

SUBMISSION ON THE PROPOSAL FOR A NEW SMALL BUSINESS AND FAMILY ENTERPRISE OMBUDSMAN

Nefe's Family Day Care Scheme's comments on the draft legislation for the new Small Business and Family Enterprise Ombudsman.

The opportunity to comment on the draft legislation for the Small Business and Family Enterprise Ombudsman is appreciated. As a sole trader and Australian Capital Territory (ACT) approved provider of a three-year old small privately owned family day care scheme I support the proposed functions of the new Ombudsman for Small Business and Family Enterprise.

There is a particular value for small business and family enterprise operators to have an independent body to liaise with and be their representative with the Federal, States and Territories governments and their agencies about small businesses and family enterprises concerns, such as existing and new policies affecting the daily running and sustainability of their business.

It is expected, as the unique agency for Australia-wide advocacy for small businesses and family enterprises the new Small Business and Family Enterprise Ombudsman's role to identify and act on issues of common concern to small businesses and family enterprises should motivate governmental agencies to become more responsive to the concerns of small businesses and family enterprises.

The proposed role to conduct research and making enquiries at its own initiative is also welcomed. It is an important initiative that should encourage small businesses and family enterprises to seek advice on issues and decisions with the potential to affect their responsibilities as employers and the integrity of their business. Receiving reliable advice will be a forward step encouraging small businesses and family enterprises to have

confidence in their business endeavours.

With regards to the Ombudsmen's role, although that it is probably premature to seek assistance now, the opportunity of this submission is taken to bring to attention the following long-dated standing issue for my scheme. This is despite various sources of enquiries and inconsistent advices, resulting in an unresolved concern with the potential to become an unfavourable issue for my scheme's responsibilities.

Being an approved provider and sole trader of a family day care scheme in the ACT my scheme falls into the small business category. To my knowledge from the various professional advices received all employees of small businesses and family enterprises should be covered under an award or an enterprise agreement depending on the employer's preference. In my case the high costs for an enterprise agreement put the latter option very difficult to contemplate. I am therefore particularly concerned with the lack of clarity on the status of employed family day care home-based educators as their remuneration is based on hourly rate per child in their care.

The omission of family day care home-based educators in the 2010 Children Service Award could become a problematic issue for privately owned family day care schemes that do not have an Enterprise Agreement and are employers of family day care home-based educators. The high costs charged by an industry relations law firms in the vicinity of \$16,000 for the drafting of an industrial agreement is for small family day care financial sustainability a serious impediment to put in place an agreement as a substitute to an award.

Childcare centres's educators, directors and staff are covered under the Children Service Award 2010. But family day care home based educators employed by a family day care scheme are not covered under the Children Service Award 2010. The

same award also covers in the ACT coordinators unit team of family day care schemes of self-employed family day care home based educators as well as not self-employed home based educators.

As an alternative for consistency of the status of all childcare educators under an award there could be value to revert to an award similar to the ACT Family Day Care Award that was abolished late 2009. This could be a straight-forwards approach to restore an award for family day care home-based educators in the ACT. There could be also an opportunity for the Ombudsman to assist in the drafting at lower legal costs of a template enterprise agreement for small family day care schemes as an alternative to an award. When time comes to look into this concern further details can be readily provided

Being mindful, it is early date to bring this concerning issue to the attention of the new Small Business and Family Enterprise Ombudsman, this request for advice and assistance is an example supporting the necessity for small businesses and family enterprises to have a responsive and centralised agency to report and seek advice on their concerns.

The proposed transition of the responsibilities of the Australian Small Business Commissioner to the new Small Business and Family Enterprise Ombudsman and the draft legislation to make sure the Ombudsman can provide the right services to small businesses and family enterprises are endorsed and supported. Its proposed roles are also endorsed, in particular its role as an interlocutor between small businesses and family enterprises with governments and their agencies.

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