

NORTH MELBOURNE LEGAL SERVICE INC.

ESTABLISHED 1979



A COMMUNITY LEGAL CENTRE

Senate Standing Committee -
Education, Employment and Workplace Relations Inquiry

Our ref: Admin
Contact: Richard Stewart

9 January 2009

Dear Committee,

Re: Senate inquiry into the Fair Work Bill 2008 (Cth)
Letter in support of submission by JobWatch Inc.

We are pleased to have the opportunity to endorse the submission made to the Senate inquiry by JobWatch Inc (**JobWatch**) dated 9 January 2009 (**Submission**) into the Fair Work Bill 2008 (Cth) (**Bill**).

We note the fundamental importance of the Bill, impacting and regulating, as it does, working relationships. The working relationship impacts either directly or indirectly on almost every member of the Australian community. As a predominant and mostly essential part of life, work and the working relationship has the capacity to significantly affect the person, and perhaps more specifically their sense of self, value and community.

An effective, efficient and accessible forum in which to deal with workplace grievances is essential. Of course, it is the expectation of the community that Fair Work Australia (**FWA**) will be that forum. Achieving effectiveness, efficiency and accessibility of FWA is, of course, paramount. In the absence of those characteristics, FWA will not serve its intended purpose.

Effectiveness, efficiency and accessibility can be assured, at least partly, by ensuring that people in need have all the assistance they might require to make cogent, accurate and effective submissions to FWA. Community legal centres (**CLCs**) can provide that assistance.

We note the default position contained in sub section 596(1) of the Bill, which permits representation by a lawyer or paid agent only with the permission of FWA. We also note the grounds upon which such permission may be given, contained in sub section 596(2), and most notably sub paragraphs (b) and (c) thereof.

As a CLC, this service most usually assists persons of limited means and education. Whilst there are certainly exceptions, many clients of this service are relatively unsophisticated in terms of adequately representing themselves before, or preparing submissions to, a body such as FWA. As a result, our perception is that the clients typical of this service would be unable to effectively or efficiently self represent before FWA. We maintain this view notwithstanding the statement in the explanatory memorandum to the Bill that "FWA is intended to operate efficiently and informally and, where appropriate, in a

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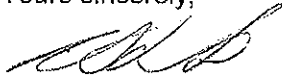
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non-adversarial manner" resulting in a belief that "...legal or other professional representation should not be necessary for matters before the FWA."

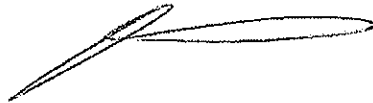
Also, we remain conscious of the power imbalances that are typically an inherent feature of many, if not all, working relationships. This power imbalance can be corrected, at least to some extent, through ensuring that parties are properly represented and assisted before FWA.

We take the view that, in almost all cases, FWA would permit representation for clients of this service after properly applying sub section 596(2) of the Bill. Simply put, in our respectful view, CLCs will assist FWA with its important functions and encourage and facilitate its effectiveness and efficiency. For these reasons, we endorse the Submission to the extent that it calls for all CLCs to be exempt from the requirement in sub section 596(1) to seek permission of FWA to represent a person(s) before FWA.

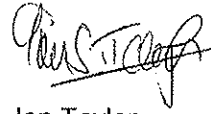
Yours sincerely,



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