

Fair Work Commission

Fair Work Act 2009

Annual Wage Review 2017-18

**Living Wage Claim and Submission by the
Australian Catholic Council for Employment Relations**

13 March 2018

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CHAPTER 1

LIVING WAGE AND AWARD WAGES CLAIMS

1. The Australian Catholic Council for Employment Relations (ACCER) seeks the following orders by the Fair Work Commission (FWC):
 - The National Minimum Wage (NMW) be set at \$735.00 per week and \$19.35 per hour.
 - Award wage rates up to the C10 award classification rate be increased by \$32.00 per week and award wage rates above the C10 rate be increased by 3.9%.
 - No award rate shall be less than the NMW.
2. This submission contends that the current level of the NMW is manifestly inadequate and does not comply with the requirements of the *Fair Work Act*. The NMW is intended to be the basis upon which award wage rates will be set so as to reflect the skills, responsibilities and circumstances of the work covered by awards and their work classifications. The claimed amount for the NMW is an increase of \$40.10 per week over the current level of the NMW and \$8.10 per week more than the claim in respect of award wages for lower paid workers. The amount claimed for lower paid award rates is designed to provide lower paid workers with a relatively greater increase than that applied to higher paid workers on the basis that it provides relatively more to those most in need. ACCER seeks the adjustment of the NMW over a period of time. We return to the claims in Chapter 8.
3. ACCER is an agency of the Australian Catholic Bishops Conference. ACCER's advocacy is informed by the Catholic Church's experience as a major employer in Australia, with about 220,000 employees in health, aged care, education, welfare and administration. About 75% of these employees are covered by collective agreements, with most of the rest covered by awards made by the FWC. Church agencies have direct experience in the operation of industrial instruments and in the legal and practical challenges in the formulation and application of the rights of employers and employees. The Catholic Church in Australia has, for more than a century, been a strong supporter of the kind of employment protection now in the hands of the FWC when it undertakes an annual wage review. However, ACCER's advocacy essentially arises from the

belief, based on Catholic social teaching, that workers have the right to wages that will support themselves and their families at a decent standard of living. This is a standard that has wide community support and, for reasons explained in this submission, is consistent with the practical application of the protection in the *Fair Work Act* and relevant human rights instruments.

4. The focus of this submission is on working families whose wages cannot provide them and their children with a decent standard of living and which result in many of them living in poverty. These working families are broadly identified in Appendix A hereto in data drawn from the national Census of August 2016. This data identify the composition, work patterns and incomes of 580,969 low income working families, including 1,095,888 dependent children, for whom a decent standard of living is elusive or barely attainable and where poverty is real or threatened. ACCER seeks to speak on behalf of these working families, whose standard of living largely depends on the decisions of the FWC.
5. The level and depth of child poverty in working families is scandalous. It is scandalous because Australia can do better and because it is, to a substantial degree, the result of wage decisions of national wage setting tribunals over the past two decades which have cut the relative wages of minimum wage-dependent workers. The inevitable effect has been increasing inequality between these workers and the rest of the workforce and between their families and Australian families generally. It has caused increasing poverty levels among low income working families. It is no answer to this concern that this deleterious trend has been largely contained over recent years. As the successor to the tribunals that presided over these cuts, the FWC has an obligation to address this legacy.
6. For the reasons set out in this submission, ACCER is asking that the FWC award relatively greater increases to low paid workers in recognition of the greater unmet needs of those workers and their families. It asks that the FWC abandon its policy of the last eight years of awarding a uniform percentage increase to all minimum wage rates. It also asks that the FWC starts a process of providing greater increases in the NMW so that, over a period of time, it can be said to be a living wage providing a decent standard of living consistent with recognised human rights and the intention and

purpose of the NMW. The cuts in relative living standards over the past two decades should be reversed.

7. ACCER submits that these changes are needed if poverty in working families, and child poverty in particular, are to be alleviated. In previous decisions the FWC has recognised widespread poverty in wage-dependent families, but has not accepted the responsibility for alleviation of that poverty. In the *Annual Wage Review 2016-17, Decision*, [2017] FWCFB 3500, (June 2017 decision) it stated:

"The high and continuing levels of child poverty indicate that the combination of wages and social welfare assistance, are not sufficient to ensure that the needs of all low-wage families are met. We view this as a serious matter for society. This conclusion is supported by the evidence that about one-third of people in poverty lived in households for which wages were the main source of income and that about half of these families had children." (Paragraph 66 and repeated at paragraph 487)

"The rise in inequality has been tempered in recent years. But it has left Australia with a legacy of relatively high inequality in earnings and in household disposable income, and disturbing levels of poverty especially among families with children." (Paragraph 68 and repeated at paragraph 489.)

8. In a discussion of the various kinds of arrangements (including family payments) for the support of families, the FWC said:

"It is most important to evaluate whether these arrangements, together with the wages that can be earned, are sufficient to provide families with adequate incomes. The high and continuing levels of child poverty indicate that they are not and this is a serious matter for society. This conclusion is supported by the evidence provided by ACOSS, drawing on the 2016 *Poverty In Australia* report. This finds that about one-third of people in poverty lived in households for which wages were the main source of income; and that about half of families in poverty had children." (June 2017 decision, paragraph 468, footnote omitted)

9. Despite this conclusion about the seriousness of the high and continuing levels of child poverty, FWC was not prepared to give an extra dollar to the lowest paid so that those with family responsibilities might be better able to provide for their children. The claim by the Australian Council of Trade Unions (ACTU) for relatively greater increases (in percentage terms) was rejected.
10. It is as if the FWC has decided that poverty in working families is the Commonwealth Government's responsibility and one to be addressed through the welfare system. But the severity of the problem has been caused by the failure of the national minimum

wage system over the past two decades or so to adjust minimum wage rates to reflect rising community-wide incomes. Furthermore, the FWC knew, from the evidence before it, that the Government's budgetary strategy is to reduce the financial support for families, not increase it. We have a standoff between the institutions setting the wages safety net and the social safety net, with a devastating effect on the lives of the working poor and their families.

11. This standoff is unacceptable because the FWC's statutory obligation to set fair safety net wages does not allow it to constrain its decisions on the basis that the Parliament should provide for the support of workers with family responsibilities. If the FWC is not prepared to take poverty seriously through its wage setting decisions, no Government will feel impelled to address the matter through its budgetary policies. There is an economic case for increased family payments and their trade-off against wage increases. In the 1980s it was the basis of the strengthening of the social safety net in exchange for limited wage increases.
12. In 2005 the then Commonwealth Government introduced the *Workplace Relations Amendment (Work Choices) Bill 2005* to amend major aspects of the national employment legislation contained in the *Workplace Relations Act 1996*. In particular, substantial changes were proposed to the way in which minimum wages would be set. As a result, a Statement was made by the Australian Catholic Bishops Conference at its meeting on 25 November 2005 calling for changes to be made to the Bill, including its provisions concerning the setting of minimum wages. The Statement included the following fundamental point:

"It is not morally acceptable to reduce the scourge of unemployment by allowing wages and conditions of employment to fall below the level that is needed by workers to sustain a decent standard of living."
13. In contemporary economies the either/or choice between the objectives of full employment and a decent standard of living for low paid workers and their families is a false choice. Both are achievable through a prudent balance of the wages safety net and the social safety net. If the FWC is not prepared to take poverty and economic deprivation seriously through its wage setting decisions, no Government will feel impelled to address the matter through its budgetary policies.

14. The rights and benefits of wage-dependent families come from their rights to decent wages and various forms of social protection. The right to decent wages, sufficient for the support of the worker's family is the primary right, with the family's right to social protection being supplemental or ancillary to that right.
15. The right to a decent wage that is sufficient for a worker to support his or her family cannot be discounted by the proportion of workers who do not have family responsibilities or by changes in that proportion over a period of time.
16. In the following sections we show that the current levels of poverty among minimum wage-dependent families and the number of working families who do not have a decent standard of living is the result of the failure of past annual wage review decisions to increase minimum wage rates to reflect increases in median and average wages.
17. Over the past two decades the NMW has fallen from over 60% of median wages to less than 54% of median wages. Had the earlier relativity been maintained, and the relative living standards of minimum wage-dependent workers not been cut, the level of poverty would now be much less than it is and many more families would have a decent standard of living.
18. In August 2016 median earnings were \$1,250 per week when the NMW was \$672.70 per week; see *Statistical Report* 8 March 2018, Table 8.1. Had the NMW been 60% of the median wage at that time, it would have been \$750.00 per week, another \$77.30 per week. Had the NMW been \$750.00 many low income working families would have been lifted out of poverty and provided with a decent standard of living. For those low paid workers on higher minimum wage rates, the monetary loss has been greater.
19. ACCER contends that the cuts in the relative value of minimum wage rates, with their severe impact on the living standards of low paid minimum wage-dependent workers and their families, were not required in order to maintain employment opportunities. There is no evidence to support the view that they were. But even if there was, it would disclose a morally unacceptable justification of these changes: the lowest paid workers would be required to bear a burden that, should fall on the community as a whole through the Commonwealth's Budget.

CHAPTER 2

THE LIVING WAGE, HUMAN RIGHTS AND THE *FAIR WORK ACT*

20. The living wage is a wage that enables the worker and his or her family to live at a decent standard of living. ACCER's Living Wage claim is made for the purpose of increasing the NMW towards a level at which it will be a wage capable of providing Australian workers and their families with a decent standard of living.
21. The NMW is a critically important wage rate because it is the basis upon which wage rates in awards and collective agreements are set. As the basic general entitlement of Australian workers, the NMW should be a living wage, but it is not. The function of wage rates in awards and collective agreements is to recognise the acquisition of skills and responsibilities, not to provide, through some higher wage rate, the wage which is necessary to provide Australian workers and their families with a decent standard of living. At the present time, a worker has to obtain a skilled position in order to receive a living wage. ACCER accepts that the increase in the NMW that is needed to make it a living wage can only be achieved through successive annual wage reviews.
22. The living wage is a human right, reflected in the terms of the *Universal Declaration of Human Rights* (Declaration), which was adopted by the General Assembly of the United Nations in December 1948. The Declaration recognises that everyone who works has:

"... the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection." (Article 23(3)).
23. The Declaration did not impose specific obligations on members of the United Nations. The instrument that gives effect to the wages provisions of the Declaration and a number of the other rights declared in 1948 is the United Nations' *International Covenant on Economic, Social and Cultural Rights* (International Covenant), which was adopted in 1966 and subsequently adopted by Australia. The International Covenant recognises a universal right:

"...to the enjoyment of just and favourable conditions of work which ensure, in particular: ... Remuneration which provides all workers, as a minimum, with ... Fair wages and... A decent living for themselves and their families." (Article 7(a)).

24. The International Labour Organisation's *Minimum Wage Fixing Convention, 1970* (ILO Convention), which Australia has ratified, brings together a range of factors that need to be considered in setting wages that provide a decent standard of living for workers and their families:

"The elements to be taken into consideration in determining the level of minimum wages shall, so far as possible and appropriate in relation to national practice and conditions, include--

(a) the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups;

(b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment."

25. It is important to understand the purpose of this provision. The process intended by this provision is not a mere transactional process of balancing the specified matters, but balancing them for the purpose of promoting and securing the human right to a wage that will provide a decent standard of living for workers and their families. This is relevant to a matter that we raise later in regard to the wage setting provisions of the *Fair Work Act*.

26. The implementation of Australia's human rights obligations and the protection of those rights against inconsistent domestic legislation are considered by the Australian Parliament under *Human Rights (Parliamentary Scrutiny) Act 2011*. The Parliamentary Joint Committee on Human Rights, which is established under section 4 of that Act, monitors the compliance of legislation with human rights. Section 8 provides that a member of Parliament who proposes to introduce a Bill for an Act into a House of the Parliament must prepare a statement of compatibility of that Bill with the human rights and freedoms recognised or declared in international instruments listed in section 3 of the Act.

27. The *Guide to Human Rights*, published by the Committee in May 2014, sets out the basis upon which the Committee exercises its functions. The Guide includes the following commentary:

"Civil and political rights

Australia is under an obligation to respect, protect and fulfil its obligations in relation to all civil and political rights. It is generally accepted that most civil and political rights are capable of immediate realisation.

Economic, social and cultural rights

Australia is also under an obligation to respect, protect and fulfil economic, social and cultural rights. However, there is some flexibility allowed in the implementation of these rights. This is the obligation of progressive realisation, which recognises that the full realisation of economic, social and cultural rights may be achieved progressively. Nevertheless, there are some obligations in relation to economic, social and cultural rights which have immediate effect. These include the obligation to ensure that people enjoy economic, social and cultural rights without discrimination.

Limiting a human right

It is a general principle of international human rights law that the rights protected by the human rights treaties are to be interpreted generously and limitations narrowly. Nevertheless, international human rights law recognises that reasonable limits may be placed on most rights and freedoms –there are very few absolute rights which can never be legitimately limited. For all other rights, rights may be limited as long as the limitation meets certain standards." (Pages 1-2, footnote omitted.)

28. In a recent report of the Committee concerning the question of whether the terms of the *Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2017* impinged on the right of freedom of association, the Committee stated:

"The right to freedom of association includes the right to collectively bargain without unreasonable and disproportionate interference from the state. The right to just and favourable conditions of work includes the right to safe working conditions. These rights are protected by the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)" (*Report 1 of 2018*, paragraph 1.208. The footnote to this paragraph includes a reference to article 7 of the International Covenant, which, as noted above, includes the right of workers to remuneration which provides a decent living for themselves and their families.)

"Measures limiting the right to freedom of association including the right to collectively bargain may be permissible providing certain criteria are satisfied. Generally, to be capable of justifying a limit on human rights, the measure must address a legitimate objective, be rationally connected to that objective and be a proportionate way to achieve that objective." (*Ibid.* paragraph 1.211)

29. The Committee's assessment of Bills focuses on the question of whether any limitation on recognised human rights are reasonable and proportionate; see, for example, paragraphs 1.214 to 1.217 of *Report 1 of 2018* in respect of the *Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2017*.

30. The principle to be applied is that any limitation on a generally expressed human right must be reasonable and proportionate. It follows from this that, when giving effect in legislation and in decision-making regarding generally expressed human rights, the legislation or decision must be reasonable and proportionate to the generally expressed right.
31. This approach of the Parliamentary Joint Committee on Human Rights to the application of legislation affecting internationally recognised human rights is similar to the approach taken by the High Court of Australia in its consideration of legislation that concerns the exercise of Australian constitutional rights. In *Brown v Tasmania*, [2017] HCA 43, the High Court found that the Tasmanian *Workplaces (Protection from Protesters) Act 2014* was invalid because it impermissibly burdened the implied freedom of political communication contrary to the Commonwealth Constitution. It raised the issue of whether the law was reasonably appropriate and adapted to advance that legitimate object in a manner that was compatible with the maintenance of the constitutionally prescribed system of representative and responsible government. The reasonably appropriate test is a similar test to the reasonable and proportionate test. They are not, however, treated as interchangeable terms; see *Attorney General for South Australia v The Corporation of the City of Adelaide & Ors.* [2013] HCA 3.
32. The stated object of the *Fair Work Act* includes the provision of "a balanced framework for cooperative and productive workplace relations that promotes national economic prosperity and social inclusion for all Australians by [among others] providing workplace relations laws that ... take into account Australia's international labour obligations"; section 3. These obligations include those under the International Covenant. The terms of section 284(1) of the Act are consistent with the International Covenant and the ILO Convention in that it provides:
- "The FWC must establish and maintain a safety net of fair minimum wages, taking into account:
- (a) the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth; and
 - (b) promoting social inclusion through increased workforce participation; and
 - (c) relative living standards and the needs of the low paid; and

(d) the principle of equal remuneration for work of equal or comparable value;
..."

33. The object of this provision is the establishment and maintenance of a wage safety net. The term "safety net" is not defined. By its ordinary meaning, a safety net wage is a wage that protects a worker against poverty and provides the worker with a decent standard of living, with due account for those workers with family responsibilities. It needs to be given its ordinary meaning in the context of the legislation in which it appears. Relevantly, the legislation (at section 3) seeks to promote social inclusion and to give effect to Australia's international labour obligations, which include the wages provisions in the International Covenant and in the ILO Convention. By both its ordinary meaning and the legislative context, the purpose of the wage safety net is to promote and secure a wage that provides the worker with a wage that supports the worker and his or her family with a decent standard of living.
34. The object of the minimum wage legislation is to be secured by taking proper account of the factors set out in section 284(1). The adjective "fair" relates to the safety net: the safety net for the worker has to be fair taking into account its nature and purpose and the specified factors, which include broad economic factors and the costs of living.
35. This obligation imposed on the FWC to set a fair safety net and the protection intended for workers and their families is expressed in general terms, just as similar human rights are expressed in the International Covenant. This obligation does not extend to extreme or unusual case. However, consistent with the reasonable and proportionate principle, the NMW safety net must cover the ordinary and expected circumstances of Australian workers.
36. A decision to set wages on the basis of the position of a workers without family responsibilities would be contrary to the intent of the legislation and the human rights to which it refers. That occurred in the FWC's decision in 2014 when it decided that the "appropriate reference household for the purposes of setting minimum wages is the single person household"; *Annual Wage Review 2013-14, Decision* [2014] FWCFB 3500 (June 2014 decision), at paragraphs 38, 365 and 373. In the following year ACCER's submission for the Annual Wage Review 2014-15 argued that the use of the single person criterion was contrary to law and was inconsistent with established human rights and Australian wage setting precedents. The principal contentions were that the

legislation "requires the FWC to take into account the living standards and needs of the low paid with family responsibilities" and that "establishing and maintaining of a safety net minimum wage ... without taking into account the living standards and the needs of the low paid with family responsibilities would be contrary to law".

37. ACCER's submissions on the single person criterion were successful. However, they not the subject of any analysis by the FWC. After referring to ACCER's submissions the FWC simply stated that it "is bound to take into account relative living standards and the needs of the low paid without limitation"; see *Annual Wage Review 2014-15, Decision* [2015] FWCFB 3500 (June 2015 decision), paragraphs 140 to 143. This effectively disposed of the single person household criterion that was articulated in the June 2014 decision: the FWC has accepted that it has to take into account the needs of workers with family responsibilities and that it would be contrary to the *Fair Work Act* not to do so.
38. Later in the June 2015 decision the FWC correctly observed that it is not possible "to ensure that every employed family, whatever their composition, has sufficient income to meet their material needs" (at paragraph 338), without giving any indication of which kinds of employed family would be covered. Further into the decision, in the context of a discussion of poverty and poverty lines, is the following:"

"Poverty entails an inability to buy the material resources required to meet basic needs. We accept that if the low paid are forced to live in poverty then their needs are not being met and that those in full-time employment can reasonably expect a standard of living that exceeds poverty levels." (Footnote omitted)

39. The footnote to this passage refers to similar passages in the previous annual wage review decisions, but limited in 2014 by the application of the single person criterion. As we discuss later, despite requests for clarification as to the kinds of workers and wage-dependent families who have the reasonable expectation referred to, the FWC has not provided any views on this matter.

The practical application of statutory and human rights

40. Generally expressed human rights and the rights of workers, such as those found in the Declaration and the International Covenant in regard to wages have to be applied in a variety of circumstances, taking into account a range of factors. The test for the compliance of domestic legislation with human rights obligations is whether the

domestic legislation is a reasonable and proportionate measure having regard to the terms of the human right. Similarly, the exercise by tribunals of generally expressed powers, such as the setting of a safety net of fair minimum wages by the FWC, must be reasonable and proportionate to the power conferred. The right that is recognised does not extend to the setting of a minimum wage for unusual or exceptional cases, such as the setting of a wage that would be needed to support a family with nine children.

41. The practical application of these rights, according to the reasonable and proportionate test, will cover the ordinary and expected circumstances in which workers live. Those covered will include single workers and workers with family responsibilities, whether as sole parents or as workers with a partner. In the contemporary Australian context, having one or two children is within the scope of the ordinary and expected circumstances. A safety net wage should be sufficient to support couple parent and sole parent families with one or two children. It would not be acceptable to set a wage that is sufficient for one of these categories of workers, but not for the others.
42. The objective of the NMW provisions is to set a safety net wage that will provide a decent standard of living for workers, including workers with family responsibilities. Section 284(1) requires the FWC to take into a range of economic matters when making its decisions. The FWC's decisions have not addressed the question of the extent to which this obligation might extend across the range of family types; and its ability from year to year to achieve this outcome.
43. In each of its annual wage review decisions from June 2013 the FWC has referred to the standard of living that workers can expect under the *Fair Work Act*:
 - "[T]hose in full-time employment can reasonably expect a standard of living that exceeds poverty levels." (See, for example, the June 2017 decision at paragraphs 98 and 461.)
 - "The assessment of the needs of the low paid requires an examination of the extent to which low-paid workers are able to purchase the essentials for 'decent standard of living' and to engage in community life, assessed in the context of contemporary norms." (See, for example, the June 2017 decision at paragraphs 53 and 362.)
44. In its March 2017 submission ACCER proposed "an appropriate formulation of the NMW safety net" based on those passages:

"Full time workers have a reasonable expectation of a standard of living that will be in excess of poverty and one which will enable them to purchase the essentials for a 'decent standard of living' and engage in community life, assessed in the context of contemporary norms."

