
From: Health Services Union SA/NT
Sent: Thursday, 24 May 2018 6:24 AM
Cc: Zerebar Karimi <zerebar@hsusant.org.au>
Subject: FW: AG2018/97 – Application for approval of The Clinpath Laboratories - Enterprise Agreement 2017 [SEC=UNCLASSIFIED]

Dear member,

Below is correspondence from the Fair Work Commission to Clinpath Laboratory Management regarding their application for registration of the Clinpath Laboratories Enterprise Agreement 2017.

As you probably will note: the Commission is raising similar concerns that the HSU has raised and is seeking clarification from your employer.

The HSU is awaiting for your employer's responses to the Commission before we present further submissions to the Commission; if needed. The HSU will continue to advocate in your best interest in order to achieve the best outcome possible to your Enterprise Bargaining claims; this will include Commission hearings if needed.

We are also planning to hold meetings with your delegates at Clinpath to receive instructions and advance your claims.

If you have any queries please do not hesitate to contact

Zerebar Karimi 0499 047 277, email zerebar@hsusant.org.au or

Jorge Navas 0419 036 615, email info@hsusant.org.au

Regards



Jorge Navas | Secretary | HSU SA/NT
170 Greenhill Road, Parkside SA 5063
p 08 8279 2255 m 0419 036 615 f 08 8279 2223
e jorge@hsusant.org.au w www.hsusant.org.au

We acknowledge that we live, learn and work on the land of Kurna people. We pay our respects to them and to all the Traditional Owners and Elders past and present across Australia.

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From: Member Assist [<mailto:member.assist@fwc.gov.au>]

Sent: Tuesday, 22 May 2018 3:41 PM

To: Liz Main <LMain@clinpath.com.au>

Cc: Jenny Starick <JStarick@clinpath.com.au>; Melinda Smith <MSmith@clinpath.com.au>; dbilsborough@clinpath.com.au; Riccardo Iannella <RIannella@clinpath.com.au>; Brenton Foreman <BForeman@clinpath.com.au>; Jacqueline Edwards <JEdwards@clinpath.com.au>; Ian Buxton <IBuxton@clinpath.com.au>; Vivien Lowe <VLowe@clinpath.com.au>; Nokukhanya BUTHELEZI <NBUTHELEZI@clinpath.com.au>; Laszlo Majoros <LMajoros@clinpath.com.au>; Fergus Whitehead <FWhitehead@clinpath.com.au>; Jorge Navas <jorge@hsusant.org.au>

Subject: RE: AG2018/97 – Application for approval of The Clinpath Laboratories - Enterprise Agreement 2017 [SEC=UNCLASSIFIED]

Dear Ms Main,

RE: AG2018/97 – Application for approval of The Clinpath Laboratories - Enterprise Agreement 2017

I write in relation to the abovementioned agreement which has been allocated to Commissioner Johns for his consideration.

Upon reviewing the application, the Commissioner has raised the following concerns outlined below. Please note that whilst you have provided some initial reply submissions and some issues below may overlap with those addressed in your submissions, the Commissioner invites you to please provide a response to all of the following concerns.

Could you please provide a response to the issues raised in the “**Response**” column below.

Issue Raised	Response
1. Agreement – The employer and employee representative signatories have not included their authority/positions. You are invited to provide a revised, correctly signed signatory page, signed in accordance with the <i>Fair Work Regulations</i> .	
2. Notice of Employee Representational Rights (NERR) – The response to question 2.2 of Form F17 provides that ‘the groups covered were the groups covered by the previous Clinpath Laboratories Enterprise Agreement and warehouse staff previously covered by the HPSS Award. The groups not covered were nurses, who are covered by the Nurses Award and senior management’. However, the NERR provides that the agreement ‘is proposed to cover employees that are currently covered by the Clinpath Laboratories Enterprise Agreement 2015 and the Clinpath Laboratories Nursing Employees Enterprise Agreement 2013.’ It appears that the warehouse staff were not covered in the NERR, therefore it is unclear whether warehouse staff were provided with a copy of the NERR. The proposed agreement also does not cover those employees covered by the Clinpath Laboratories Nursing Employees Enterprise Agreement 2013, as indicated in the NERR. You may wish to provide further submissions regarding this issue.	
3. Rates of pay – Some rates of pay for certain classifications fall below the <i>Health Professionals and Support Services Award 2010</i> (‘the Award’). Classifications include Cleaners (Grades 1 to 3), Clerk 19 years, Courier 20 years, Courier (Grades 2 to 3), Scientist (Grade 4, Level 3). Scientist (Grade 5, Level 1), Tech Assistant (Levels 2 to 7) Tech Officer (Grade 3, Level 1 and Grade 3, Level 2) and Stores Worker (Grades 1 to 3). Please note, it does not appear that classification matching was provided upon lodgement. You may wish to provide classification matching and an undertaking addressing the concern.	

