August 2019). The key elements of the report identified the need for clarity and avoiding overlap in roles and responsibilities and the need to review the structure, mix of skills and organisation culture to align with the legislative purpose of forensic services.
- [5] The proposed OO7 would be implemented in response to the Ombudsmen's recommendations, as would the sought alteration of the OO5 role classification title.
- [6] I grant the application and make the necessary orders to vary the Award.

Order

Pursuant to s 147 of the Act, the *Award for Operational Employees in Disability and Forensic Services – State 2016* is varied as follows:

1. By deleting clause 12.1 (a) Table and insert the following in lieu thereof:-

(a) Table:

Operational stream	
Classification level	Role

OO3 (or OO4, but only where achieved by an individual via progression according to clause 12.5)	Residential Care Officer
OO4	Direct Services Support Officer
OO5	Forensic Officer
OO6	Forensic Disability Worker (Clinical Support and Shift Coordination)
OO6	Direct Services Team Leader
OO7	Operational Team Leader (Forensic Disability Service)

2. By deleting clause 12.1 (b) Role descriptors and insert the following in lieu thereof:-

(b) Role descriptors:

residential care officer means an employee who has completed the Certificate IV in Disability (or an approved equivalent qualification) and who has been appointed as such.

direct services support officer means an employee principally employed to provide administrative and other support to staff and clients of the department necessary to ensure the effective operation of accommodation services, particularly outside regular office hours.

forensic officer means an employee:

- **employed in a continuous shift work arrangement to deliver lifestyle and skills support for clients of the Forensic Disability Service and support clinical intervention/treatment programs; and**
- **who has completed the Certificate IV in Disability (or approved equivalent) or has ability to undertake the Certificate IV in Disability within a prescribed timeframe; and**
- **who has the ability to complete forensic specific training within a prescribed timeframe.**

forensic disability worker (clinical support and shift coordination) means an employee:

- **employed in a continuous shift work arrangement to deliver lifestyle and skills support for clients of the Forensic Disability Service and support clinical intervention/treatment programs; and**
- **who is responsible for appropriate deployment of staff on a shift by shift basis and arranging the smooth transition of shift changes and identifying and responding to staff shortages; and**
- **who has completed the Certificate IV in Disability (or approved equivalent) or has ability to undertake the Certificate IV in Disability within a prescribed timeframe; and**
- **who has the ability to complete forensic specific training within a prescribed timeframe.**

direct services team leader means an employee who has completed a Certificate IV in Disability (or approved equivalent) and has been appointed as such.

operational team leader (forensic disability service) means an employee:

- **who will supervise and lead a team of Forensic Officers to ensure that they deliver high quality support and services to clients in the Forensic Disability Service; and**
- **employed in a continuous shift work arrangement to support the Forensic Disability Service to provide critical rostering support and emergency response; and**
- **who has completed the Certificate IV in Disability (or approved equivalent) or has attained a higher level qualification relevant to the operations of the Forensic Disability Service.**

3. The variation to the Award will operate on and from 19 November 2020.