45. This formulation, which ACCER called the operational objective, drew on passages used in each of the FWC's previous four decisions, passages that were repeated again in the June 2017 decision. ACCER argued that its formulation of the operational objective is an appropriate formulation of the NMW safety net, which is required by the terms of the *Fair Work Act* and is consistent with Australia's relevant human rights obligations in the International Covenant.
46. In its 2017 submission ACCER referred to these passages and sought the FWC's opinion on the scope and protection and benefit of each of the two descriptions used by it (at paragraph 8) and requested (at paragraph 38) that the FWC identify the workers and their families who "have a reasonable expectation of standard of living that exceeds poverty levels and the income that is needed to purchase the essentials for a decent standard of living". An associated matter was raised. The FWC was asked (at paragraph 39) for its opinion on a question in regard to single breadwinner couple parent families with dependent children who are living in poverty or who are unable to achieve a decent standard of living: is the sole breadwinner obliged to work overtime or find another job and/or the primary carer of the children obliged to seek employment in order for the family to have an income that will enable it to escape poverty and achieve a decent standard of living?
47. The FWC did not answer these questions. It did, however, explain its failure to answer the first question posed in ACCER's submission. The FWC responded that the words have to be read in the context of the consideration of section 284(1)(c), concerning "the needs of the low paid", which has no "particular primacy" among the factors that have to be taken into account when setting the NMW. In effect, the substance of the response was that the words do not mean what they appear to say. The response raises a vital question about the construction of section 284(1), which we return to in Chapter 7.
48. The questions in ACCER's March 2017 submission had been raised a year earlier. They were asked again in 2017 in the context of submissions about the ability of those who are most affected by the FWC's decisions to have a fair understanding of the operation

of the safety net and the failure to address the same question in the *Annual Wage Review 2015-16, Decision* [2016] FWCFB] 3500. We repeat them:

"The May 2016 decision did not refer to or address these important issues. The FWC has not identified those workers for whom the safety net is intended to provide a standard of living that exceeds poverty levels and the income needed to purchase the essentials for a decent standard of living. It is a fact that many Australian workers with family responsibilities are not able to escape poverty and achieve the standard of living identified by the FWC. The wage setting system needs to identify the workers who are to be afforded this level of support and provide a rationale for those who are not so supported.

This is not a matter of academic interest or just a topic for economists and policy makers, but is a matter of vital concern to millions of low paid workers and their families, many of whom are alienated from the economic system that seems unable to provide jobs that pay a decent wage. This alienation of so many is one of the defining features of our age. Tribunals like the FWC have a social obligation, if not a strict legal obligation, to spell out their decisions in terms that can be fairly understood by those who are most affected by their decisions. If there are contemporary economic or other factors which prevent the FWC from providing the kind of support identified by it to some or all of those within the scope of protection, the reasons should be evident." (Paragraphs 36-7.)

49. ACCER asks, again, the two questions asked in its March 2017 submission. They are, we submit, valid and important questions.

CHAPTER 3

20 YEARS OF INCREASING INEQUALITY

3.A. Inadequate foundations in the minimum wages system

50. Australia's modern national minimum wage was first set in April 1997 by the Australian Industrial Relations Commission (AIRC) and was then known as the Federal Minimum Wage (FMW); *Safety Net Review-Wages-April 1997*, (1997) 70 IR 1. In 2010 the FMW became the NMW when the *Fair Work Act 2009* came into operation. For the reasons set out in the following paragraphs the NMW is based on inadequate foundations.
51. The FMW was set at the C14 wage rate in the *Metal Industry Award 1984-Part 1*, which only applied in the first three months of employment, after which the worker covered by that award would move to the C13 rate. The C14 rate, like all other award wage rates at the time, had not been the subject of any assessment regarding its adequacy and the standard of living that it would support. The FMW was not a general individual entitlement, as it is now in the *Fair Work Act*, but it was of great importance to award-covered workers. The award classification structure on which the FMW was set in 1997 is now found in the *Manufacturing and Associated Industries and Occupations Award 2010*.
52. The members of the AIRC were divided, however, on the meaning of legislation introduced in 1996 which required it to "have regard to ... when adjusting the safety net, the needs of the low paid"; *Workplace Relations Act 1996*, section 88B(2). The majority of the AIRC found that the legislation did not relate to an assessment of the material needs of the low paid. The majority held that the legislation's reference to the needs of the low paid was not a reference to the living costs of low paid workers. They took the view that "needs" should be "construed simply as an adjunct to 'low paid' without any further attempt to specify or quantify them" (*Op cit.*, pages 51-3). This meant, in effect, that the legislation's reference to the needs of the low paid was regarded as the need to protect the relative position of low paid workers in the new wages system.
53. The majority's view in 1997 was unsustainable and it was abandoned in the *Safety Net Review Case, 1998* under a new President; *Safety Net Review April 1998* (1998) IR 37. The only member of the 1997 bench who made a decision on the basis of a different

view of the legislation was Vice President Ross (as he then was). His view was that the needs of the low paid included their living costs, the view which was accepted a year later.

54. Because of the Vice President's analysis of the legislation, he gave close consideration to the needs of the low paid and, in particular, the extent of poverty among wage-dependent workers. The inadequacy of the C14 and other award wage rates is evident from the Vice President's analysis of the evidence and his conclusions from that evidence, which included:

- "... I agree with the submission by ACOSS [Australian Council of Social Services] that as the proportion of wage earning families with children that is actually living in poverty has increased in recent a years there is a role for the HPL [Henderson Poverty Line] or similar poverty benchmark in checking whether minimum wages, together with income support payments, are at least sufficient to prevent poverty in these households." (Page 128)
- "Low income can lead to a substantial reduction in equality of opportunity for large numbers of people. There is strong evidence that both health status and educational attainment is influenced by socio-economic status, with children in low income families more likely to have lower educational outcomes, and with people on lower incomes more likely to experience serious health problems. Given the importance of both health status and educational attainment in influencing a person's economic future, the impact of growing up in a low income family can be a substantial compounding of disadvantage in the longer term." (Pages 140-1)
- "I agree [with Bishop Challen of the Brotherhood of St Laurence] that wage fixation in Australia has reached a 'fork in the road'. We can allow the living standards of low paid workers and their families to drift further below community standards, or we can set clear objectives for maintaining and improving them." (Page 187)
- "If we are to begin to address the problems confronting low paid employees and the widening gap between award and market wages we must do more than simply maintain the real wages of the low paid. Such a response simply preserves the status quo. A status quo in which income inequality is increasing and many low paid workers and their families have to go without food or clothing, is neither fair nor acceptable." (Page 188)

55. Unfortunately for the low paid, the Vice President's fears have been realised and the position has worsened over the 20 years since the FMW was introduced:

- living standards have drifted below community standards;
- there are no clear objectives concerning poverty in recent wage decisions;
- inequality has increased; and

- childhood poverty, with all its damage to personal development and future prospects, has increased.
56. The FMW was set in 1997 at a level that did not provide sufficient protection against poverty and a decent standard of living for low paid workers and their families. It was not a living wage. We rely on the views of the Vice President of the AIRC, now the President of the FWC, in support of that view.
 57. Following submissions by the Australian Council of Social Services (ACOSS) in the 1998 wage review seeking to review the level set for the FMW, the AIRC said:

"In deciding in this case to continue to relate the level of the federal minimum wage to that of the C14 classification rate, the Commission is not precluded from taking into account different considerations, unrelated to the C14 rate, in deciding the level of the federal minimum wage in the future." (*Safety Net Review April 1998* (1998) IR 37, 76)
 58. Despite this comment, and repeated calls by ACOSS and ACCER (since 2003) for a review of the appropriateness of this wage rate through an inquiry into the needs of the low paid, the FWM and the NMW have not been reviewed for the purpose of assessing their adequacy.
 59. The prospects of any adjustment in the level of the NMW have been closed off since 2011 by decisions of the FWC to maintain the relativities between the NMW and higher award rates, the effect of which has been to prevent the NMW from increasing by any more than the increases in the minimum wage rates for higher paid employees. This policy has constrained the capacity of the NMW to alleviate poverty and provide a better standard of living for low paid workers and their families. The apparent preparedness of the AIRC in 1998 to consider whether the FMW should be constrained by the pre-existing C14 award rate has meant nothing. We return to this aspect in Chapter 7.C., where we argue that the FWC's wages relativities policy is contrary to the terms of the legislation.

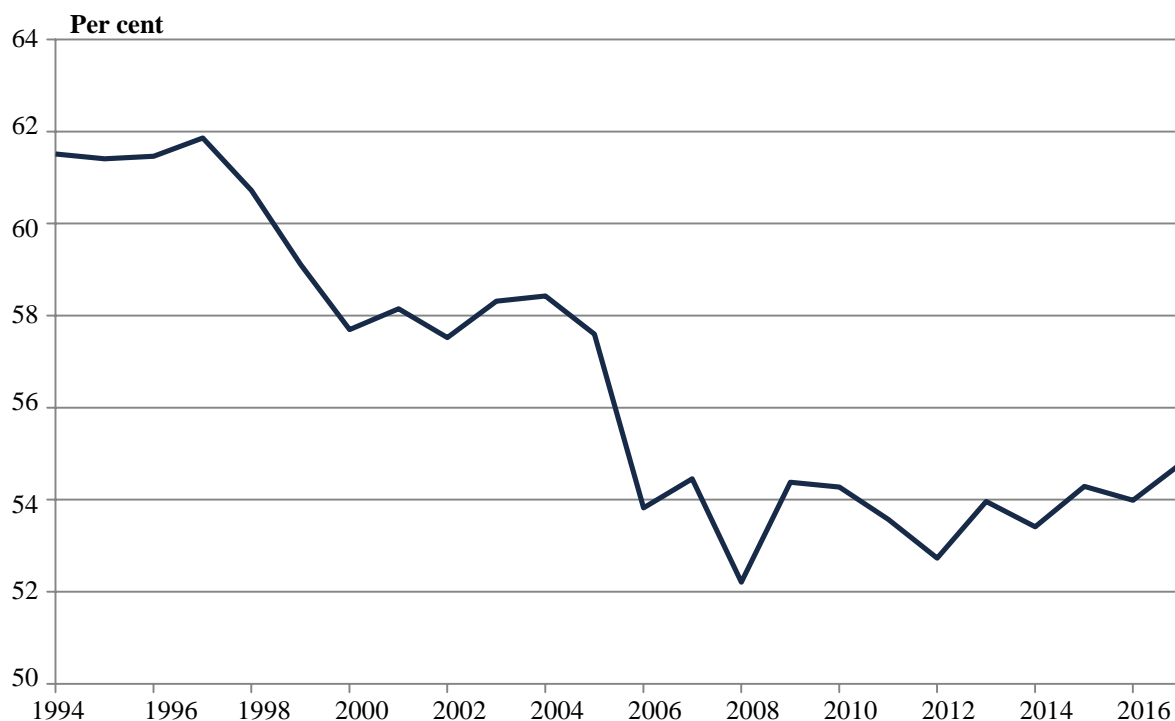
3.B. Cuts in relative wages

60. The failure to establish the FMW by reference to, among other relevant matters, the living standards and needs of low paid workers has been compounded by cuts in the relative values of the FMW, the NMW and the award rates for other low paid workers. Minimum wage rates for low income workers, like average and median wages across

the Australian workforce, have increased at a greater rate than the Consumer Price Index, but the share of minimum wage-dependent workers of the larger economic pie has fallen, causing increased inequality and lower relative living standards.

61. The failure of the AIRC and then the Australian Fair Pay Commission (AFPC), from 2006 to 2009, to adjust the FMW to reflect rising community living standards is illustrated in Figure 1, which is copied from Chart 1 in the FWC's *Statistical Report* of 8 March 2018.

Figure 1
The C14 rate relative to median weekly earnings of full-time employees in main job



Note: Median earnings are measured in August of each year.

62. Figure 1 shows that in 1997 the FMW was close to 60% of median earnings. A longer term perspective was given in the ACTU's submission of 10 October 2016 in the Annual Wage Review 2016-17. The submission showed that until 1992 the NMW was never less than 7.0% above 60% of the median, ie never less than 64% of the median. Over the past decade the NMW has been about or below 54%, but the latest figure

shows a recovery, approaching 55%. The most recent published estimate of median wages shows that at August 2017 the NMW was 54.8% of median wages; see *Statistical Report*, 8 March 2018, Table 8.1. This is the highest that it has been in the past decade, but still some five percentage points below the position in 1997.

63. Had the NMW been 60% of the median at August 2017 (which is less than it was in 1997 when the FMW was set), it would have been around \$750.00, not \$694.90 per week. The difference of some \$50.00 per week, and greater amounts for those on higher paid award rates, shows the degree to which NMW-dependent workers and other low paid workers who rely on safety net wage rates, either directly or indirectly, have suffered as a result of the disconnection between safety net wages and median wages.
64. The same trends appear in a comparison of FMW/NMW increases with increases in average weekly earnings. In April 1997 the FMW was set at \$359.40 per week. In July 2017 the NMW was \$694.90 per week, an increase of 93.4%. Over a similar period of time, May 1997 to May 2017, Average Weekly Ordinary Time Earnings (trend estimates for full time adult employees) increased from \$698.50 per week to \$1,545.90 per week; see *6302.0 Average Weekly Earnings*, Australian Bureau of Statistics (ABS), November 1997 and November 2017. This was an increase of 113.2%, substantially more than the 93.4% increase in the FMW/NMW. In 1997 the FMW was 51.5% of AWOTE and in 2017 the NMW was 45.0% of AWOTE.
65. The cuts in the relative wages of safety net-dependent workers have increased inequality and poverty levels. It is inevitable that lower relative wage rates will impact on relative living standards. It will increase inequality and it will push more into poverty, especially workers with family responsibilities and single workers who rely on irregular and/or part time employment. This growing inequality has affected all low paid workers who are only paid the prescribed minimum wage rate and many more whose wages are set by reference to those minimum rates.

3.C. Cuts in relative living standards

66. Estimates of relative living standards and poverty levels have to take into account more than relative wage levels. The level of, and changes in, taxes and transfer payments have to be taken into account because of the impact that they have on the worker's household.

67. In its June 2017 decision the FWC reaffirmed its past views on the importance of an assessment of household disposable income:

“The relative living standards of employees on the NMW and award-reliant employees are affected by the level of wages that they earn, the hours they work, tax-transfer payments and the circumstances of the households in which they live. The net effect of these factors is summarised in the notion of equivalised household disposable income. It is therefore necessary to have regard to a range of measures of the relative living standards of the low paid and the household circumstances in which they live.

The effect of taxes and transfers on disposable incomes of the low paid is relevant to the needs of the low paid and their relative living standards, both in terms of specific changes in the tax-transfer system at the time of a particular AWR and in assessing broader information in relation to measures of the relative income of the low paid...” (June 2017 decision, paragraphs 405-6)

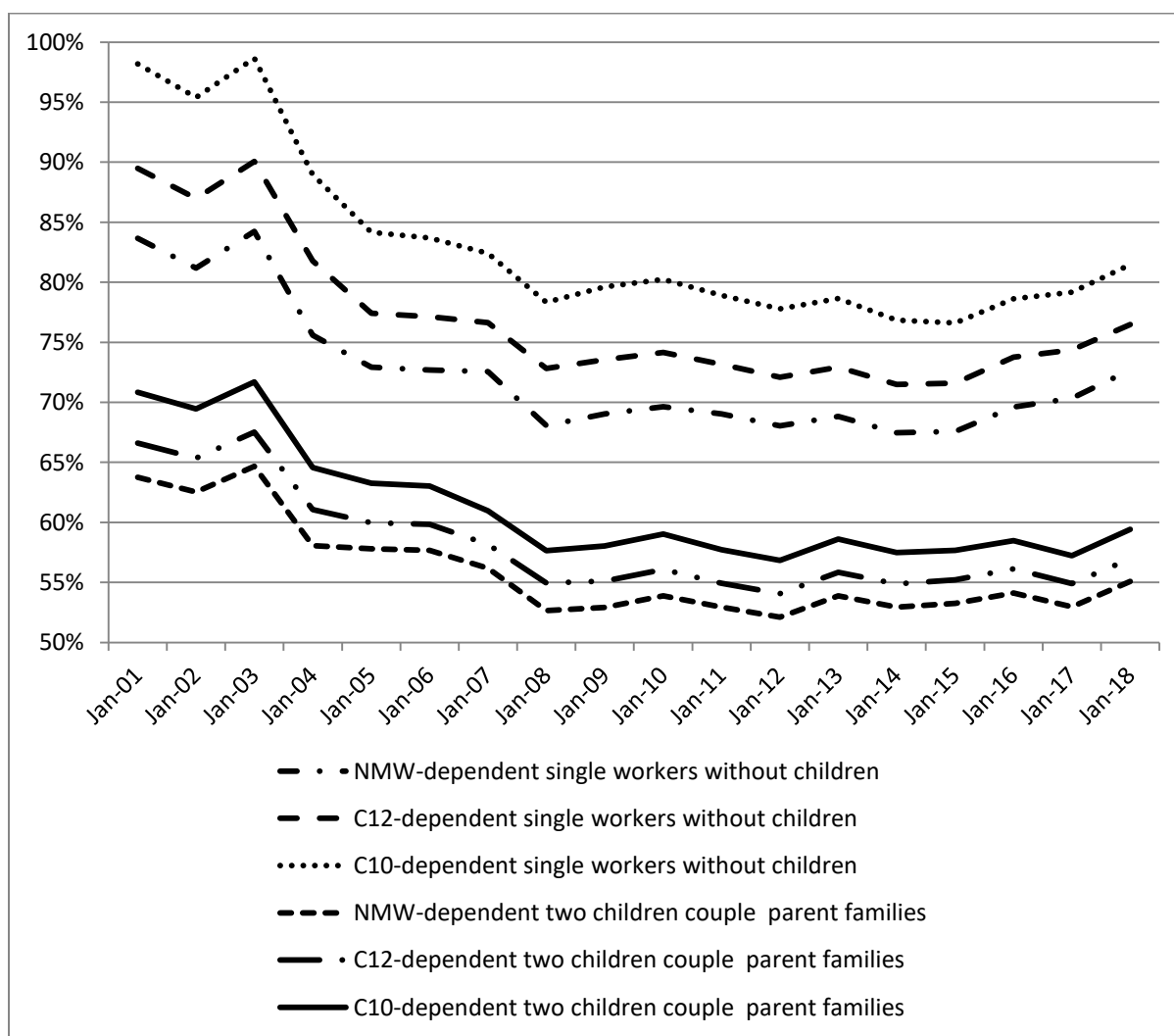
68. Relative living standards, and their changes over time, can be assessed by the use of comparisons between the incomes of minimum wage-dependent workers and their families and national median income. The ABS biennial estimates of national median equivalised disposable household income and the application of equivalence scales, enable comparisons to be made between the living standards of particular kinds of households and the national median. The most recent estimate of the national median was published in September 2017: *Household Income and Wealth, Australia, 2015-16*, cat. no. 6523.0.
69. The ABS's biennial estimates are updated by the FWC's research section by the use of calculations of changes in average Household Disposable Income made in the *Poverty Lines, Australia* newsletter published by the Melbourne Institute of Applied Economic and Social Research. This has been the practice since these calculations were first introduced by the AFPC in 2008. As data for the December quarter of 2017 is not yet available, the FWC's calculations in the *Statistical Report* of 8 March 2018 (at Table 8.6) are limited to changes as at September 2017. ACCER's calculations of relative living standards at January 2018 are based on calculations of median equivalised disposable household income using figures for the September Quarter 2017; see Appendix B hereto. There is a very slight discrepancy between the calculations in the *Statistical Report* and ACCER's calculations; for example the single person's 60% relative poverty line used in Appendix B is \$514.80 per week, whereas it is \$514.66 in Table 8.6 of the *Statistical Report*. The relevant figures for December 2017 are likely to

be known before the conclusion of the current wage review. ACCER will revise the calculations following the release of those figures.