<p>4. Shift penalties – Clause 25.1 of the Agreement provides that a shift loading of 15% will be paid to an employee whose rostered hours of ordinary duty finish between 8pm and 7am, Monday to Friday, or commence between 8pm and 7am. However, under the Award, a 15% loading is paid to employees when their ordinary rostered hours of work finish between 6pm and 8am or commence between 6pm and 6am. As the rates of pay for a number of classifications in the Agreement are close to the Award rates, it appears that not all employees would be better off under the Agreement than the Award if required to work shiftwork. You are invited to provide submissions or an undertaking addressing this concern.</p>	
<p>5. Overtime – Clause 23.2 of the Agreement provides that overtime rates are 150% for the first three hours and 200% thereafter. However, the Award provides that employees will be paid at the rate of 150% for the first two hours and 200% thereafter. As the rates of pay for a number of classifications in the Agreement are close to the Award rates, it appears that not all employees would be better off under the Agreement than the Award when required to work overtime. You are invited to provide submissions or an undertaking addressing this concern.</p>	
<p>6. Higher duties – Clause 16.1 of the Agreement provides that higher duty payments will be applied and paid after an eligible employee acts for more than three full shifts on consecutive working days in a nominated more senior role. Whereas under the Award, higher duty payments will be paid after any one day or shift. As some of the Agreement rates of pay are close to the Award rates of pay, this may be an issue for some employees. You are invited to provide submissions or an undertaking addressing this concern.</p>	

If you are attaching additional documents or information to support your response, please attach them to your reply email and indicate this in the 'response' column.

If undertakings are to be provided, please ensure they are signed by the employer and please ensure you seek the views of any bargaining representatives in relation to the issues raised. Any objections to the proposed undertakings should be raised with the Commission prior to the approval of the agreement. Undertakings are to be provided in a separate document. For your convenience, we have attached a template 'undertakings' document that you might find useful.

Could a response to the above please be provided as soon as possible, but by no later than **close of business on Friday, 25 May 2018**.

If you have any questions, please do not hesitate to contact me and I will be happy to assist.

Kind regards,

Sophia

Sophia Floudiotis
Agreement Assessor
Member Support Research Team

Fair Work Commission
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11 Exhibition Street, Melbourne Victoria 3000
GPO Box 1994 Melbourne Victoria 3001

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From: Liz Main [<mailto:LMain@clinpath.com.au>]
Sent: Friday, 18 May 2018 3:02 PM
To: Member Assist
Cc: Jenny Starick; Melinda Smith; dbilsborough@clinpath.com.au; Riccardo Iannella; Brenton Foreman; Jacqueline Edwards; Ian Buxton; Vivien Lowe; Nokukhanya BUTHELEZI; Laszlo Majoros; Fergus Whitehead; Jorge Navas (jorge@hsusant.org.au)
Subject: RE: AG2018/97 – Application for approval of The Clinpath Laboratories - Enterprise Agreement 2017 [SEC=UNCLASSIFIED]

Dear Team Member Assist

Thank you for your email indicating that the matter will be progressing on 21 May 2018.

I was about to write to seek an update and respond to the union filed form 18 which raises concerns which we do not accept.

Attached are some initial reply submissions to the concerns raised by the union. It is hoped this response assists in resolving matters and enables approval to progress.

Regards,

Liz Main | People and Culture Manager | Clinpath Laboratories
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19 Fullarton Road, Kent Town, South Australia 5067



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From: Member Assist [<mailto:member.assist@fwc.gov.au>]
Sent: Thursday, 17 May 2018 11:20 AM
To: Liz Main
Cc: Jenny Strath; Jenny Starick; Melinda Smith; dbilsborough@clinpath.com.au; Riccardo Iannella; Brenton Foreman; Jacqueline Edwards; Ian Buxton; Vivien Lowe; Nokukhanya BUTHELEZI; Laszlo Majoros; Fiona Renshaw
Subject: RE: AG2018/97 – Application for approval of The Clinpath Laboratories - Enterprise Agreement 2017 [SEC=UNCLASSIFIED]

Dear Ms Main,

RE: AG2018/97 – Application for approval of The Clinpath Laboratories - Enterprise Agreement 2017

I confirm this application will be allocated to Commissioner Johns. The Commissioner is due to meet the agreements team on 21 May. After the Commissioner has provided instructions to the team, I will be in touch with you to provide you with an update on this application.

By way of background the Commission dealt with 5,698 agreement approval applications in 2016–17. The Commission's timeliness benchmarks are intended to set tight performance goals. To an extent they are aspirational and at times there will be circumstances where the Commission cannot meet these goals for a variety of reasons.

If you have any further issues with the application please feel free to contact me.

Kind regards,

Sophia

Sophia Floudiotis
Agreement Assessor
Member Support Research Team

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