

31 May 2019

Industrial Relations Victoria
Via email

To whom it may concern

Portable Long Service Leave – consultation on draft Regulations

We welcome the opportunity to provide feedback on the Draft Regulations for the Long Service Benefits Portability Regulations, which are due to come into effect on 1 July 2019.

We believe that our sector should encourage mobility and we recognise the value of portability. However we feel that these regulations are being poorly implemented and will have considerable unintended consequences on a sector that is vital to the health and wellbeing of a significant proportion of Victorians.

As a large community services provider operating in many areas of social services, including early childhood education and care and disability services, we will be significantly affected by these provisions. Our submission falls into two areas: firstly the implications of the regulations from 1 July 2019 and secondly the introduction of the regulations to the early childhood and disability sectors.

Regulations from 1 July 2019

We believe that there has been insufficient consultation and preparation for a 1 July implementation date for these regulations. There has been little effort by government to provide the information necessary for genuine consultation of a sector that will be highly impacted. Many small community organisations remain oblivious to the regulations. We note that the Commissioner for Better Regulation highlighted the need for comprehensive communications to support implementation.

We expect government funding in areas that remain block-funded to recognise the increased cost faced by employees, as well as the balance sheet issue, and allocate an appropriate amount of additional funds to the overheads element of that block-funding. This should also acknowledge the administrative burden for a sector that is required to keep its administrative costs low.

The Employer Levy to apply to the Portable Long Service Benefits Scheme has been set at 1.65% for community services by the Governing Board. When a similar scheme began in the ACT in 2010, the rate applied was 1.67% and has since been reduced to 1.20% after the scheme had been in effect for less than 8 years. We believe that Victoria should learn from this experience and set the initial levy at a level between these figures.

Impact on providers of NDIS within Victoria

The application of these regulations comes as there is widespread recognition that the rollout of the NDIS has been problematic. Even with the delayed application of the regulations to NDIS employees, organisations will need to provide this increased cost within the NDIS price caps that are already seeing providers struggle to continue to offer services.

NDIS providers are already struggling to deliver services within the caps while respecting existing workforce agreements and the government has indicated it will not support joint efforts by employers and unions to reach a single multi-employer agreement for disability workers in Victoria. A further compliance cost is therefore not just unwelcome, but potentially detrimental to the sector.

Both these factors will be felt particularly acutely in rural and regional areas, with the high possibility that local service providers will not be able to continue to offer services in areas where there are very few, or maybe even no other providers.

We also question the imposition of state-based costs on a federally-funded scheme that cannot take these state variations into account.

Impact on early learning providers

We remain concerned about the inequitable application of these regulations within the sector. Exempting for-profit providers not only creates an unequal playing field in terms of compliance costs, it limits the usefulness of the scheme to people working in that sector if they cannot move between the two types of providers.

We support calls within the early childhood sector to introduce any portable long service leave arrangements after the sector has absorbed the significant change that will come with the roll-out of universal three-year-old kindergarten.

Recommendations

We therefore recommend:

- Postponing the start of the scheme to **1 July 2020** for the bulk of the sector and **1 January 2022** for disability and childcare to allow organisations sufficient time to put in place the required administration, inform impacted employees and include the additional cost in their budget
- Increasing block grants from the Victorian State Government to recognise this additional compliance cost
- Applying the regulations consistently within the early learning sector – either all providers should be subject to the regulations or the sector should be exempted
- Setting the Employer Levy at a mid-point between 1.20% - 1.67%.

Yours sincerely,



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Chief Executive Officer