70. Table 8.6 of the *Statistical Report* covers living standards by reference to changes in disposable incomes and poverty lines over the five years September 2012 to September 2017. It demonstrates the impact that the cuts in family payments have had on working families. The single breadwinner family with two children has fallen from 93% of the poverty line to 91% of the poverty line, compared to a rise in the single person's margin over the poverty line, from 19% to 21%. Families with one child have stayed on the same margin relative to the poverty line over the five years. This means that, by reference to poverty lines, the cuts in family payments have cancelled out or exceeded wage increases over the five years.
71. A significant and useful development in the 2018 editions of the *Statistical Report* is the inclusion of sole parent families where the parent works part time, at 19 hours per week. This is very relevant: Table 8 of this submission shows that 30.8% of low income sole parents work part time, compared to only 10.1% who work full time.
72. Table 8.6 of the *Statistical Report* shows that the part time sole parent with one child was at 89% of the poverty line in September 2017, an unchanged figure over the five years. Where the parent has two children, the September 2017 figure is 85% of the poverty line, down from 86% in September 2012.
73. Table 8.4 of the *Statistical Report* shows that a sole parent with two children and working part time, at 19 hours per week, has had a cut in disposable income of \$14.08 per week, while the single breadwinner couple with two children had a cut of \$1.42 per week. These figures are compounded by the increased cost of living.
74. Minimum wage-dependent households have experienced growing inequality. Their living standards have fallen relative to the community as a whole. ACCER's calculations of relative living standards are in Appendix B. The NMW-dependent family of a couple and two children (in rented housing and in receipt of rental assistance) fell from 58.1% of the median in January 2004 to 55.1% in January 2018. The single NMW-dependent worker without children fell from 75.6% of the median to 72.7% over the same 14 year period. A greater number of families depend on a wage at about the C10 level. In the case of a C10-dependent family of a couple and two

children (in rented housing and in receipt of rental assistance), the living standard fell from 64.6% to 59.4% of the median over the 14 years. The C10-dependent single worker without children fell from 89.0% to 81.5% of the median over the same period. These figures are taken from Tables B1, B2 and B3 of Appendix B. Similar calculations to these can be made in respect of sole parent families and couple parent families with one child or more than two children; see Table B4. The data in Tables B1 to B3 of Appendix B are illustrated in Figure 2:

Figure 2
Relative living standards of safety net-dependent workers and couple parent families
January 2001 to January 2017



75. Figure 2 shows the disposable income of a single person and the couple and two children family as a percentage of median equivalised disposable household income at

each of the three wage levels used in Tables B1 to B3. Notwithstanding the improvement over the last year or two, these are dramatic cuts in the living standards of the most marginal workers and working families in Australia. Inequality has a cost. The consequences of increasing inequality and the loss of opportunities for children are particularly important. It cannot be said that this is a social problem that must be fixed by the Government when, as we saw in Figure 1, the root cause of this social dislocation has been decisions of successive wage setting tribunals.

3.D. Increasing poverty: the poverty gap widens

76. The conventional or customary measure of poverty is the relative poverty line, a calculation based on median equivalised disposable household income. A relative poverty line can be set at a particular percentage, with its dollar value increasing over time in line with community incomes. There is no broad agreement on the level at which a poverty line should be set, with the effective parameters for debate being 50% and 60%. Since 2008 the AFPC, and then the FWC, have calculated and published poverty lines at 60% of the median. Initially 10 kinds of households were considered, but the latest, at Table 8.6 of the *Statistical Report* of 8 March 2018, covers 14 households. The 60% relative poverty line is widely used in Europe where it is often regarded as a risk of poverty measure. Absent contemporary empirically-based research, there is room for debate as to the appropriate level for the relative poverty line.
77. The FWC has repeatedly said "those in full-time employment can reasonably expect a standard of living that exceeds poverty levels"; see, for example paragraphs 98 and 461 of the June 2017 decision. The FWC referred to the utility of the 60% of median level in the June 2017 decision:

"It is customary in this field of research to set a poverty line as either 50 or 60 per cent of the median value of the distribution of equivalent household disposable income. This income takes account of private income, taxes and transfers and household size. This form of poverty line is a measure of relative income, not of absolute needs. *We present the data for 60 per cent of median income on the basis that those in full-time work are entitled to expect some margin above a harsher measure of poverty.*" (Paragraph 463, emphasis added.)

78. The passage might carry the implication that the 60% of median measure is a poverty line, but not a harsh poverty line, but the apparent intention is to recognise the 60%

level as representing a sufficient standard of living. It means that those in full time employment can reasonably expect a standard of living at the 60% of median level, whether that level can be called a poverty line or not. Of course, as we noted earlier, this kind of formulation does not carry the implication that all working households with a full time wage earner (for example, a family with nine dependent children) will meet that criterion. Nor could it be pursued without proper regard to economic circumstances.

79. It is also implied that the standard of living is a decent standard of living, ie it is a satisfactory measure of a decent standard of living as that term is used in the FWC's repeated view that the "assessment of the needs of the low paid requires an examination of the extent to which low-paid workers are able to purchase the essentials for 'decent standard of living' and to engage in community life, assessed in the context of contemporary norms."; see, for example, the June 2017 decision at paragraphs 53 and 362.
80. The formulation in terms of the proportion of the median, rather than in terms of a poverty line, may be a suitable measure to describe the objective of minimum wage setting. Under this approach, households under the 60% measure may not be in poverty, but they can be described as deprived, ie deprived of a decent standard of living.
81. The June 2017 decision contained a criticism of ACCER's submission in regard to these kinds of matters. The criticism needs to be responded to in order for these submissions to be understood. The FWC claimed that ACCER had used the measure in an unacceptable way:

"We do not accept the position, implied by ACCER, that the 60 per cent poverty line is a clear representation or measure of poverty, such that those who receive this income or less are unquestionably unable to meet their needs." (June 2017 decision, paragraph 468)
82. The FWC has misrepresented ACCER's position on the use of this measure. In fact, the FWC's use of the 60% of median measure, as described in paragraph 463 of its decision (quoted above), is consistent with that proposed by ACCER. There can be no basis for the claimed implication. This is what ACCER put:

""There may be some debate about which poverty line should be used as a measure of poverty: whether the appropriate poverty line is at 50% or 60% of the median, or at some percentage between the two. However, that debate is peripheral to the substance of the evidence. The 60% of median poverty line is, at least, a risk of poverty line and, ACCER has argued, it represents the minimum income needed to achieve the objective identified by the FWC: a standard of living for workers that is in excess of poverty and one which enables them to purchase the essentials for a decent standard of living and engage in community life, assessed in the context of contemporary norms." (March 2017 submission, paragraph 41)

83. There was a more detailed coverage of this matter later in the submissions in the chapter "Low income working families have fallen below poverty lines", which contains ACCER's detailed submissions on the extent of poverty among wage-dependent families. The following commentary on the utility of the 60% of median measure appears in the introduction to that chapter:

"Relative poverty lines do not measure actual needs, but, as poverty is a relative concept to be determined in an economic context, they have been widely used. The 60% of median relative poverty line is widely used in Europe, but the OECD's main relative measure of poverty is the 50% of median relative poverty line. There is no *a priori* reason for accepting either the 50% or the 60% relative poverty lines, or any percentage in between. Each has to be tested against experience and relevant research. One way of dealing with this issue is to treat the 60% relative poverty line as being a line where a person is "at risk" of poverty (as some do), with the 50% of median being the "deep poverty" line.

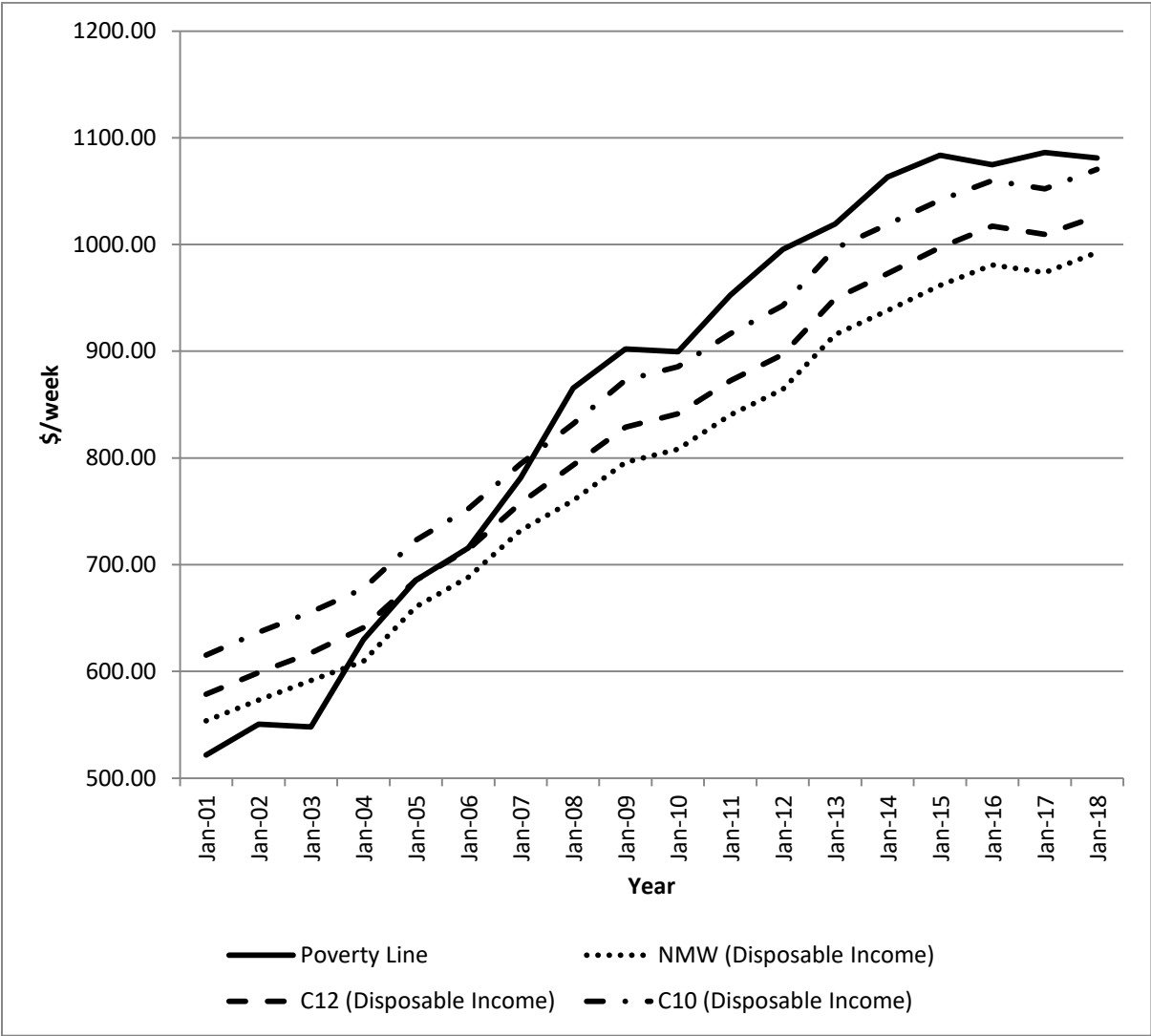
The 60% relative poverty line was the relative poverty line used by the Australian Fair Pay Commission (AFPC) prior to its abolition in 2009 and is still used by the Fair Work Commission (FWC). Neither tribunal treated it as the fixed benchmark for the setting of wages, particularly because a range of factors need to be taken into account in the setting of minimum wages. *Given that working families should have a margin over poverty, the 60% median relative poverty line is, we argue, the most appropriate measure for understanding needs and the setting of wage levels in the absence of research suggesting another percentage or range of percentages.*" (Paragraphs 865-6, emphasis added)

84. This position has been argued in the same or very similar terms in previous years; for example in its March 2015 submission, ACCER put the position that is now being put by the FWC

"Given that working families should have a margin over poverty, the 60% of median relative poverty line is the most appropriate measure for understanding needs and the setting of wage levels in the absence of research suggesting another percentage or range of percentages. " (ACCER submission, March 2015, paragraph 598)

85. That passage was written with the knowledge that the Social Policy Research Centre had recently secured funding from the Australian Research Council for an updating of the earlier Budget Standards research, but with the expectation that the research would not be available for use in wage claims for several years; see ACCER submission, March 2015, paragraph 567. That research is now available and is discussed in Chapter 5.

Figure 3
Disposable Incomes of Safety Net-dependent Families Relative to 60% Poverty Line
(Couple and two children)
January 2001 – January 2018



86. Figure 3 converts data on relative living standards into a graph that compares disposable incomes with the 60% relative poverty line. The data upon which this is drawn are in

Attachment B at Tables B5 to B8 For the reasons indicated above, the poverty line can be seen as a risk of poverty line, or, subject to relevant research, as a line representing a decent standard of living. The poverty gap could be viewed as the deprivation measure: ie the extent, in money terms, to which the family is deprived of a decent standard of living.

87. The data in the tables for the first few years needs to be treated with some caution because estimates of household disposable income in those years have not been adjusted to reflect subsequent changes in data collation. The same caveat applies in relation to the comparisons in Figure 2. This aspect is also referred to in Chart 8.5 of the *Statistical Report* of 8 March 2018, where changes in the Gini coefficient of equivalised household income are shown over the years since 1994-95. The figures for the earlier years have some utility. Mindful of the caveat, ACCER has referred to changes since January 2004.
88. The tables show that the NMW-dependent family of a couple and two children fell further into poverty over these 14 years: from 3.2% below the 60% of median poverty line, with a poverty gap of \$20.37 per week, to 8.2% below it, with a poverty gap in January 2018 of \$88.47 per week. In January 2004 the NMW-dependent worker was 26.0% above the 60% of median poverty line, but by January 2018 had fallen to 21.2% above the poverty line.
89. Similar changes have impacted on C12-dependent workers and their families. At January 2018 the C12 family had a poverty gap of \$54.77 per week.
90. We draw attention to the position of the C10-dependent family of a couple and two children. The tables demonstrate that even the acquisition of skills and responsibilities that come with a trade, or trade equivalent occupation, the C10 (or equivalent wage rate) is still insufficient to lift the family above the 60% relative poverty line and provide it with a decent standard of living. In January 2018 it was 1.0% below the poverty line, but in January 2004 it was 7.1% above the poverty line.
91. Many low income wage-dependent families are living in poverty and deprived of a decent standard of living. The principal cause of this has been the failure of safety net wages to reflect rising community incomes over the past 20 years and more. This deleterious trend has been hidden within the national statistics recording, for most of this

period, the very substantial increases in Australian incomes, wealth and living standards.

3.E. Research on the level of poverty in Australia

92. Each year the FWC has had data which have demonstrated high levels of poverty in Australia. The critical point about this evidence is that it has not been contradicted. There is debate about which poverty line should be used as a measure of poverty, whether the appropriate poverty line is at 50% or 60% of the median, or at some percentage between the two, but that debate is peripheral to the substance of the evidence.

93. The evidence has established, and the FWC has accepted, that many homes are in poverty even where there is full time employment. In 2013, for example, in referring to statistics in *Poverty in Australia 2012* the FWC :

"The data in *Poverty in Australia 2012* show that of all people with disposable incomes below 60 per cent of the median, 20.5 per cent were employed full-time, 13.5 per cent were employed part-time and 5.9 per cent were unemployed—the remainder were not in the labour force. *Low-paid employment appears to contribute more to the total numbers in poverty than does unemployment.*" (*Annual Wage Review 2012-13, Decision* (June 2013 decision), paragraph 408, footnote omitted and emphasis added)

94. A NATSEM/UnitingCare report, which was before the FWC in 2014, found that in 2011-12 about 2.6 million Australians lived under the 50% of median poverty line. Of these, almost one-quarter, 618,000, were dependent children aged less than 25 years of age and 494,000 aged less than 15 years of age. About 11.5% of children under 25 years and 11.8% of children under 15 were living in poverty. The ACOSS report *Poverty in Australia 2016*, prepared by the Social Policy Research Centre at the University of New South Wales and published in November 2016, which was based on research carried out in 2013-14, also found that a large proportion of those living in poverty were in households where there was full time employment: 622,700 at the 50% measure and 1,051,100 at the 60% measure. *Poverty in Australia 2016* also found that 731,300 children under the age of 15 were living in poverty at the 50% of median level, with 1,048,900 in poverty at the 60% level.

95. *Poverty in Australia 2016*, like the earlier NATSEM/UnitingCare report, demonstrates that a very significant part of child poverty occurs in homes in which there is fulltime

employment. While we know from this research how many children are living in poverty and how many of those who are living in poverty are in households where there is a full time employee, the reports do not estimate how many children are living in poverty despite a parent having a full time job. In Chapter 5 we draw data from the 2016 Census on the number and the family circumstances of children who are living in households that are below or near the 60% of median poverty line. Again, it is demonstrated that full employment is not a pathway out of poverty even in families of one and two children.

96. We have referred in the past to a Productivity Commission Staff Working Paper, entitled *Deep and Persistent Disadvantage in Australia*, which was published in July 2013. This paper (by Rosalie McLachlan, Geoff Gilfillan and Jenny Gordon) is a very substantial contribution to the understanding of a range of issues concerning disadvantage, social exclusion and poverty, as well as being a very helpful guide to the research and literature on the subjects. The scope of the research paper was “to find answers to a number of questions, including:

- what does it mean to be disadvantaged?
- how many Australians are disadvantaged and who are they?
- what is the depth and persistence of disadvantage in Australia?
- where do Australians experiencing disadvantage live?
- what factors influence a person’s risk of experiencing disadvantage?
- what are the costs of disadvantage and who bears them?” (Page 4)

97. The paper provides the reasons for the engagement by the Productivity Commission (and government as a whole) in these issues:

“There are a number of reasons why policy makers need a better understanding about the nature, depth and persistence of disadvantage.

1. There is a high personal cost from disadvantage. People can suffer financially, socially and emotionally, have poor health and low educational achievement. Family, particularly children, and friends can also be affected. Given that key objectives of public policy are to improve the lives and opportunities of Australians (both today and in the future), it is important to find ways to reduce, prevent and ameliorate the consequences of disadvantage.
2. Disadvantage reduces opportunities for individuals and society. By addressing disadvantage, more Australians can be actively engaged in, and contribute to, the workforce and to society more generally. Higher levels of engagement typically lead to higher personal wellbeing — improved living standards and quality of life.

3. Disadvantage has wider consequences for Australian society. For example, persistently disadvantaged communities can erode social cohesion and have negative social and economic consequences for others. Overcoming disadvantage can lead to safer and more liveable communities.
 4. Support for people who are disadvantaged and the funding of programs to overcome disadvantage involves large amounts of taxpayers' money and private funding. Policy relevant questions include: what are the most effective investments for reducing and preventing disadvantage; and what are the costs and benefits?" (Page 28)
98. This report presents powerful reasons why the reduction of disadvantage is in the public interest as well as the interest of those immediately affected by poverty, disadvantage and deprivation. ACCER March 2014 submission referred to these passages:
- “[The Productivity Commission's Staff Working Paper] raises a number of issues and points that should also be the concern of the FWC, charged as it is with promoting social inclusion through a fair wages safety net that takes into account relative living standards and the needs of the low paid. Yet the history of wage-setting for more than the last decade has seen very little interest in the kind of questions being tackled in this paper. It is hard to find in past wage decisions any substantial concern by the successive tribunals that the wages that they have set may be contributing to the unacceptable degree of disadvantage in Australia.” (ACCER submission to the Annual Wage Review 2013-14, March 2014, paragraph 560.)
99. This has changed to the extent that the FWC has since stated its concern about the issue, but there has been no change in the decisions made by it: not one dollar more has been given to those most in need because of the policy to award uniform percentage increases
100. We should also draw attention to the *Economic and Social Impact Survey 2017* published by The Salvation Army in 2017. This publication presents the personal impact of deprivation and disadvantage in Australia. Its focus is on people who are disconnected from work, but it gives an insight into the tragedy of life on the margins and poverty.
101. There is more than sufficient information about the impact of poverty and disadvantage on society. We need personal perspectives like those in The Salvation Army report in the hope that policy makers can be moved by compassion or be shamed by the facts, because, to date, statistics, empirical research and informed commentary have not improved the outcomes for the poor, including the working poor. Despite the data, the Commonwealth's Budget is cutting back on the support being provided to many in need.

102. We stress, as we have done in past annual wage reviews that there has been no contradiction of the various research reports which show that many hundreds of thousands of Australians are living in poverty and that a full time job is not a means of escaping poverty for low income families.
103. The well-being of these working families is a direct responsibility of the FWC and if it is not prepared to give some emphasis to the alleviation of poverty among working families, then those hundreds of thousands will continue to suffer disadvantage and deprivation.

CHAPTER 4

BUDGET STANDARDS RESEARCH

104. In August 2017 the Social Policy Research Centre (SPRC) published a budget standards report authored by Peter Saunders and Megan Bedford, entitled *New Minimum Income for Healthy Living Budget Standards for Low-Paid and Unemployed Australians* (Report). The research project which was the subject of the Report was undertaken through a grant from the Australian Research Council, with financial and in-kind contributions by Catholic Social Services Australia, the Australian Council of Social Services and United Voice. One of the stated purposes of the project was to provide data for use in minimum wage reviews. The research reviewed and updated research commissioned in 1995 by the Commonwealth Department of Family and Community Services and undertaken under the supervision of Professor Saunders. Professor Saunders, who is described in the Report as Chief Investigator, is internationally recognised for this kind of research and, more generally, for research on poverty and social deprivation.

