

29 May 2019

Industrial Relations Victoria  
[enquiries@plsa.vic.gov.au](mailto:enquiries@plsa.vic.gov.au)

Dear Sir/Madam

### **Long Service Leave Portability Act 2018**

Latrobe Community  
Health Service Ltd  
ABN: 74 136 502 022

All correspondence:  
PO Box 960  
Morwell 3840

Call: 1800 242 696  
[www.lchs.com.au](http://www.lchs.com.au)

We wish to make a submission on the above Act and the draft regulations recently released.

Latrobe Community Health Service employs almost 1000 people across Victoria. They work across 120+ different programs. Each employee's employment arrangements are governed by an enterprise agreement approved by Fair Work Australia. These agreements provide for long service leave arrangements for all employees consistent with the National Employment Standards. Given this, we believe the Act should not apply to our organisation, or others like it.

We are a not-for-profit entity providing health and wellbeing services to Victorians. Any additional costs imposed by government, particularly those that duplicate existing mandated costs, will diminish our capacity to continue to provide the services we do.

In regards to the draft regulations, we make the following submission:

#### Section 7 to 9

It remains unclear to us, as a community health service, whether the Act applies to us at all or in the case it does which of our employees are in-scope. The inconsistencies between the draft regulations and the Act are the cause of this concern.

The language used in the draft regulations is not clear. The "predominant activity" wording is not adequately defined to enable us to determine which employees may be in-scope. With the diversity of programs we provide, and the way employees work across them, a much clearer predominance test is required.

#### Scheme start date

Along with our community health service programs, we are also an NDIS Local Area Coordinator. The regulations provide for staggered start dates for the two types of services. Our view on this proposal is:

- We should not have to commence in the same scheme at two different points in time. This proposal does not seem to have taken account of the variety of programs employers may run.
- The first proposed start date of 1 July 2019 is not feasible. Given the closeness of the date, the many unresolved issues with the regulations, and the possible need to amend technology to cater for the scheme, it should be delayed to the later date of 1 January 2020.

## Section 11

The "double-dipping" section of the draft regulations fail to address the risk of it occurring. They don't take into account the fact that we will also be paying long service leave entitlements for our employees under industrial agreements. They also provide no protection in instances where employees access a long service leave payment from the Authority without any mechanism to inform us of this fact.

The draft regulations give no guidance or comfort around mechanisms to return cash to employers in instances where long service leave is paid to an employee by us who has also had a contribution made on their behalf to the Authority by us previously.

Our suggestion is that contributions to the Authority should only be required where an employee completes their employment and is:

- a) not paid a long service payment to which they are entitled to, or entitled to pro-rata; or
- b) has not requested their long service leave provision be transferred to their new employer under an existing portability arrangement.

## Costs

Of all the concerns with this Act, the most significant is its cost. We have tried to reconcile the levy proposed by the Authority of 1.65% of base salary with the modelling undertaken by KPMG in the Impact Statement which suggests an actual cost of just 0.3%. We have been unable to duplicate this work. It is clear they are applying some of the accounting discounting methodology for making provisions for long service leave, which is sound, but this hasn't been applied to the Authority's proposed rate. It is also the case that KPMG have made assumptions around the applicability to a theoretic workforce, but these have not been shared. With all the uncertainty in the regulations, we have limited confidence in this modelling.

For our organisation, the proposed levy of 1.65% taken on the base remuneration of our workforce, would require an annual payment of almost \$1.2m. This is an unrealistic expectation and well beyond our capacity to afford.

While the portability legislation is a positive step forward for employees in the community services sector who previously had no portability provision, the portability legislation imposes a significant burden on community health services which will be required to contribute to two sets of long service entitlements. LCHS is a not-for-profit entity providing health and wellbeing services to Victorians. Any additional costs imposed by government, particularly those that duplicate existing mandated costs, or costs that increase an already heavy compliance burden will diminish our capacity to continue to provide the services we do.

If you require any further information or clarification on the information provided in this letter please don't hesitate to contact Mr Rick Davies, Executive Director Corporate/Chief Financial Officer on 5136 5204 or [rick.davies@lchs.com.au](mailto:rick.davies@lchs.com.au).

Yours sincerely



Ben Leigh  
Chief Executive Officer

cc Victorian Healthcare Association (VHA)  
Victorian Hospitals' Industrial Association (VHIA)