Tender of the Report

105. ACCER seeks leave to tender the Report as evidence in the current Annual Wage Review. It does so on the basis of the relevance of the research and the Report's findings to the setting of minimum wage rates, in particular, the setting of the NMW.
106. By way of introduction and overview we refer to Chapter 1, entitled *Background to the Project*, at pages 5 to 18 of the Report. The introductory paragraphs of that chapter state:

"A budget standard indicates how much a particular family living in a particular place at a particular time needs in order to achieve a particular standard of living. It is derived by specifying every item that is needed by the family and each of its members – everything from the clothing worn to the food consumed, soap used, insecticide sprayed, petrol bought, bus fares paid for, furniture sat on, haircuts and holidays taken – then pricing each item and summing to produce the overall budget.

As Deeming (2005: 620) has explained it:

'The budget approach is in essence a simple and intuitive methodology ... [that] ... provides an explicit framework for selecting personal requirements needed or deemed necessary to maintain a particular predefined standard of living. Components are translated through prices into budgets required to purchase them'

The items included, how much they cost and how long they last will vary according to the standard of living that the budget is designed to support. Any specific budget is thus only relevant to a particular standard – hence the term budget standard. The standard itself can (in principle at least) be set at any level, although budget standards have traditionally been designed to represent *minimum* standards by estimating how much is needed to achieve an acceptable minimum standard of living." (Page 5. The article cited is Deeming, C. (2005) 'Minimum income standards: how might budget standards be set for the UK?' *Journal of Social Policy*, 34(4): 1-18.)

107. In chapter 3 is an explanation of the key methods and assumptions of the research. The standard of living set for the research is the Minimum Income for Healthy Living (MIHL) standard. The earlier research had established two budgets: the Modest But Adequate and Low Cost budgets. These were replaced by the MIHL standard, with new budgets being established for a more limited number of households than had been the case with the earlier budgets. Budgets were prepared for five households in each of two categories identified by reference to labour force status: "low-paid and in work" and "unemployed and out of work". The former is relevant to the setting of minimum wage rates. The five households in each category were: single person, couple without children, couple with one child, couple with two children and sole parent with one child. The couple with children households are single breadwinner households (see page 32).
108. ACCER submits that the budget standard identified and quantified in this research is consistent with the standard identified by the FWC in its statements that the "assessment of the needs of the low paid requires an examination of the extent to which low-paid workers are able to purchase the essentials for 'decent standard of living' and to engage in community life, assessed in the context of contemporary norms"; see, for example, the June 2017 decision at paragraphs 53 and 362. A contemporary assessment of a decent standard of living, which enables social participation, is the kind of standard of living that the research project and the Report identifies and measures.
109. The budgets for low-paid and unemployed households are presented in summary form in *New Minimum Income for Healthy Living Budget Standards for Low-Paid and Unemployed Australians: Summary Report*, by the same authors. The data in the budget prepared for the in-work households, in Table 1 of that report, is reproduced in Table 1, below.

Table 1
Budget Standards for Low-Paid Families, June Quarter 2016
(\$ per week)

Budget Category	Single Adult	Couple, no children	Couple, 1 child (G,6)	Couple, 2 children (G,6 & B,10)	Sole parent, 1 child (G,6)
Food	61.80	123.60	156.22	200.91	89.49
Clothing and Footwear	10.81	15.77	23.72	33.20	18.78
Household Goods and Services	79.23	99.59	112.72	139.10	90.46
Transport	77.71	120.75	144.72	144.72	100.39
Health	7.33	14.45	19.51	24.36	13.61
Personal Care	15.59	27.04	31.03	35.34	21.52
Recreation	29.04	39.54	62.06	76.99	50.64
Education	0.00	0.00	27.43	61.26	50.31
Total (excluding housing)	281.51	440.74	577.40	715.88	435.20
Housing costs (rent)	315.80	392.50	392.50	457.50	392.50
Total (grossed-up, including housing)	597.31	833.24	969.90	1,173.38	827.70

Note: G,6 = girl aged 6 and B,10 = boy aged 10

110. It is important to understand how child care costs have been assessed in these budgets.

The Report explains that they have been included in the Education budget.

"The Education budget includes almost no allowance for child care in all families except the sole parent families because the assumed ages of the children (6 and 10 years old) mean that both are in school and thus can be cared for by their mother who is either in part-time employment and able to arrange her working hours (assumed to be 20 hours each week) to fit around her care responsibilities, or to be unemployed and thus able to provide care as required. A modest allowance of two days a week of approved formal (paid for) afterschool care has been included to cover emergencies for the low-paid sole parent family. The unemployed sole parent has been allocated one day a week of approved formal after-school care to allow her to participate in job search activities.

Child care during the school vacation period (assumed to be 12 weeks a year) is covered by the mother taking all four weeks of her annual leave during these periods in order to care for her child, paying for six weeks of approved vacation care, and relying on family members and/or friends, to provide an additional two weeks of informal care. The parents are assumed to be entitled to receive Child Care Benefit (CCB) and Child Care Rebate (CCR) which reduce out-of-pocket costs for those using approved care" (Report, pages 49-50)

111. The net amount allowed for child care for employed sole parents can be seen in the Education budgets for the employed and out of work sole parents' budgets. The employed sole parent, working 20 hours per week, has education expenses of \$50.31 per week, whereas the unemployed sole parent has education expenses of \$41.54 per week; see Tables 1 and 2 of the Summary Report. This is an allowance of \$8.74 per week, based on 20 hours of work per week.
112. Table 2 compares budget standards for June 2016 with the incomes of NMW-dependent households in July 2016, when the 2016 annual wage review increase took effect. In order to better understand the position of working sole parents we have included entries for sole parents with one child working full time and working part time at 19 hours per week. The budget for both is the same, with a child care component of \$8.74 per week. The disposable incomes for both of these families and for the other families in Table 2 are taken from data in Table 8.4 of the *Statistical Report*, 8 March 2018.
113. The comparisons in Table 2 between the disposable incomes of the households and the disposable incomes needed to meet the standard of living in the MIHL budget demonstrate that the families with children fall below the standard by a large margin, save for the sole parent in full time employment. However, as the sole parent budget is based on only \$8.74 per week as the net cost of child care for part time employment, this is an unrealistic figure to use in regard to full time employment. The sole parent working full time would be well below the budget standard after adding the full costs of child care.
114. The entry for the sole parent household where the parent is working part time at 19 hours per week presents a more realistic picture of the position of sole parents in contemporary Australia. Even working 75% of the full time 38 hour working week would leave the family well below the income needed to achieve the budget. Table 8 in Chapter 5, which is based on the 2016 Census, shows that, in low income sole parent

families with one child, only 9.6% of the parents have full time employment and 30.9% are employed part time. This shortfall in Table 2 is very concerning. It demonstrates, in conjunction with the figure for sole parents working full time, that even a part time week of, say, 25 hours would leave the sole parent family in very poor circumstances.

Table 2
Comparison of Budget Standards with Disposable Incomes of selected households,
July 2016
(\$ per week)

	Budget Standard at June 2016	Disposable Income of NMW- dependent worker at July 2016	Difference between Budget Standard and Disposable Income
Single adult	597.31	606.49	-9.18
Couple, no children	833.24	625.71	207.53
Couple, 1 child	969.90	873.91	95.99
Couple, 2 children	1173.38	989.28	184.10
Sole parent, 1 child Full time employment	827.70	873.91	-46.21
Sole parent, 1 child Employment for 19 hours per week	827.70	596.09	231.61

Source: Table 8.4, *Statistical Report*, 8 March 2018. This table provides the disposable income at July 2017 and the increase since July 2016. The July 2016 figures are the July 2017 figures, adjusted by the change over the year. The calculations for couple households are based one person working full time, save for the sole parent working part time. Single breadwinner couples with no children are both able-bodied, but with only one employed.

115. Table 2 demonstrates that the NMW is a manifestly inadequate safety net wage in contemporary Australia.
116. The MIHL budget can be also compared with the estimated median disposable household incomes, based on data collected by the Australian Bureau of Statistics (ABS) and reported in *Household Income and Wealth, Australia, 2015-16*, cat. no. 6523.0. At December 2015 the median equivalised disposable household income was

\$853.00 per week, with the 60% relative poverty line being \$511.80. Using the FWC's adjustment method, based on changes in Household Disposable Income published in the *Poverty Lines: Australia* newsletter, this figure should be increased by 1.2%; see *Poverty Lines Australia September Quarter 2017*, at Table 3. The estimated figure for the single person's 60% relative poverty line, or 60% of the median, at June 2016 is \$517.94.

Table 3
Budget Standard margin over 60% of median in selected households
(\$ per week)

	Budget Standard	60% of median	Budget Standard margin over 60% of median
Single adult	597.31	517.94	79.37
Couple, no children	833.24	776.91	56.33
Couple, 1 child	969.90	932.29	37.61
Couple, 2 children	1173.38	1087.67	85.71
Sole parent, 1 child	827.70	673.32	154.38

117. Table 3 demonstrates that, in all five households the minimum income needed for the healthy living budget standard was substantially in excess of the 60% of median line at June 2016. In the case of the couple and two children family, the budget standard was 7.9% above the 60% of median measure. To put this another way, the budget standard, at \$1,173.38 per week, was 64.7% of median equivalised disposable household income.
118. As noted earlier, ACCER's established position on the utility of the 60% of median measure is summarised in the following submission:

"Given that working families should have a margin over poverty, the 60% median relative poverty line is, we argue, the most appropriate measure for understanding needs and the setting of wage levels in the absence of research suggesting another percentage or range of percentages."

119. The evidence is now available. In all five household categories, the budget standard is substantially greater than the 60% of median line.

CHAPTER 5

THE 2016 CENSUS AND LOW PAID WORKING FAMILIES

120. The purpose of this chapter is to draw on data from the national Census of 9 August 2016 to address two matters: the work patterns of low paid working families and the number of low paid working families in or at risk of poverty and without a decent standard of living.
121. Our inquiry of the Census data is child-centred. It looks at the families in which dependent children live, the incomes of those families and the working patterns of the parents in those families, so as to better understand the needs of low paid workers with family responsibilities.
122. A focus on low paid workers and their families is consistent with the object of the *Fair Work Act* to promote social inclusion (section 3) and is necessary for the FWC to carry out its obligation to establish and maintain a safety net of fair minimum wages, taking into account, among other matters, "relative living standards and the needs of the low paid" (section 284(1)).
123. The 2016 Census found that there were 2,234,389 couple parent families with dependent children and 617,431 sole parent families with dependent children; and that there were 481,862 couples with non-dependent children and 342,137 sole parent families with non-dependent children; see Appendix A, Tables A1 and A2. The term "dependent children" covers children younger than 15 years and dependent students aged 15 to 24 years. This Census data regarding families with dependent children can be broken down by the number of dependent children (with the largest being six and more children), the incomes of the families and the labour force status of the couples and sole parents.
124. This chapter provides an insight into the lives of 286,563 couple parent families and 294,608 sole parent families by reference to their incomes and labour force status. It provides data on the way in which parents exercise their family responsibilities. The couple parent families identified in this chapter as low paid comprise 12.8% of the total number of couple parent families with dependent children. The sole parent families identified as low paid comprise 47.8%, of the sole parent families with dependent children.

125. The basis upon which these low income families are identified is by the use of an estimate of the 60% relative poverty line for each type of family. The 60% relative poverty line is not a precise measure of poverty, but it is, at least, a risk of poverty line and, as discussed in Chapter 8, it is a conservative measure of the standard of living needed to secure a decent standard of living in contemporary Australia.
126. The Census data does not permit the 60% of median poverty line to be fixed with precision. The categorisation that we have used is the best fit available in the Census data. It should be noted that the use of the 60% of median benchmark is not intended to capture all low paid workers with family responsibilities: the FWC has accepted that the term "low paid" in section 284(1) of the *Fair Work Act* should be taken to include those workers earning up to two-thirds of median wages, with that figure, according to the then most recent data being \$833.33 or \$917.33 per week, depending on the source being used; see the June 2017 decision at paragraphs 369-70.
127. It should also be noted that the categorisation used here does not turn on the basis upon which workers are paid: the Census data covers low paid workers without any distinction being made between whether they are award reliant (i.e. only being paid the minimum award rate and not a dollar more) or they are paid a higher wage rate that still leaves them low paid and in or at risk of poverty.
128. We know that many families are living in poverty even when there is a full time worker within their homes; for example, the ACOSS report *Poverty in Australia 2016*, which was based on research carried out in 2013-14, found that a large number of those living in poverty were in households where there was full time employment: 622,700 at the 50% of median measure and 1,051,100 at the 60% of median measure. The report also found that 731,300 children under the age of 15 were living in poverty at the 50% of median level, with 1,048,900 in poverty at the 60% level.
129. The ACOSS report and similar reports do not, however, tell us how many children were living in poverty in wage-dependent households where there was a person in full time work. The Census provides data that shed considerable light on this important aspect. The Census data provide information about the labour force status, or the absence from the labour force, of each of the couple parents and of the sole parents in low income families.

130. Appendix A contains the data regarding these matters. The basic data from the Census is in Tables A1 to A8. The summaries in the following tables of the Appendix extract relevant data on low income families, that is families who fall, as best we can calculate them, below their 60% relative poverty lines. These tables cover couple and sole parent families, with each data set identifying the income levels of those families by reference to the number of dependent children in those families. The data in respect of families with dependent children are set out in A9 to A11, in respect of couple parent families, and Tables A12 to A14, in respect of sole parent families. These tables are compiled on the basis of the number of children in the families: one, two and three or more children. Tables 7 and 9, which appear later in this section, provide further information on the families with three or more children.
131. Respondents to the Census were required to state the incomes of all members of their households from among a number of income ranges. Included in the Census income columns were the weekly amounts of \$650.00 to \$799.00 per week, \$800.00 to \$999.00 per week and \$1,000.00 to \$1,249.00 per week. The Census question in respect of each person in the household was "What is the total of all income the person usually receives?". It stated that tax and various other payments were not to be deducted from this amount. Because the information sought pre-tax income, the disposable incomes of many low income individuals and households was substantially less than the recorded gross income in the Census. At the time of the Census the taxation payable on the NMW, then \$672.70 per week, was \$66.21 and at the C10 base trade-qualified wage rate, then \$783.30 per week, income tax was \$99.30; see the FWC's *Statistical Report*, 5 May 2017, Table 8.6. These figures should be taken into account when assessing the degree to which the cut-off points that we have used reflect the 60% of median poverty line.
132. The comparison between the Census data and the estimated poverty lines, therefore, needs to take into account the fact that the Census required income data by reference to income ranges and that the Census recorded pre-tax, not disposable, incomes.
133. The poverty lines are based on the median equivalised disposable household income reported in the ABS publication *Household Income and Wealth, Australia, 2015-16*, cat. no. 6523.0. At December 2015 the median equivalised disposable household income

for a single person was \$853.00 per week, with the 60% relative poverty line being \$511.80 (see Appendix B at Table B5). Using the FWC's adjustment method, based on changes in Household Disposable Income published in the *Poverty Lines: Australia* newsletter, this figure should be increased by 1.3%; see *Poverty Lines Australia June Quarter 2017*, Table 2. The estimated figure for June 2016 is \$518.45. For present purposes, the figure for August 2016 can be rounded to \$520.00 per week. Applying the equivalence scales used by the ABS, the 60% of median relative poverty line can be calculated for various kinds of households.

134. Table 4 sets out the estimated 60% of median poverty lines at the time of the Census, rounded to the nearest \$10.00, for the six family groups covered in the following calculations. Also included in the table is the highest income column in the Census returns that has been used in each calculation.

Table 4
Census Income Levels and Estimated Poverty Lines
August 2016
(\$ per week)

Family	60% Relative Poverty Line	Maximum income range in Census
Couple and one child	936.00	800.00 - 999.00
Couple and two children	1,092.00	1,000.00 - 1,249.00
Couple and three or more children	1,248.00	1,000.00 - 1,249.00
Sole parent and one child	676.00	650.00 - 799.00
Sole parent and two children	832.00	800.00 - 999.00
Sole parent and three or more children	988.00	800.00 - 999.00

The poverty lines for the families with three or more children are calculated on the basis of three children only.

The work profiles of low income families

135. The Census records the labour force status of couples with dependent children (at Tables A3 to A5 in the Appendix). Tables A9 to A11 identify low income couple families by reference to income, labour force status and the number of dependent children. (Table A9 covers couples with one child, Table A10 covers couples with two

children and Table A11 covers couples with three or more children.) These and similar tables regarding sole parent families exclude the Census returns where there was a nil or negative income recorded (0.5% in couple families and 2.0% in sole parent families) and where no or only partial income was stated (13.0% in couple families and 11.2% in sole parent families).

136. Table 5 collates the data in respect of the labour force status of parents in low income couple parent families by reference to the number of dependent children.

Table 5
Census 2016
Working patterns of low income couple parent families

	One child		Two children		Three or more children		All low income families	
	N	%	N	%	N	%	N	%
1. One full time and other not in labour force	17793	22.4	35256	27.5	20470	26.0	73519	25.7
2. One part time and other not in labour force	13831	17.4	17767	13.8	11732	14.9	43330	15.1
3. One away from work and other not in labour	1806	2.3	2763	2.2	2032	2.6	6601	2.3
4. One unemployed and other not in labour	5345	6.7	5793	4.5	5462	6.9	16600	5.8
5. Both not in labour force	15807	19.9	15137	11.8	14742	18.7	45686	15.9
6. Both full time	2205	2.8	5166	4.0	2544	3.2	9915	3.5
7. One full time and other part time	5426	6.8	19392	15.1	9110	11.6	33928	11.8
8. Both part time	5105	6.4	9116	7.1	3894	5.0	18115	6.3
9. Both (employed and) away from work	340	0.4	683	0.5	349	0.4	1372	0.5
10. One away from work and other unemployed	442	0.6	508	0.4	277	0.4	1227	0.4
11. One part time and other away from work	708	0.9	1342	1.1	679	0.9	2729	1.0
12. One full time and other away from work	609	0.8	1501	1.2	711	0.9	2821	1.0
13. One full time and other unemployed	3698	4.7	6455	5.0	2427	3.1	12580	4.4
14. One part time and other unemployed	3869	4.9	4678	3.6	2343	3.0	10890	3.8
15. Both unemployed	1988	2.5	2186	1.7	1436	1.8	5610	2.0
16. Status of one or both not stated	531	0.7	607	0.5	502	0.6	1640	0.6
Totals	79503	100.0	128350	100.0	78710	100.0	286563	100.0

137. Table 6 presents the data on labour force participation, or non-participation in the labour force, in a different format. We use the term "labour force" by convention, but it has to be remembered that a lot of the economic and social wealth of the nation is produced in households.

Table 6
Census 2016
Employment status of adults in low income couple parent families

	Households	Full time	Part time	NILF	AFW	UN	Not stated
1. One full time and other not in labour force	73519	73519		73519			
2. One part time and other not in labour force	43330		43330	43330			
3. One away from work and other not in labour force	6601			6601	6601		
4. One unemployed and other not in labour force	16600			16600	16600		
5. Both not in labour force	45686			91372			
6. Both full time	9915	19830					
7. One full time and other part time	33928	33928	33928				
8. Both part time	18115	36230					
9. Both (employed and) away from work	1372				2744		
10. One away from work and other unemployed	1227				1227	1227	
11. One part time and other away from work	2729		2729		2729		
12. One full time and other away from work	2821	2821			2821		
13. One full time and other unemployed	12580	12580				12580	
14. One part time and other unemployed	10890		10890			10890	
15. Both unemployed	5610					11220	
16. Status of one or both not stated	1640						3280
Totals	286563	178908					

NILF: not in labour force; AFW: away from work; UN: unemployed

129. Tables 2 and 3 show that the great majority of these low income couple parent families were engaged in some kind of employment. In the following figures we record the average across all three categories, with the figure for the families with two children

recorded in brackets. Only in 15.9% (11.8%) of these households were both parents out of the labour force. As for the rest of the households:

- 25.7% (27.5%) had one parent employed full time and the other parent not in the labour force;
- 15.1% (13.8%) had one parent employed part time and the other parent not in the labour force;
- 8.1% (6.7%) had one parent unemployed or temporarily away from work and the other parent not in the labour force;
- 3.5% (4.0%) had both parents employed full time;
- 11.8% (15.1%) had one parent employed full time and the other employed part time; and
- 6.3% ((7.1%) had both parents employed part time.

130. The figures demonstrate that the single breadwinner family with a full time working parent and a "stay at home" parent is more common than other arrangements. It is the predominant group by a large margin among low income families. Single breadwinner families (where the parent is working full time or part time) are substantially more common than dual breadwinner family: 42.8% (and 41.3% in families with two children) compared to 21.6% (26.2% in families with two children); see Table 5, rows 1 and 2 rows 6 to 8). A comparison between families where only one works full time and the other parent is out of the labour force (ie comparing rows 1 and 7) is mentioned in the previous paragraph: 25.7% (and 27.5% in two child families) have the second parent out of the labour force and 11.8% (and 15.1% in two child families) have the second parent in part time employment. If we exclude those families where both parents are out of the labour force, these figures are relatively higher.
131. The figures demonstrate single breadwinner families are by far the major category in the labour force profile of low income couple parent families, despite the inevitable economic pressure on the parents for both of them to be in employment. However, even with the extra income from the second parent working many families still find themselves living in or at the risk of poverty.

Children in or at risk of poverty: couple parent families

132. Table 7 is based on the data in Table 5, with some further details being supplied in respect of the couple parent families with three or more children from Table A1 in the Appendix.
133. All of the families covered by Table 7 are low income families, who are described as being "in or near poverty".

Table 7

Census 2016

**Total number of children and adults in low income couple parent families
in or near poverty**

	No. of families	Number of children	Total in or at risk of poverty
Couple and one child	79,503	79,503	238,509
Couple and two children	128,350	256,700	513,400
Couple and three children	53,530	160,590	267,650
Couple and four children	18,237	72,948	109,422
Couple and five children	4,614	23,070	32,298
Couple and six or more children	2,527	15,162	20,216
Total	286,761	557,973	1,181,495

The numbers of families with three or more children are from Table A1 in Appendix A. The number of children in the couple plus six or more children, is calculated on the basis that there are only six children in the family. From Table A1 we find that at the time of the 2016 Census there were 4,271,077 dependent children in couple parent families, assuming again that the maximum number is six per family.

134. Taking into account the inclusion of income tax in the Census figures we can reasonably conclude that the 79,503 couple parent families with one child are living below the 60% poverty line. In regard to couple parent families with two children, the best fit from the census data has gross income at \$157.00 per week above that poverty line. Taking into account income tax, which would be considerable for a family with that income, it is likely that a small proportion of the 128,350 families are not under the 60% of median poverty line.
135. The Census has identified 78,710 couple parent families with three or more children. Couple parents with three or more children is a diverse cohort. The poverty line for the

couple parent family with three children is \$1,248.00 per week (see Table 4), with an extra \$156.00 per week for each extra child. The maximum weekly Census figure that we have used is \$1,249.00 per week. After taking income taxation into account, we can conclude that all of these families would be below the 60% relative poverty line, with the poverty gap increasing with each additional child.

136. Having regard to these matters, it is reasonable to conclude that any overestimate of poverty among couple parent families with two children is more than offset by the underestimate of families living below the poverty line with three or more children.
137. Table 7 identifies 1,181,495 people, including 557,973 dependent children, in couple parent families living in or near to poverty. After taking into account the families in which both parents are not in the labour force, we can identify just under a million people (993,637) who live in working families that are in or at risk of poverty. The working parents in these families are a large part of Australia's working poor. By contemporary standards, these workers and their families are deprived of a decent standard of living.
138. This material demonstrates that, for many low paid workers and their families, full time employment; and even full time employment supplemented by part time employment, is not a pathway out of poverty and into a decent standard of living.

Sole parent families: work patterns and poverty

139. Table 8 presents data from the 2016 Census regarding the employment status of parents in sole parent low income families. The figures are drawn from Tables A12, A13 and A14 in Appendix A. The basis of the selection of the numbers of low paid sole parent families is set out in Table A2 of Appendix A. It can be seen from that table that, after taking into account income tax, the cut-off points available from the Census may capture a significant number of sole parent families with one child or two children who have a disposable income in excess of the 60% of median poverty line. In regard to sole parents with three or more children the contrary appears: a significant number of those under the 60% of median line may not be counted with the cut-off point used. With these qualifications, Table 8 shows a general estimation of the number of dependent children and adults in low income sole parent families in or near poverty by reference to family size. As we note later, there is some reason to doubt that the figures

overestimate the number living in or at the risk of poverty.

Table 8
Working patterns of low income sole parent families

	One child		Two children		Three or more children		All families	
	N	%	N	%	N	%	N	%
1. Employed, full time	12438	9.6	13326	12.3	4011	7.1	29775	10.1
2. Employed, part time	40180	30.9	37045	34.3	13422	23.7	90647	30.8
3. Employed, away from work	3341	2.6	2640	2.4	1124	2.0	7105	2.4
4. Unemployed	15926	12.3	10912	10.1	5690	10.0	32528	11.0
5. Not in labour force	57538	44.3	43805	40.5	32265	56.9	133608	45.4
6. Labour force status not stated	457	0.4	321	0.3	167	0.3	945	0.3
Totals	129880	100.0	108049	100.0	56679	100.0	294608	100.0

140. In the following figures we record the average across all three categories of sole parent families, with the figure for sole parents with two children recorded in brackets. Table 8 shows that in low income sole parent families:

- 10.1% (12.3%) of the parents were employed full time;
- 30.8% (34.3%) were employed part time;
- 2.4% (2.4%) were employed, but away from work;
- 45.4% (40.5%) were not in the labour market; and
- 11.0% (10.1%) were unemployed.

141. Although the major cause of poverty in sole parent families was the lack of employment, reflected in the number not in the labour force and the number unemployed, 40.9% of sole parent families with dependent children, and 46.6% of sole parent families with two dependent children, were in employment. These parents are another large component of Australia's working poor.

142. The number of sole parent households in Table 8, 294,608, comprise 47.8% of all sole parent households recorded in Table A2 of Appendix A, save for those where the family income is not sufficiently recorded or where there is a nil or negative income recorded. Table A2 also includes the number of sole parent families with various numbers of children, up to families with six or more children. The total number of dependent

children in sole parent families (counting all those with six or more children as families with six children) totalled 1,053,993 across all income groups.

143. Table 9 records the number of children living in or near poverty.

Table 9
Total number of children and adults in low income sole parent families in or near poverty

	Number of families	Number of children	Total in or at risk of poverty
Parent and one child	129,880	129,880	259,760
Parent and two children	108,049	216,098	324,147
Parent and three children	40,029	120,087	160,116
Parent and four children	12,333	49,332	61,665
Parent and five children	3,330	16,650	19,980
Parent and six or more children	978	5,868	6,846
Total	294,599	537,915	832,514

The number of children in the couple plus six or more children, is calculated on the basis that there are only six children in the family. The numbers of families with three or more children are from Table A2 in Appendix A. The number of children in the couple plus six or more children, is calculated on the basis that there are only six children in the family. The numbers of families with three or more children are from Table A2 in Appendix A

144. Table 9 covers 51.0% of children in sole parent families: the bottom half of the income distribution of these families. By comparison, the ACOSS publication *Poverty in Australia 2016* reports, at page 22, that in 2013-14 45.6% of sole parent families were living below the 60% poverty line and that 54.5% of children in sole parent families were below the 60% poverty line. While, overall, Table 8 appears to overstate the percentage of families and children living below the 60% poverty line, the ACOSS report suggests that it would not be significant and that Table 8 might underestimate the degree of child poverty by reference to the 60% poverty line. These are not significant issues having regard to the purposes for which the data is presented in this submission.

145. Table 9 shows that there were 537,915 children and 294,559 sole parents living in homes in or near poverty.

146. These figures are very troubling. While they raise important issues beyond the scope of the FWC's responsibilities, they provide important information about the workers and their families which should be of very great concern to the FWC when it sets safety net

wage rates for low paid work classifications.

147. For these low paid sole parent families who rely on full time or part time work, the minimum wage decisions of the FWC are vitally important; and increasingly more important because of the cuts to, and freezing of, various family payments. The FWC should, we submit, accept that their poverty will not be alleviated unless it decides to substantially increase the wage rates for low paid workers.

CHAPTER 6

SOCIAL CHANGE AND ENDURING PRINCIPLES

148. In the course of the June 2017 decision the FWC made a series of observations about social changes in Australia and their relevance to the setting of the NMW. In drawing comparisons with the past, the FWC expresses a number of views concerning the expected role of women and the structure of families in contemporary Australia. The conclusion we draw from these comments is that these views are the reasons for its lack of action to alleviate poverty and improve the lives of low income working families, in particular the living standards of single breadwinner couple families with children.
149. For the reasons which follow, ACCER submits that the position adopted by the FWC in the June 2017 decision in regard to single breadwinner couple families with children, which is described in the following paragraphs, discriminates against women and working parents by failing to recognise their rights to make decisions as to how they will balance work and family responsibilities and provide for their children. A consequence of this is that it impacts on the rights of children to a decent standard of living. The position adopted by the FWC is unreasonable and disproportionate to the setting of the NMW as a fair safety net wage and the proper protection of workers with family responsibilities.
150. ACCER asks the FWC to reconsider the views that it expressed in the June 2017 decision in regard to single breadwinner couple families with children and to decide the current review in a way that does not discriminate against them and gives proper effect to the intent of the provisions in the *Fair Work Act* concerning the setting of the NMW.
151. The FWC's views on social changes emerges in four paragraphs (paragraphs 466-9) under the heading "The needs of the low paid", with the sub-heading "Poverty and poverty lines".
152. The discussion leading to those four paragraphs includes a passage in paragraph 463 that we referred to in Chapter 3.D.: "We present the data for 60 per cent of median income on the basis that those in full-time work are entitled to expect some margin above a harsher measure of poverty." At paragraph 465 there is a reference to the observation (made by the Australian Council of Social Service and ACCER) that "it is

only through receipt of Newstart Allowance that some single-earner households reach an income above the 60 per cent poverty line." The FWC concluded that single breadwinner families "have a substantial margin above the poverty line if the second adult earns a part-time NMW: they have a slender margin if receiving a Newstart payment" (paragraph 465).

153. The point made by the FWC is that if both parents work or are prepared to be employed (with one full time and the second receiving, at least, the Newstart allowance), couple parent families will achieve an acceptable standard of living, protecting them from poverty. Of course, the Newstart allowance comes with the obligation to take work and can be lost if the recipient fails to meet regulatory requirements. It might be thought, if not by the FWC, then by some commentators, that if the NMW-dependent couple parent family of average size, ie with two children, is living in poverty, then it is their choice; and they, or anyone advocating on their behalf, should not complain.
154. There is the implication in these paragraphs that the FWC has been setting wages in part on the basis that it expects both parents in couple parent families to be employed and, if not working, the second parent should obtain the Newstart allowance and make himself or herself available for employment. If this implication is incorrect, the FWC should, we submit, clarify its position.
155. It should be noted that the Newstart allowance is means tested by reference to family income. It means very little for some low income families. Where the breadwinner is on the C10 wage rate (or the equivalent in other awards), the disposable income of the family of four is barely more than the disposable income of the NMW-dependent family. Table 8.6 of the *Statistical Report* of 8 March 2018 shows that the C10-dependent family in receipt of Newstart is 3% above the 60% poverty line and the NMW-dependent family in receipt is 2% above the 60% poverty line. There is barely any difference. Without the Newstart payment the C10-dependent family is 1% below the poverty line and the NWM-dependent family is 9% below the poverty line. The closing of the gap shows the impact of the means-testing of the Newstart allowance.
156. The major point that emerges from Table 8.6 of the *Statistical Report* of 8 March 2018 (as was the case in Table 5.9 in paragraph 463 of the June 2017 decision) is that a worker has to get a skilled job in order to achieve the income which is regarded by the

FWC as providing the margin over poverty that unskilled workers in full time employment are entitled to expect.

157. Something is seriously wrong with our minimum wages system when the wage rate for skilled workers barely provides them and their families (with two children) the standard of living that the FWC regards as the *basic* level for a person in full time employment. Even if the measure used by the FWC is appropriate for an unskilled worker, it is inappropriate for a skilled worker. (We have put a rider in this sentence because the budget standards evidence discussed in Chapter 4 demonstrates that the 60% level is inadequate.) This means that if there is to be any, or any significant, improvement above this inadequate level for full time skilled workers, the second parent has to undertake part time employment.

The FWC's commentary on social change

158. We now turn to the four paragraphs of the June 2017 decision that concern social changes and which appear to be directed to some re-examination of an established and principled approach to wage setting.

“[466] There has been a long debate in Australia about whether minimum wages should be expected to meet the expenses of a dependent family, starting with the Harvester case in 1907. Families, and the expected role of women, have changed a great deal since this issue was first considered. It is well accepted that a minimum wage that was sufficient to support a dependent family would be well in excess of the needs of a single adult. The data in Table 5.9 show that currently a single adult on the NMW has a margin of 16 per cent above the 60 per cent poverty line. As we have mentioned, around 58 per cent of low-paid workers are single without children.

[467] The tax-transfer system plays a major role in raising the living standards of minimum wage families that have children. It does not, however, support them to the point where they can have an adult not in the workforce and still have an income above the 60 per cent poverty line.

[468] We do not accept the position, implied by ACCER, that the 60 per cent poverty line is a clear representation or measure of poverty, such that those who receive this income or less are unquestionably unable to meet their needs. By construction, it is more akin to a measure of inequality than of poverty in the normal meaning of this term. We discuss at a later point what can be learned about the needs of the low paid from alternative measures, such as deprivation.

Here we observe that the families of today take many forms and have diverse ways in which they bring up their children. The sole breadwinner couple with several children is no longer the norm, although it remains one of a range of family types. Society has responded to this growing diversity by the development of a range of adaptations including paid parental and personal leave, formal child

care, informal child care, out of school hours care, and a range of family payments. It is most important to evaluate whether these arrangements, together with the wages that can be earned, are sufficient to provide families with adequate incomes. The high and continuing levels of child poverty indicate that they are not and this is a serious matter for society. This conclusion is supported by the evidence provided by ACOSS, drawing on the 2016 *Poverty In Australia* report. This finds that about one-third of people in poverty lived in households for which wages were the main source of income; and that about half of families in poverty had children.

[469] The level of minimum wages has some role to play in seeking to reduce the financial stresses on families. But this role does not extend to a requirement to set the NMW at a level that ensures that a single-earner couple family with children on the NMW has an equivalent disposable income that exceeds the 60 per cent poverty line. The 60 per cent poverty line is arbitrary, and a fair and relevant safety net must take account of the full range of statutory considerations, be fair to employers as well as to employees, and be alert to the likelihood that at some level of increase, it will probably reduce employment opportunities for lower-skilled people.” (Footnote omitted. The three sentences omitted from paragraph 468 deal with an ancillary issue and have been quoted and responded to in Chapter XX)

Paragraph 466

159. The first sentence of paragraph 466 claims that there has been a long debate on the question of whether minimum wages should meet the expenses of a dependent family. Any debate that has occurred has been resolved in favour of the view that wages should be set so as to take into account the needs of workers with family responsibilities. The only significant departure from this was the FWC’s decision in its June 2014 decision to adopt the single person criterion for wage setting, a decision that was reversed a year later. The FWC has now accepted that the family responsibilities of workers have to be taken into account, but, as we have discussed in Chapter 2, has not provided any guidance as to the extent to which that protection and support will extend. It has failed to respond to ACCER’s request for it to indicate which workers have a reasonable expectation of a standard of living in excess of poverty. We accept that the extent to which the FWC can support families with increasing financial needs has to take into account the economic circumstances, but that does not justify the failure to respond to the question. It is not just ACCER’s question, but one which every worker is entitled to ask; and one that parliamentarians, employers and unions who are concerned with how the minimum wages system operates are entitled to ask.

160. In relation to *Harvester*, we refer to a speech entitled *Introducing Australia's New Workplace Relations System* at the National Press Club on 17 September 2008, given by the then Deputy Prime Minister, Minister for Education, Minister for Employment and Workplace Relations and Minister for Social Inclusion, the Hon. Julia Gillard. She started her speech with the following affirmation of *Harvester* and the principle it established in Australian minimum wage regulation:

"The signature values of nations are often defined by the circumstances of their birth. This is as true for Australia as for other countries. And for us there's one value above all others that we identify with as truly our own. It's the value that emerged out of the circumstances of Federation, which coincided with the industrial turbulence of the late nineteenth and early twentieth centuries. That *value* is *fairness*. Or as we like to put it: 'the fair go'. It inspired us to establish a society that aimed to give every citizen a decent standard of living. And it led us in 1907 to establish the principle of the living wage."

161. The importance of *Harvester* was more recently emphasised by the ACTU in a research paper and in a media release of 2 November 2017 to mark the 110th anniversary of *Harvester*. The media release read, in part:

"The ACTU is calling for the minimum wage to be raised to the level of a living wage, on which a low-paid worker could support themselves and their family, after ABS figures released last week show that soaring cost of living is driving millions of workers into poverty.

ACTU Secretary Sally McManus will give a major speech on the 110 year anniversary of the landmark *Harvester* decision on Thursday night, and release a new report "*Living up to the Promise of Harvester: Time for a Living Wage*" which argues for all people to be paid a living wage, as part of the campaign to Change the Rules for working people.

The *Harvester* judgement, a seminal moment in Australian history, stated that all Australians deserve to be paid a wage that they can afford to survive on.

....

A living wage must be sufficient to ensure that all working people are able to afford rent in a suitable dwelling, a healthy diet, a good quality education, healthcare, transport, electricity and other energy costs, adequate clothing, entertainment and a contingency for unexpected expenses.

The current minimum wage leaves 3 million people in Australia below the poverty line. The promise of the *Harvester* Judgement, which established a world-first living wage in Australia, has been completely eroded by decades of neo-liberal policies.

Today the Fair Work Act has the minimum wage set a by a panel of experts looking at a set of criteria only one small part of which is the needs of the low paid. The 2017 minimum wage decision included an acknowledgement that the new rate would still leave many full time workers in poverty.

162. *Harvester* did not use the term "living wage" because it concerned a statute that referred to "fair and reasonable remuneration", but the test applied in that case was consistent with the then understanding of the term. It concerned a principle, then expressed as the need for a wage to provide sufficient income to achieve "a condition of frugal comfort estimated by current human standards", the words used by Justice Higgins in *Harvester*; see *Ex parte H V McKay* (1907) 2 CAR 1, 4. The substance of this principle has since been enshrined in recognised human rights and in the common use of the term living wage.
163. The latter part of paragraph 466 in the June 2017 decision makes the point, well known since before *Harvester*, that a minimum wage that takes into account the needs of workers with family responsibilities will apply to workers without family responsibilities. That was the consequence of the need to protect the living standards of workers with family responsibilities, including the living standards of children in working families. The subsequent improvements in the social safety net for families, through family payments and government services, were designed to reduce the requirements of the minimum wages system to support families at a decent standard of living: it did not remove that responsibility.
164. These targeted benefits for families have come over a period of rising school retention rates that have meant that young people join the full time workforce at an older age, but with extended trading hours and the imposition of higher educational costs, more part time work has been undertaken by students. Paragraph 466 refers to an estimated 58% of the low paid not having children. That proportion includes workers under age 21 who would be employed on lower wage rates that recognise the lesser needs of junior workers.
165. Another social change over this period has been the delay in the ages people have children. This may have had some impact on the proportion of low paid adults who have dependent children; but, as a matter of principle, it should not affect the rights of workers with family responsibilities, or diminish the support given to their children. It is a factor to be taken into account in forming budgetary policies in regard to setting the social safety net, but it does not impinge on the objective of providing a decent standard for workers with family responsibilities.

The role of women

166. The second sentence of paragraph 466 refers to the expected role of women. Obviously the actual role of women within the workforce and outside the workforce has changed. This is because it is now generally accepted that women should be able to exercise an *effective* choice as to how they balance their work and family responsibilities.

167. The importance of women having an effective choice about work and family responsibilities was addressed in December 1993 by Prime Minister Paul Keating in his speech to mark the launch of the International Year of the Family:

"Our policies must address the diverse nature of Australian families, and the diverse nature of their employment and assistance needs.

A major issue to address in this context is how families balance the responsibilities of work and family life.

Governments should, I believe, promote policies which recognise and support choices families are making in combining paid work and family care.

We have to make these aspects of peoples' lives fit more harmoniously together.

We have to keep pressing for more "family-friendly" workplaces.....

We recognise that childcare needs are neither uniform or identical.

We recognise that women, throughout their lives, have a range of equally legitimate choices about being in the workforce or being at home.

We appreciate the value of caring and nurturing provided by women who do choose to stay at home while their children are growing up, and the value of the unpaid work they carry out both in the household and in the community.

That is why we have introduced the Home Care Child Allowance for supporting parents caring for their children full time at home.

By paying the allowance directly to the caring parent, usually the mother, we have provided many women at home with a source of independent income which otherwise they would not have.¶

(<http://pmtranscripts.dpmc.gov.au/browse.php?did=9071>, emphasis added)

168. This was a bi-partisan position, illustrated in, for example, a speech on 9 February 2005 by the Minister for Families and Community Services, Senator the Hon. Kay Patterson, at a conference held by the Australian Institute of Family Studies:

"One of the elements of our approach that is central to our philosophy and common across a range of policy areas is our desire as a Government to help families exercise choice in how they live their lives.

As the Prime Minister [Mr Howard] has said, choice is the golden thread that flows through many of our policies. Choice about whether to stay at home and care for the children or return to work; choice about childcare; choice about schooling, and choice about healthcare.

As our families become more diverse, it will be important that we ensure our responses continue to support and strengthen families, providing them with the choices that promote wellbeing and encourage self-reliance.

Increasing this payment for stay at home parents, usually mothers, is just another example of how the Howard Government seeks to improve the choices available to families in how they arrange their lives according to their personal circumstances.

We know that many parents choose to stay at home and we want to support that choice as far as possible. Similarly many other parents want to remain engaged in the workforce, sometimes for more than just monetary reasons. As a government we want to support that choice as well. Hence our heavy investment in child care." (<http://www.formerministers.dss.gov.au/2927/australian-institute-of-family-studies-conference-families-matter/>, emphasis added.)

169. The bi-partisan position on the rights of women, and parents generally, to choose how they will balance work and family responsibilities came in the context of the development of policies to integrate the wage and social safety nets during the 1980s.
170. These developments, and some earlier changes in the family payments system, were initiated by the work of the Commonwealth Commission of Inquiry into Poverty (Poverty Commission) in the early 1970s. The Poverty Commission was, in part, the result of widespread concern about the fact that families with a single full time breadwinner were living in poverty. The level of concern about the extent of poverty in Australia was substantially the product of research by Professor Henderson and his colleagues at the University of Melbourne.
171. The Poverty Commission made an important contribution to family policy in Australia and the articulation of the values that underpin good family policies. The need to provide parents with a choice about how they care for their children was usefully summarised in a passage in one of its reports, which was made in the context of its discussion of the extent of poverty among families in which there was a full time breadwinner:

"A further way in which many low income families are often placed under great stress is in relation to the freedom parents have to decide how they will divide their time between working, looking after children, and other activities. Because of financial pressures some parents are confronted with the choice of spending more time earning money and less time at home or struggling on an income below the poverty line....

Some fathers compensate for their low wages by working more hours or working two jobs. In many instances this may create considerable pressure on parents and their children....

Inadequate wages and pensions place considerable pressure on mothers to work...The mere fact of a mother working is not necessarily detrimental to the family. The relationship between a mother working and child development has been hotly debated in recent years, but the research on the subject has been inconclusive. *The pertinent issue is the freedom of mothers to choose whether or not to work, so that each family can reach a solution which is satisfactory for its members. The pressure to work created by an inadequate income means that some mothers are less free to choose.*" (First Main Report, April 1975, volume 1, page 204, footnote omitted, emphasis added.)

172. The passage recognises that the breadwinner should not have to undertake extra work through overtime or an extra job for the family to escape poverty; nor should the parent who is the primary carer have to take paid employment in order for the family to escape poverty. It also recognises the importance of the right of women with family responsibilities to have the economic freedom to choose whether they will be employed or not.
173. The social safety net comprised direct payments to families and the provision of a range of services, some of which are referred to by the FWC in paragraph 468. The FWC's commentary on this aspect suggests that it is regarded as evidence of a weakening of a commitment to free choice as to how parental responsibilities will be exercised; and a watering down of the support for working families going back to *Harvester*.
174. These measures were developed to promote the effective choice of women and parents to decide how they will exercise their family responsibilities and balance their work and family obligations. They cannot be seen as measures to compromise that choice and weaken the effective capacity for one of the parents to stay out of the workforce and care for their children.
175. Paragraph 467 of the June 2017 decision states:

"The tax-transfer system plays a major role in raising the living standards of minimum wage families that have children. It does not, however, support them to the point where they can have an adult not in the workforce and still have an income above the 60 per cent poverty line".
176. This passage cannot be read to imply that Parliament and successive Governments have decided that the tax transfer system should not enable a parent in a couple parent family to stay out of the workforce. The intention of the payments was to improve choice. As a statement of fact, it is correct; and in the context of the past initiatives to provide

families with an effective choice as to how they balance their work and family responsibilities, it highlights the failure of the wages system to provide a proper base upon which that objective can be realised. As we explained in Chapter 3.B., the relative value of minimum wage rates has fallen over the past two decades as a result of the decisions of successive national wage tribunals.

177. Importantly, the *Fair Work Act* recognises the right of workers to exercise their family responsibilities. Section 153(1) provides

"A modern award must not include terms that discriminate against an employee because of, or for reasons including, the employee's race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin."

178. Similar provisions are found in section 195, in respect of enterprise agreements, in section 351, in respect of adverse action, in section 578, in respect of the FWC's performance of its powers and the exercise of its obligations, and in section 772, in respect of the termination of employment.
179. The course of public policy and legislative changes over the past four decades has been to enhance the capacity of couple parents to have one of them remain out of the workforce and stay at home to care for their children. It has been designed to give parents an effective choice on this issue.
180. It is inconsistent with these policies and practices for the FWC to adopt a policy or practice to set wages at a level at which a single breadwinner couple with children cannot live in excess of poverty and have a decent standard of living. It is inconsistent with these policies and practices for the FWC to adopt a policy or practice that is intended to place, or has the likely effect of placing, economic pressure on the couple to obtain further employment income in order to achieve a standard of living in excess of poverty and a decent standard of living. To do so, would infringe a recognised right and discriminate against workers with family responsibilities. It would be a case of direct discrimination.
181. These are policies and practices are unfair and inconsistent with the FWC's obligation under section 284(1) of the *Fair Work Act* to set the NMW as a fair safety net wage. We submit that they offend the ordinary meaning of fairness

182. Paragraph 468 of the June 2017 decision commences with the FWC claiming that ACCER advanced the 60% relative poverty line as "a clear representation or measure of poverty, such that those who receive this income or less are unquestionably unable to meet their needs". This claim is without foundation because it is plainly inconsistent with what ACCER had put in its submissions. We have already addressed this at Chapter 3.D., where we also referred to the FWC stating, in relation to Table 5.9 (which is presented as a "poverty line table) that it was "present[ing] the data for 60 per cent of median income on the basis that those in full-time work are entitled to expect some margin above a harsher measure of poverty" (paragraph 463).
183. Paragraph 468 also needs to be read in the context of paragraph 67, which is also repeated at paragraph 488.
- “[67] The level of the NMW and modern award rates of pay have a significant role to play in seeking to reduce the financial stresses on families. But this role does not extend to a requirement to set the NMW at a level that ensures that a single-earner couple family with children on the NMW has an equivalent disposable income that exceeds the 60 per cent poverty line.”
184. The first point to be made about this paragraph is that the FWC is not required to set a wage that provides this outcome regardless of relevant economic considerations. ACCER has not argued that it must; that is why it has sought a *transition* to a wage that will provide this family and other families with a decent standard of living. ACCER has argued that a decent standard of living is the object of the safety net and that families such as the single earner couple with children, where the breadwinner is in full time employment, are within the scope of those who "can reasonably expect a standard of living that exceeds poverty levels that protection and have a reasonable expectation of a standard of living that exceeds poverty levels", to use the FWC's words. Commonly understood, this would mean that it was being presented as the measure of what is needed for a decent standard of living in contemporary Australia.
185. There may be economic factors that, from time to time, constrain the setting of a wage that provides the standard of living that the FWC has identified as a standard of living above poverty, as measured by the 60% of median level, but that does not qualify the objective of the NMW and the obligation of the give effect to it over time.

186. The second part of paragraph 67 refers to a standard that "exceeds the 60 per cent poverty line", but it is apparently intended to cover a standard of living that is at the 60% of median standard adopted in paragraph 463.
187. The clear intention in these paragraphs and elsewhere in the June 2017 decision is to exclude the single breadwinner couple with children from the ambit of protection of the NMW and, in particular, the expectation of a standard of living at or above the 60% of median level. These families are excluded from the expectation of a decent standard of living in excess of poverty.
188. The FWC does not indicate directly what standard of living the single breadwinner family is entitled to expect, but it knew at the time of writing the June 2017 decision that the family was 10% below the 60% of median living standard (see Table 5.9 of the 2017 decision). That can be fairly described as living in poverty and at a standard of living that is well short of the standard that the FWC has accepted as providing an appropriate standard of living.
189. Having presented the "60 per cent of median income on the basis that those in full-time work are entitled to expect some margin above a harsher measure of poverty" (at paragraph 463), the question is "why is the single breadwinner family not entitled to, or have a reasonable expectation of, the basic standard of living identified by the FWC?".
190. The answer to this question is that the FWC has adopted a policy to exclude the single breadwinner family from the protection and benefit of the NMW and has done so contrary to its obligations under the *Fair Work Act*.
191. In both 2016 and 2017 ACCER asked the FWC for its opinion on a question in regard to single breadwinner couple parent families with dependent children who are living in poverty or who are unable to achieve a decent standard of living: is the sole breadwinner obliged to work overtime or find another job and /or the primary carer of the children obliged to seek employment in order for the family to have an income that will enable it to escape poverty and achieve a decent standard of living?
192. That question has not been answered explicitly, but it has been answered implicitly. In effect the FWC is saying that if a single breadwinner couple parent family wishes to have a decent standard of living in excess of poverty, then the breadwinner should work overtime or find another job and/or the primary carer of the children should seek

employment. Children living in these families will live in poverty, or be at the risk of poverty unless one or more of these courses are pursued.

193. The claimed justification for this position is in the social changes over past decades.

Changes in family structures

194. The first two sentences of the extract from paragraph 468 of the June 2017 decision draw a comparison between different historical periods, presumably between the time of the *Harvester* decision in 1907 and now.

195. It is true that families in Australia have fewer children than at the time of *Harvester*, two rather than several, but otherwise the comparison is superficial. Today, children are dependent on their parents for a substantially longer period.

196. The age profiles of the Australian population at the time of the first national Census in 1911 and the most recent national Census in 2016 show that the percentage of children aged 14 years and younger has declined from 31.6% in 1911 to 18.7% in 2016. The proportion in the 15 to 19 years (inclusive) cohort has fallen from 10.1% to 6.1%. However, a dramatic change has occurred in relation in the education of children and, therefore, their dependency on their parents and the family's wage packet. In 1911 there were 448,536 aged 15 to 19, but only 39,401 were receiving education: this is only 8.8%. In this age group only 916, or 2.0%, attended university. Among 15 year olds there were 17,763 receiving education out of a total of 87,135 in this age group: only 20.4%. Among 14 year olds 36,199 were in education out of a total of 85,284: only 42%. (The data regarding the 1911 Census are taken from *Census of the Commonwealth of Australia 1911* at Volume II, Part V, *Schooling*, at Table 5, and Volume II, Part I, *Ages*, at Table 6. The data in respect of the 2016 Census is in *2016 Census QuickStats*, published by the ABS, at page 1.)

197. Table A15 in Appendix A provides a breakdown of the education status of 15 to 19 year olds in 2016. The total number in the age bracket was 1,421,597, of whom 248,336 were not in education. The relevant details of another 102,226 were not stated. The table also includes the numbers of those in full time employment and in education, a total of 30,027. Taking them into account, the number in education (some of whom are in part time employment or seeking employment), was at least 73.2% of this cohort are

in education. It would be higher than this figure because the "not stated" category was 7.2% of the total number.

198. These figures demonstrate how the responsibilities of parents to support their children have extended for a longer period of time. In the past a small percentage of students reached the half way point of secondary education. Now secondary education, especially in the senior years is vital to the future prospects of children. It is one of the reasons why one of the parents in couple parent households stays at home, or wishes to do so.
199. This contemporary educational environment is also one of the reasons why sole parents find working full time would be not be in the best interests of their children. The difficulty in obtaining employment at times and places that are consistent with their family responsibilities and in finding good and convenient child care at an affordable cost are the major reasons for sole parents working part time. Relevant information regarding the working patterns of sole parents is in Chapter 5.
200. Wage setting decisions should take into account the fact that in contemporary Australia many workers cannot work full time. The FWC's own research shows that a sole parent family in which the parent is working 19 hours per week on the NMW is living in abject poverty; see Table 8.6 of the *Statistical Report* of 8 March 2018. The FWC has not set wages by reference to the needs and living standards of part time employees. To have the expectation of a standard of living that is in excess of poverty and which provides a decent standard of living, as described by the FWC, a worker must be full time.
201. More attention has to be given to the position of part time workers, and the emerging group of "full time" workers who do not work 38 hours per week, but at this stage the only way in which the lives of these part time sole parents and their families will be improved significantly is by having the NMW set by reference to the proper principles and set without discrimination against single breadwinner couple families. The proper protection and support of single breadwinner couple families will benefit sole parents working part time; and many others who are unable to obtain full time and regular employment. The proper setting of the NMW and consequential award rates would have a positive flow on effect for those who are not full time workers.

202. The FWC claimed that there had been a change in the proportion of sole breadwinner families since *Harvester*, claiming that the "sole breadwinner couple with several children is no longer the norm, although it remains one of a range of family types." No evidence was referred to in support of the view that the sole breadwinner family was the "norm", either by reference to working families or by reference to the workforce as a whole. There was, however, evidence in the Annual Wage Review 2016-17 of the number and proportion of single breadwinner families at the time of the 2011 Census, but there was no reference to it. ACCER presented this evidence in a similar format to the way in which the 2016 Census is presented in Chapter 5.
203. The 2016 Census provides contemporary information regarding the number and proportion of single breadwinner families. Single breadwinner couple families are still constitute a large proportion of Australian working families, as we demonstrate in Chapter 5. They are, by far, the predominant cohort of low income working families. Furthermore, in view of the collapse in the relative value of minimum wage rates, it is likely that in a significant number of the dual income families the second parent has sought employment in order to alleviate the family's poverty and achieve a decent standard of living for the family. The Census data show that even a second job leaves many families in or near poverty.
204. The statistics concerning the number and proportion of workers in single breadwinner couple families with children provide no justification for the removal of single breadwinner couple families with children from the intended protection of the NMW provisions of the *Fair Work Act*. They demonstrate the opposite: they demonstrate how important a decent wage that takes into account family responsibilities is to hundreds of thousands of families, many of whom are living in or at risk of poverty.

CHAPTER 7

WAGE SETTING UNDER THE *FAIR WORK ACT*

7.A. The role of the NMW in the Australian minimum wages system

205. The background to this section is in Chapter 2, which includes an introduction to the intent and effect of section 284(1) of the *Fair Work Act 2009*, the provision under which the NMW is set, and its connection to Australia's international labour obligations. Section 284 provides

“The FWC must establish and maintain a safety net of fair minimum wages, taking into account:

- (a) the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth; and
- (b) promoting social inclusion through increased workforce participation; and
- (c) relative living standards and the needs of the low paid; and
- (d) the principle of equal remuneration for work of equal or comparable value; and
- (e) providing a comprehensive range of fair minimum wages to junior employees, employees to whom training arrangements apply and employees with a disability.

This is the *minimum wages objective*" (Italics in original)

206. This provision covers more than the setting of the NMW. Section 284(2) provides that the minimum wages objective applies to the setting, varying or revoking of award minimum wages.

207. The "modern awards objective" in section 134 (1) also covers, among other matters, setting, varying or revoking modern award minimum wages and provides:

"The FWC must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:

- (a) relative living standards and the needs of the low paid; and
- (b) the need to encourage collective bargaining; and
- (c) the need to promote social inclusion through increased workforce participation; and
- (d) the need to promote flexible modern work practices and the efficient and productive performance of work; and
- (da) the need to provide additional remuneration for:
 - (i) employees working overtime; or
 - (ii) employees working unsocial, irregular or unpredictable hours; or

- (iii) employees working on weekends or public holidays; or
- (iv) employees working shifts; and
- (e) the principle of equal remuneration for work of equal or comparable value; and
- (f) the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and
- (g) the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and
- (h) the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.

This is the *modern awards objective*" (Italics in original)

208. Section 134(1)(b) provides that the modern awards objective applies to "the FWC's functions or powers under Part 2-6 [in which sections 284 and 285 appear], so far as they relate to modern award minimum wages". This is significant because it makes clear that a different statutory regime applies to the NMW and award wages.

209. The FWC is required by section 285(1) to conduct an annual wage review each financial year in which it must review the national minimum wage order and modern award minimum wages. Section 285(2) and (3) provide:

- "(2) In an annual wage review, the FWC:
 - (a) must review:
 - (i) modern award minimum wages; and
 - (ii) the national minimum wage order; and
 - (b) may make one or more determinations varying modern awards to set, vary or revoke modern award minimum wages; and
 - (c) must make a national minimum wage order.
- (3) In exercising its power in an annual wage review to make determinations referred to in paragraph (2)(b), the FWC must take into account the rate of the national minimum wage that it proposes to set in the review."

210. Section 135(2) provides further direction on the relationship between the NMW and award wage rates:

"In exercising its powers under this Part to set, vary or revoke modern award minimum wages, the FWC must take into account the rate of the national minimum wage as currently set in a national minimum wage order."

211. As can be seen from the terms of sections 134(1) and 284(1), each function is performed by reference to different range of considerations, some of which are the same.

212. These provisions have to be considered in the context of the overarching object of the *Fair Work Act*. Section 3 includes:

"The object of this Act is to provide a balanced framework for cooperative and productive workplace relations that promotes national economic prosperity and social inclusion for all Australians by:

- (a) providing workplace relations laws that are fair to working Australians, are flexible for businesses, promote productivity and economic growth for Australia's future economic prosperity and take into account Australia's international labour obligations; and
 - (b) ensuring a guaranteed safety net of fair, relevant and enforceable minimum terms and conditions through the National Employment Standards, modern awards and national minimum wage orders; and
-"

213. The NMW is a general legal right conferred on Australian workers independent of, and not ancillary to, the award system. It is a personal right set by legislation and applies to workers who are not covered by an award, albeit that the vast majority of workers are covered by an award. The NMW is a safety net entitlement upon which awards and/or collective bargains may be based. A primary function of the award system is the establishment of work classification, generally based on the skills and responsibilities required for those positions, for which different wage rates are set. As the general safety net entitlement, the NMW should not be set by reference to the wage relativities that are set by awards; rather the relativities of award wage rates should be based on the NMW. It would be inconsistent with the scheme of the legislation for considerations arising in regard to the setting of award relativities to be taken into account when setting the NMW. This last point is relevant to the matter addressed in the following section, .

7.B. The proper construction of section 284(1)

214. Issues concerning the construction of section 284(1) have been raised in the previous annual wage reviews, most recently in the Annual Wage Review 2016-17. For the reasons set out in this section, ACCER submits that the FWC should reconsider its conclusions in the June 2017 decision in relation to the construction of section 284(1). In particular, ACCER submits that the FWC's construction of section 284(1) was erroneous.

215. We introduce this section with a reference to what ACCER has identified as the operational objective. This was discussed in Chapter 2, where it was noted that, in its

March 2017 submission, ACCER proposed it as "an appropriate formulation of the NMW safety net". The operational objective, based on passages from past annual wage review decisions, was:

"Full time workers have a reasonable expectation of a standard of living that will be in excess of poverty and one which will enable them to purchase the essentials for a 'decent standard of living' and engage in community life, assessed in the context of contemporary norms."

216. This formulation, we submit, expresses the nature and purpose of the safety net NMW. It is an appropriate formulation of the NMW safety net which is required by the terms of the *Fair Work Act* and is consistent with Australia's relevant human rights obligations in the *International Covenant on Economic, Social and Cultural Rights*. The operational objective for the NMW specifies the basis upon which the award system should operate, with award classifications and wage rates recognising increasing levels of skills and responsibilities among different work classifications. The function of setting work classifications is undertaken in the award system. The award wages are intended to operate on a NMW that, which could be appropriately described as a wage that would enable the worker to purchase the essentials for a "decent standard of living" and to engage in community life, assessed in the context of contemporary norms.
217. The origin of the terms used in the operational objective is in the FWC's June 2013 decision:

"[30] The minimum wages objective and the modern awards objective both require us to take into account two particular matters, relative living standards and the needs of the low paid. These are different, but related, concepts. The former, relative living standards, requires a comparison of the living standards of award-reliant workers with those of other groups that are deemed to be relevant. The latter, *the needs of the low paid*, requires an examination of the extent to which low-paid workers are able to purchase the essentials for a "decent standard of living" and to engage in community life. The assessment of what constitutes a decent standard of living is in turn influenced by contemporary norms. We turn first to relative living standards.

....

[33] An assessment of the needs of the low paid is more challenging. There is no single contemporary measure available to assess either the needs of the low paid or the extent to which those needs are being met. We accept the point that if the low paid are forced to live in poverty then their needs are not being met. We also accept that our consideration of the needs of the low paid is not limited to those in poverty, as conventionally measured. *Those in full-time employment can reasonably expect a standard of living that exceeds poverty levels*. In assessing the

needs of the low paid we rely on a range of measures including comparisons of hypothetical low-wage families with customary measures of poverty, both before and after taking account of the impact of the tax-transfer system, and survey evidence of financial stress and material deprivation among low-paid households." (*Annual Wage Review 2012-13, Decision* [2013] FWCFB 4000, emphasis added)

218. The highlighted passages have appeared in all annual wage review decisions since 2013; for example, in the June 2017 decision:

- "[T]hose in full-time employment can reasonably expect a standard of living that exceeds poverty levels." (Paragraphs 98 and 461.)
- "The assessment of the needs of the low paid requires an examination of the extent to which low-paid workers are able to purchase the essentials for 'decent standard of living' and to engage in community life, assessed in the context of contemporary norms." (Paragraphs 53 and 362.)

219. The FWC responded to ACCER's formulation of the operational objective in the context of dealing with ACCER's submissions on the FWC's wages relativities policy. Those submissions were rejected, partly because the FWC rejected ACCER's submissions on the operational objective. The FWC's response to the submissions on the operational objective is in paragraphs 154-7 of the June 2017 decision, which have to be understood in the context of earlier passages dealing with the construction of sections 134(1) and 284(1) of the Act. We refer to those passages before turning to paragraphs 154-7.

220. The earlier passages in the June 2017 decision are in the section under the heading "The Statutory Framework". After the recitation of features of the statutory framework, the decision turns "to deal with aspects of the proper construction of the modern awards objective and the minimum wages objective" (paragraph 122). In particular, the following paragraphs refer to the decision of a separately constituted bench of the FWC in regard to award provisions concerning Sunday penalty rates: *4 yearly review of modern awards – Penalty Rates – decision* [2017] FWCFB 1001, 23 February 2017 (Penalty Rates decision). The annual wage review bench had already adopted these views in the course of a decision on 7 April 2017 on an application by United Voice for the FWC to set a medium term target for the NMW, [2017] FWCFB 1931, (Medium Term Target decision)). That decision concluded the discussion of the construction of sections 134(1) and 284(1) with "We intend to conduct the 2016-17 Review in accordance with the principles set out above" (paragraph 78).

221. This part of the June 2017 decision included:

“[122] We now turn to deal with aspects of the proper construction of the modern awards objective and the minimum wages objective.

[123] The proper construction of the expression ‘a fair and relevant minimum safety net of terms and conditions’ in the modern awards objective was the subject of some consideration in the *4 yearly review of modern awards – Penalty Rates – hospitality and retail industries decision* (the *Penalty Rates decision*). Three points emerge from the consideration of that expression in the *Penalty Rates decision*.

[124] First, ‘fairness’ in the context of the modern awards objective is to be assessed from the perspective of the employees *and* employers covered by the modern award

....

[127] We agree with the above observations and adopt them in our consideration of the modern awards objective. We are also of the view that the observations as to the meaning of ‘fair’ and ‘safety net’ in the modern awards objective apply with equal force to the meaning of those words in the minimum wages objective.

[128] ... The modern awards objective is to ‘ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions.’ The minimum wages objective is to ‘establish and maintain a safety net of fair minimum wages.’ These objectives are very broadly expressed and *the notion of fairness is at the heart of both statutory objectives. As we have mentioned, fairness in this context is to be assessed from the perspective of the employees and employers covered by the NMW or the modern award in question.*”

[129] As the Panel has observed in previous Review decisions, there is often a degree of tension between the economic, social and other considerations which the Panel must take into account. No particular primacy is attached to any of these considerations. For example, a substantial wage increase may better address the needs of the low paid and improve the relative living standards of award-reliant employees, but it may (depending upon the prevailing economic circumstances) also reduce the capacity to employ the marginalised and hence not promote social inclusion through increased workforce participation. It is this complexity that has led the Panel to reject a mechanistic or decision rule approach to wage fixation, such as the adoption of real wage maintenance, and, more recently, to reject the adoption of a medium-term target for the NMW.” (Footnotes and second and third observations omitted, emphasis in paragraph 128 added)

222. The Medium Term Target decision in the United Voice application was handed down on 7 April 2017, after the date set for the filing of submission, but the FWC gave the parties leave to make a response up until the consultations in May 2017. ACCER's Reply submission of 13 April referred to the decision and stated that it would respond to this decision prior to the consultations in May 2017 and foreshadowed that it would contend that the FWC's construction of the terms of each of section 134(1) and

284(1) of the *Fair Work Act* was erroneous; paragraphs 17 and 18. ACCER provided this response in its Post-Budget submission of 12 May 2017, at pages 8 to 18.

223. ACCER's March submission put a position on the construction issue which was contrary to the way in which the FWC saw the construction and operation of section 284(1) and how it would determine the wage review. Under the heading "The scope of the operational objective", ACCER's March 2017 submission read:

"In section C we refer to statements made by the FWC in the last four annual wage reviews that "those in full-time employment can reasonably expect a standard of living that exceeds poverty levels" and "The assessment of the needs of the low paid requires an examination of the extent to which low-paid workers are able to purchase the essentials for a "decent standard of living" and to engage in community life, assessed in the context of contemporary norms". *These are described in this submission as the operational objective of the minimum wages system.* The proper scope of the protection and benefit intended by the operational objective is discussed in section C. ACCER seeks the FWC's opinion on the scope and ambit of the protection and benefit of each of the two descriptions used by it." (ACCER submission, 29 March 2017, paragraph 8, emphasis added)

224. The construction of the provisions concerning the NMW was referred to do later submissions under the heading "Basic operational objective":

"In each its last four decisions the FWC has said :

- "[T]hose in full-time employment can reasonably expect a standard of living that exceeds poverty levels."
- "The assessment of the needs of the low paid requires an examination of the extent to which low-paid workers are able to purchase the essentials for a 'decent standard of living' and to engage in community life, assessed in the context of contemporary norms."

These are not merely aspirations, but the essential purpose of a minimum wage system. From these passages we can draw what can be described as the basic operational objective of minimum wage setting under the *Fair Work Act*:

Full time workers have a reasonable expectation of a standard of living that will be in excess of poverty and one which will enable them to purchase the essentials for a 'decent standard of living' and engage in community life, assessed in the context of contemporary norms.

ACCER has argued that *this is an appropriate formulation of the NMW safety net.* It would be contrary to the intention of the legislation in establishing the NMW for that standard of living to be only achievable by finding work covered by an award classification that provides a higher wage rate. Because the setting of safety net wage rates through the NMW and awards requires the assessment of economic as well as social factors, the basic operational objective may not be met in any one year. If, as is the case now, there is a substantial gap between the NMW the wage

which is necessary to meet the objective, the gap will have to be closed over time." ((ACCER submission, 29 March 2017, paragraphs 28-9, emphasis added)

225. It is important to note that the FWC's discussion of the construction of the Act leading to paragraph 129 of the June 2017 decision (quoted above) starts from paragraph 101, under the heading The "Statutory Framework" and "General". The next section of the decision deals with what the FWC described as "five discrete issues which relate to the statutory framework" (at paragraph 131), one of which was ACCER's point about the wages relativities policy. Those five areas include matters of contention. There is no acknowledgement in the FWC's outline of the statute in paragraphs 101 to 129 of any contention about the construction of the legislation and the nature and the scope of the operational objective, as advanced by ACCER, either in its submission of 29 March 2017 or in its submission 12 May 2017. The FWC's view on the construction of section 284(1) in the Medium Term Target decision of 7 April was inconsistent with ACCER's submissions, but the June 2017 decision made no relevant reference to ACCER's contentions.

226. We return to relevant parts of the June 2017 decision. The FWC also referred to the construction issue in its consideration of whether the legislation should be regarded as "beneficial" legislation:

"[141] It seems to us that the statutory provisions relevant to the fixation of the NMW plainly seek to strike a balance between competing interests. So much is clear from the range of considerations the Panel is required to take into account in giving effect to the minimum wages objective (for example compare s.284(1)(a) and (c)). It is also clear from the minimum wages objective itself—to "establish and maintain a safety net of *fair* minimum wages". Fairness in this context is to be assessed from the perspective of the employees and employers covered by the NMW order. The object of the Act also speaks to multiple legislative purposes. Section 3 provides that the object of the Act 'is to provide *a balanced framework* for cooperative and productive workplace relations that promotes national prosperity and social inclusion for all Australians' (emphasis added), by the means specified in sections 3(a) to (g)." (Emphasis and parenthesis in original)

227. It was in the section dealing with ACCER's submissions that the wages relativities policy was contrary to law, under the heading "The setting of the NMW and modern award relativities", that the FWC responded to ACCER's submission on the operational objective. ACCER had argued that the award relativities policy had impermissibly constrained the setting of the NMW because the statute required it to be set

independently of award considerations. The FWC responded to the operational objective, reinforcing the views expressed earlier in the decision. In referring to the two passages that were included in the operational objective, the FWC responded:

“[154] While we do not resile from either of the passages referred to above it is important to bear in mind that these observations were made in the context of the Panel’s consideration of *one* of the various statutory considerations we are required to take into account. ACCER’s submission suffers from the elevation of one consideration—‘relative living standards and the needs of the low paid’—above all others.

[155] As noted in previous Review decisions, the Act requires the Panel to take into account *all* of the relevant statutory considerations, and the relative living standards and needs of the low paid are but ‘one of a number of considerations that [the Panel] must take into account.’ The legislature has not attached any particular primacy to any of the considerations we are required to take into account.”

[156] In our decision of 7 April 2017 we rejected a proposal for the adoption of a medium term target for the NMW for similar reasons:

....

"As we have mentioned, no particular primacy is attached to any of the considerations identified in the modern awards objective (s.134(1)(a)–(h)) or in the minimum wages objective (s.284(1)(a)(e)). The adoption of the proposed target would, in our view, have the effect of elevating one statutory consideration (‘relative living standards and the needs of the low paid’) above all others on an ongoing basis, rather than requiring consideration of that matter in the social and economic context of each review and weighting it accordingly relative to the other considerations. As we have mentioned while the relevant statutory considerations must be taken into account it is important to bear in mind that they inform the modern awards objective and the minimum wages objective, but they do not themselves constitute the relevant statutory objectives." (Footnote: [2017] FWCFB 1001 at paras 117- 119.)

[157] For completeness we note that the suggestion that the ‘needs of the low paid’ have not been taken into account in past Review decisions is devoid of merit. Each of these decisions referred to by ACCER dealt directly with ‘relative living standards and the needs of the low paid’, as required by sections 134(1)(a) and 284(1)(c) of the Act." (June 2017 decision, footnotes omitted, emphasis in original.)

228. The footnote to the passage quoted in paragraph 156, from the Medium Term Target decision (at paragraph 57), is to the Penalty Rates decision, at paragraphs 117-19. Those paragraphs are only concerned with the claim that there are authorities under earlier legislation, to support the claim that "fairness is to be assessed from the

perspective of the employees and employers covered by the modern award in question" (Penalty Rates decision, paragraph 117.). ACCER responded to those paragraphs in its Post-Budget submission of 12 May 2017, at paragraphs 39 to 50, submitting that the authorities cited in paragraphs 117-19 in the Penalty Rates decision do not establish that fairness is to be assessed from the perspective of the employees and employers.

229. The substance of the FWC's response, from paragraph 154, is that the passages relied upon by ACCER to formulate the operational objective were used in the context of the FWC expressing its views about only one of the considerations that it had to take into account when setting the NMW, ie the needs of the low paid. The objective of a decent standard of living is treated by the FWC as a consideration, not as an objective which is, subject to a proper consideration of all of the relevant statutory factors. This meant that a decent standard of living, which was treated as a component of the "needs of the low paid" had no particular primacy or priority in the setting of the safety net wage.
230. By treating the scope of "the needs of the low paid" as including a decent standard of living, the FWC has moved the decent standard of living away from the object of section 284(1) to being a consideration without any primacy or priority. We submit that the "needs of the low paid" as ordinarily understood and as they appear in this context, requires a consideration of the costs of the goods and services that are relevant to the setting of a wage that provides a decent standard of living. The "needs of the low paid" are the needs and costs of food, clothing, housing, transport and the like which must be known if an informed safety net wage is to be set, as intended by the statutory objective. The FWC's view of this matter is to treat the needs of the low paid in a way that erroneously includes the object of a decent standard of living, rather than the information that informs the setting of the safety net.
231. The passage quoted in paragraph 156 from the Medium Term Target decision of 7 April 2018 makes the point that "while the relevant statutory considerations must be taken into account it is important to bear in mind that they inform the modern awards objective and the minimum wages objective, but they do not themselves constitute the relevant statutory objectives". It is clear that the paragraphs of section 284(1) inform and constrain the objective set out in the first part of the subsection. All considerations

need to be taken into account. However, the objective identified by the FWC is not the objective of setting a safety net wage that provides a decent standard of living.

The assessment of fairness

232. At paragraph 124 of the June 2017 decision the FWC, drawing on the Penalty Rates decision, stated that fairness in the modern awards objective is to be assessed from the perspectives of employees *and* employers", using italics for emphasis. This view was adopted in respect of the minimum wages objective (at paragraph 127), with the observation that "the notion of fairness is at the heart of both statutory objectives. As we have mentioned, fairness in this context is to be assessed from the perspective of the employees and employers covered by the NMW or the modern award in question." (at paragraph 127). That is, the heart of the assessment of the NMW and award wages is the application of fairness, of doing fairness to employers and employees. At paragraph 141 of the decision (which we quoted in full earlier), in the context of describing the minimum wages objective, the FWC said

"It seems to us that the statutory provisions relevant to the fixation of the NMW plainly seek to strike a balance between competing interests. ... Fairness in this context is to be assessed from the perspective of the employees and employers covered by the NMW order. The object of the Act also speaks to multiple legislative purposes. Section 3 provides that the object of the Act 'is to provide *a balanced framework* for cooperative and productive workplace relations that promotes national prosperity and social inclusion for all Australians' (emphasis added), by the means specified in sections 3(a) to (g)".

233. This means that the fairness of the safety net was viewed as the balancing of fairness to employers and employees, on the basis that it was consistent with the broad objective of providing a balanced framework for workplace relations.
234. The immediate point that must be made about the *Fair Work Act* is that it does not treat all matters as applications of fairness as between employers and employees. The Act covers a wide variety of matters concerning employment relations. It confers, prohibits and regulates a wide range of matters and not all of them can be said be based on an assessment of fairness as between employers and employers. This is illustrated in regard to the sections concerning discrimination; see sections 153 (award provisions), 195 (enterprise agreements), 351 (adverse action by an employer) and 772 (unfair dismissal).

235. More particularly, the FWC's view does not focus on the substantive purpose of providing a fair safety net for the protection of employees. The minimum wage setting provisions cannot be viewed simply as an instance of a balanced framework for industrial relations. The wages are safety net wages, not merely minimum wages, fixed by the application of the criterion of fairness to employees and employers. The term "safety net", which is not defined in the *Fair Work Act*, has to be given its ordinary meaning: it is meant to support and protect. It is a protection and benefit given to workers whose employers would not otherwise provide. Furthermore, this purpose is evident from the stated object of giving effect to Australia's international labour obligations, which, as we have discussed in section B, include the obligation in the *International Covenant on Economic, Social and Cultural Rights* in respect of the human right to remuneration that provides a decent living for workers and their families. That is how the NMW should be considered. It is to be contrasted with the approach which takes the required considerations into account in a transactional process decided according to the criterion of fairness to employers and employees without regard the purpose and function of the NMW safety net.
236. It is not necessary to frame the setting of the safety net wage in terms of fairness to employers and employees in order to take into account the interests, or perspectives, of employers. The economic interests of employers are covered by some of the matters that the FWC is required to take into account "the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth; and promoting social inclusion through increased workforce participation"; section 284(1)(a) and (b). These matters take into account the interests, or perspectives, of employers without the need to factor in fairness to employers when deciding what is a fair safety net for employees.
237. Given the differences in the terms of the minimum wages objective and the modern awards objective, the range of permissible considerations are not the same; and award wage setting would permit a wider range of matters to be taken into account. Not only are there more specified considerations, but the modern awards objective requires that the safety net be relevant. So much is clear from *Shop, Distributive and Allied*

Employees Association v The Australian Industry Group [2017] FCAFC 161. Those further matters in respect of award wages cannot impinge on the setting of the NMW.

The reasonable expectation of a standard of living in excess of poverty

238. The repeated view that those in "full-time employment can reasonably expect a standard of living that exceeds poverty levels" is also said by the FWC to be limited by it relating to only one consideration, and a consideration that has no primacy. This strains credulity. The FWC's response means that the claimed reasonable expectation of full time employees is qualified to the point of negation, even though the FWC has not resiled from it. The response shows that it is not being treated as a reasonable expectation because it will be treated as just one consideration among a range of considerations in which living standards, especially freedom from poverty, have no primacy or priority. Accordingly, the words do not mean what they apparently mean. It is contrary to how ordinary working people would understand them. If a worker was hired for work on the basis of statements that would lead him or her to have a reasonable expectation of a bonus, a wage increase or a promotion and was later told that this expectation was subject to a range of other factors inconsistent with the reasonable expectation, the worker would be aggrieved, treated unfairly and, probably, entitled to a legal remedy.
239. We can accept, as ordinary workers would, that there would be some practical limits to this expectation, such as in the case of worker with nine dependent children. However, it must mean that in ordinary and expected cases the objective of the NMW is to provide a standard of living in excess of poverty, even though the pursuit of that may be constrained from time to time. It is reasonable to ask, as we do now, which workers in full time employment have a reasonable expectation of a standard of living that exceeds poverty levels?
240. Contrary to the FWC's position, ACCER's submission was that the objective of the NMW is to provide a decent standard of living, which is a standard of living in excess of poverty and that the all of considerations specified in the section had to be taken into *for that objective*. The specified considerations inform and constrain the objective. Economic factors could constrain the extent to which the objective could be achieved at some point in time. ACCER's submission, picking up on words used by the FWC, was

not concerned with what the FWC actually intended by the use of those words (as explained in the June 2017 decision), but with how those words expressed the objective of the NMW safety net.

A beneficial construction of the legislation

241. ACCER's March 2017 submission argued that the provisions of the *Fair Work Act* which deal with the setting of the NMW should be "treated as beneficial legislation and should not be construed or applied narrowly". The issue arose in two contexts in ACCER's submission:

"196. [I]t would be an extraordinary thing if the FWC did not give some priority to the elimination of poverty in areas where it has some capacity to do so, i.e. among low paid wage-dependent workers. If it did not give some priority it would be stand alone in a wide range of governmental bodies in its failure to respond to those most in need. In Australia we have a social safety net that is predicated on supporting and giving protection to those most in need. The community expects it and governments expect it and we should expect it of the FWC to focus its attention on those most in need. After all, the purpose of a minimum wage system is to protect those who are in need. The minimum wage system in the *Fair Work Act* is beneficial legislation and, accordingly, should be applied as such. The purpose of a safety net, whether a wage or a social safety net, is to promote the common good."

"426. The object of social inclusion calls attention to the requirement to promote the ability of workers and their families to live in dignity and participate in society. The provisions in the Act regarding the setting of the NMW should be treated as beneficial legislation and should not be construed or applied narrowly."

242. The FWC responded to these two passages at paragraphs 132-42 of the June 2017 decision. It agreed that:

- "it is appropriate to characterise the statutory provisions relating to the variation of the NMW as remedial or beneficial provisions" (paragraph 134); and
- the NMW "is intended to create a regulatory instrument which intervenes in the market setting minimum wages, to lift the floor of such wages" (paragraph 135).

243. The legal principles regarding the characterisation of the legislation had been addressed in an earlier decision of a Full Bench of the FWC in *Bowker and others v DP World Melbourne Limited T/A DP World, Maritime Union of Australia and others*, [2014] FWCFB 9227 (Bowker). The June 2017 decision included (at paragraph 136) the following passages from that earlier decision:

"The characterisation of these provisions as remedial or beneficial has implications for the approach to be taken to their interpretation. As the majority (per Gibbs CJ, Mason, Wilson and Dawson JJ) observed in *Waugh v Kippen*:

'...the court must proceed with its primary task of extracting the intention of the legislature from the fair meaning of words by which it has expressed that intention, remembering that it is a remedial measure passed for the protection of the worker. It should not be construed so strictly as to deprive the worker of the protection which Parliament intended he should have.'

Any ambiguity is to be construed beneficially to give the fullest relief that a fair meaning of its language will allow, provided that the interpretation adopted is 'restrained within the confines of the actual language employed that is fairly open on the words used.' As their Honours Brennan CJ and McHugh J put it in *IW v City of Perth*:

'...beneficial and remedial legislation, like the [Equal Opportunity] Act, is to be given a liberal construction. It is to be given 'a fair, large and liberal' interpretation rather than one which is 'literal or technical'. Nevertheless, the task remains one of statutory construction. Although a provision of the Act must be given a liberal and beneficial construction, a court or tribunal is not at liberty to give it a construction that is unreasonable or unnatural.'

If the words to be construed admit only one outcome then that is the meaning to be attributed to the words. However if more than one interpretation is available or there is uncertainty as to the meaning of the words, such that the construction of the legislation presents a choice, then a beneficial interpretation may be adopted.' (Footnotes omitted)"

244. The FWC adopted these views in the June 2017 decision, noting further that they were supported by section 15AA of the *Acts Interpretation Act 1901*, which provides: "In interpreting a provision of an Act, the interpretation that would best achieve the purpose or object of the Act (whether or not that purpose or object is expressly stated in the Act) is to be preferred to each other interpretation."
245. The FWC continued its analysis of this issue in the June 2017 decision with reference to a qualification to the operation of a beneficial provision: "despite its beneficial purpose a statutory provision may be constrained in its operation if it represents a compromise between competing intentions" (paragraph 139). It referred to observations by Gleeson CJ in *Carr v Western Australia* [2007] 232 CLR 138, at paragraph 5. The passage in the judgment included:

"That general rule of interpretation, however, may be of little assistance where a statutory provision strikes a balance between competing interests, and the problem of interpretation is that there is uncertainty as to how far the provision goes in seeking to achieve the underlying purpose or object of the Act. Legislation rarely

pursues a single purpose at all costs. Where the problem is one of doubt about the extent to which the legislation pursues a purpose, stating the purpose is unlikely to solve the problem. For a court to construe the legislation as though it pursued the purpose to the fullest possible extent may be contrary to the manifest intention of the legislation and a purported exercise of judicial power for a legislative purpose."

246. At paragraph 141, which we quoted earlier, the FWC sets out the factors which lead it to the conclusion in paragraph 142:

"[141] It seems to us that the statutory provisions relevant to the fixation of the NMW plainly seek to strike a balance between competing interests. So much is clear from the range of considerations the Panel is required to take into account in giving effect to the minimum wages objective (for example compare s.284(1)(a) and (c)). It is also clear from the minimum wages objective itself—to “establish and maintain a safety net of fair minimum wages”. Fairness in this context is to be assessed from the perspective of the employees and employers covered by the NMW order. The object of the Act also speaks to multiple legislative purposes. Section 3 provides that the object of the Act ‘is to provide *a balanced framework* for cooperative and productive workplace relations that promotes national prosperity and social inclusion for all Australians’ (emphasis added), by the means specified in sections 3(a) to (g).

[142] It follows that while the statutory provisions relating to the Review and to NMW orders are properly characterised as remedial or beneficial provisions, the extent to which they are to be given ‘a fair, large and liberal’ interpretation in pursuit of that broad purpose is constrained by the fact that the relevant provisions seek to strike a balance between competing interests.”

247. The conclusion in paragraph 142 accepts that the section 284(1) has to be read beneficially and in a way that promotes the protection of workers, subject, of course, to the proper application of the statutory considerations.
248. ACCER submits that its construction of section 284(1), as outlined earlier, is established by a plain reading of the terms of the subsection and is preferable to the construction adopted by the FWC in the June 2017 decision. To the extent that there may be any doubt or ambiguity about the construction of section 284(1), the beneficial nature of the subsection supports ACCER's construction. In the FWC's words in Bowker "if more than one interpretation is available or there is uncertainty as to the meaning of the words, such that the construction of the legislation presents a choice, then a beneficial interpretation may be adopted."

249. Furthermore, a beneficial reading of section 284(1) excludes decision-making being based on the application of the criterion of fairness as between employers and employees, as was said by the FWC in the passages referred to earlier. The plain reading and the beneficial reading are consistent with the interests and perspectives of employers being taken into account through the consideration of the matters in section 284(1)(a) and (b).
250. Finally in relation to this aspect, it should be noted that the beneficial construction of legislation has two consequences: it informs the construction of legislation and it means, in cases where the construction impacts on a decision-making process, such as the setting of minimum wage, that the decision maker is to exercise those powers in a way that is "fair, large and liberal". This means extending within a fair reading of the terms of the legislation, rather than restricting, the effective coverage of the minimum wage protections in the *Fair Work Act*. The exclusion of single breadwinner couple families with children, as discussed in Chapter 6, from the effective protection of the legislation is contrary to a beneficial construction of the legislation.

The legislative intent

251. Further support for the ACCER's contentions that the purpose of the NMW safety net wage is to provide a decent standard of living is found in the *Explanatory Memorandum* to the then *Fair Work Bill*. The *Explanatory Memorandum* refers to the proposed legislation fulfilling the election commitments made by the Government prior to the 2007 election:

"As the means for fulfilling the election commitments made by the Government in *Forward with Fairness*, released April 2007, and *Forward with Fairness – Policy Implementation Plan*, released August 2007, this Bill provides a much needed opportunity to reconceptualise the legislation from first principles and..." (*Explanatory Memorandum, Fair Work Bill 2008*, page iv)

252. *Forward with Fairness*, released in April 2007, provided:

"Working families in modern Australia face the daily challenge of balancing the pressures of work with the demands of family life, pay their mortgage and participating in the community.

This is a difficult task, but when Australian working families face cuts to their take home pay, no certainty about their hours of work and no job security, the task becomes almost impossible.

Labor believes in supporting Australian working families. Labor also believes in a fair day's pay for a fair day's work....

A Rudd Labor Government will guarantee a safety net of decent, relevant and enforceable minimum wages and conditions for working Australians.

....

Decent minimum wages are central to Labor's safety net.

Under Labor, Fair Work Australia will review minimum wages in an open and transparent process conducted once each year....

Fair Work Australia will consider all the evidence available to it and make a decision which is fair to Australian working families, promotes employment growth, productivity, low inflation and downward pressure on interest rates" (Pages 7 and 11)

Conclusion

253. For the reasons set out in this section, ACCER asks the FWC to reconsider its construction of section 284(1) in respect of the setting of the NMW and section 134(1) in respect of award wages.
254. It might be noted that ACCER's submissions of 12 May 2017 referred to the limited time available before the handing down of the decision in the then current annual wage review and proposed that the issues raised be listed as a preliminary matter in the Annual Wage Review 2017-18. This has not been done. However, they are matters that the FWC can reasonably ask the parties to address in submissions to be filed by, we propose, a date in late April 2018, with replies to be filed fourteen days later.

7.C. The FWC's wages relativities policy

255. In each year since 2011 the FWC has increased the NMW and award rates of pay by a uniform percentage. The basis for this practice has been, what ACCER has termed, the FWC's "wages relativities policy". In each of those years the ACTU has claimed tiered increases in minimum wage rates, with a flat dollar amount for all classifications up to the C10 classification rate and a percentage increase, based on the percentage equivalent of the C10 increase, for classifications above that rate. The reason for the tiered claim was to provide relatively more to those most in need. Over this period ACCER has made similar claims in order to provide relatively more for low paid, but added claims for a further increase in the NMW. For seven consecutive years the ACTU and ACCER have failed to get one dollar extra for low paid workers and for those most in need.
256. The wages relativities policy has locked the NMW into a fixed relationship with award wage rates and their relativities and, we submit, has prevented the setting of the NMW in accordance with the requirements of the *Fair Work Act*: the FWC has failed to set the

NMW as a fair safety net, as intended by the legislation. Its obligation when setting the fair safety net to take into account the “needs of the low paid”, when setting the NMW as a fair safety net (see section 284(1) (c)) and for awards (see section 134(1)(a)) has been effectively disregarded by this policy. Of course, its decisions have referred to the needs of the low paid, but those considerations have had no practical effect given the policy. It could not be reasonably said that the objective of the NMW and the needs of the low paid were fully considered, but were outweighed by the application of the policy.

257. These arguments were rejected in the June 2017 decision, at paragraphs 146-65. Parts of that section of the decision have been considered in the foregoing section of this submission. Having regard to those matters and the matters in this section, ACCER maintains its contentions that the wages relativities policy is contrary to law and asks the FWC to reconsider its June 2017 decision on this matter.
258. Before turning to the requirements of the legislation, it should be noted that the wages relativities policy is also unsound policy. It is unsound policy because it is at odds with the general intent of Australian public policy to give priority and preference to those most in need. This kind of preference is not just found in public policy: it is found in the widespread sense of fairness within the country and in the tradition of giving the battler a "fair go". The value of fairness, as we have used it in Australia, requires the recognition of the need to support the battlers, including low paid workers.
259. The lack of this kind of fairness is more concerning when we consider that the FWC's decisions impact on the lives of hundreds of thousands of children who are living in poverty. This is why these battlers who struggle on low wages to support their children are entitled to ask "How many children have to live in poverty before the Fair Work Commission does something to alleviate our poverty?"
260. The claims for tiered wage increases have been modest. Since 2011 the application of the tiered approach would have yielded a modest improvement in the lives of the low paid and their families. We can calculate the effect of this kind of adjustment over time by comparing the increases in the NMW and the C10 wage rate. Since 2011 the NMW has increased by \$125.00 per week (including the 2017 increase) while the C10 rate has increased by \$145.50 per week. This increase of \$20.50 per week at the NMW rate,

which reduces across the higher wage rates towards the C10 rate, would provide significant support for the lowest paid workers.

261. The origin of the wages relativities policy is in the following paragraph from the June 2011 decision:

“[307] Section 134 of the Fair Work Act requires the Panel to ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net. The matters which must be taken into account in an annual wage review include relative living standards and the needs of the low paid. *The nature of increases to award rates in annual reviews over the last twenty years has compressed award relativities in the award classification structures and reduced the gains from skills acquisition. The position of the higher award classifications has also been reducing relative to market rates and to average earnings.* Furthermore, while the real value of minimum wages has been maintained at the lower award classification levels, it is clear that the real value of minimum wages above those levels has fallen. On the information available to us at present we accept that many people have their wages set at award rates higher up the scale. *The ACTU’s approach, which involves a dollar increase at the lower levels, would involve further compression of relativities below the C10 level.* For these reasons we consider that in this review we should decide on an increase which will not further compress award relativities and which will at least maintain the real value of minimum award wages.” (*Annual Wage Review 2010-11, Decision*, emphasis added.)

262. It is evident from the second last sentence that the FWC was not prepared to compress the relativities in the low paid classification below the C10 level even though the trade union movement, as the national representative of workers, had supported it. The preservation of award relativities prevailed over any and all considerations of fairness to the lowest paid workers, many of whom were living in poverty and unable to achieve a decent standard of living. The unfairness was compounded by the absence of any financial detriment to higher paid workers.
263. The fundamental problem has been the inadequacy of the NMW to provide a proper base upon which the award system could operate and provide appropriate recompense for the acquisition of skills and responsibilities. ACCER has made this kind of point since the first annual wage review under the *Fair Work Act 2009*. It was made in a passage in ACCER's submissions in the Annual Wage Review 2009-10, written in the context of ACCER expressing its satisfaction that the wage setting system had been changed and the need for a research program to assess the needs of the low paid:

"Our optimism is tempered, however, by the belief that no progress will be made on behalf of low paid workers and their families unless the major parties to the Annual Wage Review, and FWA [Fair Work Australia, as the FWC was then named], proceed with an enquiring mind. Close attention should be given to questions such as: how much income does the worker and his or her family need to live a decent life? There are no simple answers to that question, but it is the kind of question that must be answered in order to discharge the overriding statutory task to provide a *fair* safety net." (ACCER submission, paragraph 27, emphasis in original)

264. The point being made was that the consideration of the needs of the low paid is required in order for the proper discharge of the overriding statutory duty to provide a fair safety net NMW. It did not deny the obvious need for other matters to be considered in complying with the overriding statutory duty.
265. From 2011 ACCER has sought to increase the NMW to a point where it is sufficient to support a worker and his or her family at a decent standard of living. In addition to claiming dollar, not percentage increases, for low paid workers, ACCER has claimed further increases in the NMW so that, over time, it would move to a level where it could provide a decent standard of living. However, this kind of claim, as well as the ACTU's proposal for dollar increases for lower paid workers, were doomed to failure as a result of the policy to lock in the award wage relativities as they stood before the June 2011 decision. The NMW was tied to the award system in a way that prevented it from being adjusted so as to serve its statutory purpose.
266. It is unnecessary to set out the history of the events since 2011, but two matters should be noted. First, the FWC did not engage in the issue in the first few years of the policy being applied, despite ACCER's submissions; for example in 2013 it simply concluded: "The national minimum wage is currently set at the minimum wage for the C14 classification. We have not been persuaded to depart from that relationship." (*Annual Wage Review 2012-13, Decision*, paragraph 45). Second, ACCER mounted arguments that the NMW needed to be set independently of award wage rates, which the FWC accepted in 2015:
- “... as part of the decision making process in an annual wage review the [FWC’s] Panel must first form a view about the rate of the NMW it proposes to set in the review (taking into account the statutory considerations relevant to that discrete task) and then take that proposed NMW rate into account (along with the other relevant statutory considerations) in exercising its powers to set, vary or revoke

modern award minimum wage rates.” (*Annual Wage Review 2014-15, Decision*, [2015] FWCFB 3500, paragraph 137)

267. Despite the recognition that the NMW was to be set independently of award rates, and that separate statutory considerations applied to each aspect, the FWC awarded a uniform percentage increase; and did so again in the next two years.

The FWC’s rejection of ACCER’s submission

268. We now turn to the FWC’s rejection of the ACCER’s criticisms of the wages relativities policy in its March 2017 submission. Two related reasons were given by the FWC for the rejection. First, because

“... there is little practical difference between the range of considerations the Panel is obliged to take into account in making a NMW order and in reviewing and varying modern award minimum wages. In such circumstances it is hardly surprising that the 2, separate, functions have yielded the same result.” (Paragraph 149)

269. The second reason given concerns the construction of section 284(1):

“ACCER’s submission seeks to elevate *one* of the considerations the Panel is obliged to take into account—the needs of the low paid—above all others. ACCER *appears* to take 2 passages from previous Review decisions out of context and combine them into a composite formulation which it describes as ‘the operational objective of the NMW’” (Paragraph 150, emphasis added)

270. We have responded to the second reason in the previous section. It is unnecessary to repeat the matters discussed previously, save to say that the second reason disclosed a concentration on an incorrect view of the scope of the term “the needs of the low paid” (which treated a decent standard of living as part of one of the prescribed considerations) and a failure to identify the nature and purpose of the NMW safety net. This position explains why the reasons in both the May 2016 decision and the June 2017 decision conflated the range of considerations in sections 134(1) and 284(1) and treated them as having little practical difference.

271. The FWC’s conclusion that there was no practical difference between the considerations of each section, was problematic, but, more importantly, failed to take into account the different objectives of the NMW and award wages. This conclusion does not distinguish between the fundamentally different purposes of the NMW and award wage rates. The NMW is to be set as a general right regardless of the skills, responsibilities

and work value of the workers and the circumstances of his or her employment. On the other hand, award wages are to be set in the context of the operation of the industry and employment covered by the award and in circumstances where recognition can be given to these aspects of the work environment. Once that distinction is made, the considerations cannot be regarded or treated as if there is no practical difference between them.

272. A consequence of the application of the wages relativities policy is that the FWC has failed in each year to address the question of whether the NMW fulfils the requirements of the legislation.

Changes in the reasons for decision

273. Over the years 2011 to 2017 the relevant paragraph setting out the FWC's conclusion on award increases has changed, but their substance has remained the same. However, a further reason has been added in each of the last two decisions. The following paragraph from the June 2017 decision highlights the additions of the last two decisions. The italicised sentence first appeared in the May 2016 decision. The underlined passages first appeared in the June 2017 decision. The only other change in the text was in relation to the percentage increase, which changed each year.

“[99] As to the form of the increase, past flat dollar increases in award minimum rates have compressed award relativities and reduced the gains from skill acquisition. In doing so, classification structures designed to properly remunerate work according to its value, and to ensure that equal minimum rates are provided for work of equal or comparable value both within and across awards, have been distorted to a degree. A fundamental feature of the minimum wage objective is the requirement to establish and maintain ‘a safety net of fair minimum wages’, and a necessary element of this is that the level of those wages bears a proper relationship to the value of the work performed. Flat dollar increases may have had the effect of undermining the achievement of the objective in this respect. The position of the higher award classifications (applying to work of higher value) has reduced relative to market rates and to average earnings and has fallen in terms of real purchasing power. *A uniform percentage increase will particularly benefit women workers, because at the higher award classification levels women are substantially more likely than men to be paid the minimum award rate rather than a bargained rate.* These matters have led us to determine a uniform percentage increase. The considerations to which we have referred have led us to increase modern award minimum wages by 3.3 per cent.” (Footnote omitted, emphasis added.)

274. In the following paragraphs we examine these additions, each of which has been added with the apparent intention of providing further justification for the wages relativities policy.

Equal remuneration

275. In setting minimum wage rates the FWC is obliged by section 284(1)(d) to take into account "the principle of equal remuneration for work of equal or comparable value". The same obligation applies under section 134(1) in regard to awards. The FWC's consideration of this matter is in Chapter 8 of the June 2017 decision and is summarised in paragraphs 77 to 79 of the decision. The FWC concluded that "the grant of a uniform percentage adjustment to the NMW and modern award wage rates would be the approach most consistent with the equal remuneration principle" (see paragraph 77). The discussion leading to the conclusions repeats the substance of the matters in the May 2016 decision when the conclusion was amended to include this aspect.

276. The conclusion that the grant of a uniform percentage is most consistent with the equal remuneration principle is made in the context of evidence before the FWC in 2016 and 2017 that there are more low paid minimum wage-dependent women than there are minimum wage-dependent women working in higher wage classification. ACCER's March 2017 submission provided a detailed response to this evidence and argued that lower paid women would be advantaged by a flat dollar increase, rather than a percentage increase and that, in general, the economic interests of women would be best served by a flat dollar increase. ACCER maintains that position.

277. The FWC's obligation to take into account the principle of equal remuneration for work of equal or comparable value means that it is not able to discriminate between men and women in regard to the wage rates that it sets. Discrimination may be direct or indirect. Indirect discrimination will occur where the award wage rates for an occupation with a predominantly female workforce are undervalued compared to the same or similar work in an occupation with a predominantly male workforce. However, the conclusion from Chapter 8 does not turn on these aspects. Rather, it turns on the gender pay gap. The FWC's discussion on the earnings of women extends into the well-documented and concerning gender pay gap in Australia. It referred to its observation in the May 2016 that:

“... the causes of the gender pay gap were complex and influenced by factors such as: differences in types of jobs performed by men and women; discretionary payments; workplace structures and practices; and the historical undervaluation of female work and female-dominated occupations.” (June 2017 decision, paragraph 644, footnote omitted)

278. The gender pay gap is caused by factors outside the award system. In those occupations covered by an award, overaward payments favour men over women. The gender pay gap is notorious in occupations not covered by awards, which are typically areas of higher paid employment. Higher paid women, including those who are on award wage rates, are more likely to experience the gender pay gap than lower paid women, who are more likely to be on award wage rates. The FWC found:

“There are a higher proportion of women reliant upon award wages at the lower end of the pay scale. At the higher award classifications, women are more likely to be paid the award rather than the bargained rate than are men. Further, the gender pay gap is highest at the higher end of the pay scale among non-award reliant employees.” (June 2017 decision, paragraph 656, footnote omitted)

279. It is the conclusion in the last sentence of this passage that is relied on to strengthen the justification the case for uniform percentage increases.

280. The FWC's claimed justification for an outcome that favours higher paid women over lower paid women is that favouring higher paid women, the FWC believes, can do something towards closing the gender pay gap at higher income levels. However, the causes of the gender pay gap are not found in the terms of the awards, but in the practices of employers. The June 2017 decision does not show how the gender pay gap becomes relevant to its obligation in both section 134(1) and 284(1) to take into account "the principle of equal remuneration for work of equal or comparable value" when setting the wage safety net. The provision is designed to ensure that awards do not discriminate as between men and women. The FWC stated (at paragraph 642) that "Modern award minimum rates are structured to provide equal remuneration for work of equal or comparable value both within and across awards." This means that within awards and between awards (some of which have a relatively high proportion of women) there is no discrimination. This being so, there is no warrant for the FWC to compromise the rights of low paid women to a fair wage safety net, which is the explicit

obligation of the legislation. The decision compromised the setting of a fair safety net for the women who are most in need of financial support.

281. The reliance on the gender pay gap does not explain why the ACTU's claims for a tiered increase has been rejected. A tiered increase would recognise the interests of higher and lower paid women. Yet there is no reference to the ACTU's tiered claim in Chapter 8 of the June 2017 decision, where the choice is regarded as a choice between a flat dollar increase or a uniform percentage increase. Nor is there any consideration of the ACTU's claim elsewhere in the decision. Apart from recording that it has been made, the ACTU's claim for a tiered increase is ignored. The evident reason for that omission is the wages relativities policy. For the foregoing reasons, the reference to the equal remuneration principle in paragraph 99 of the June 2017 decision does not provide any justification for the wages relativities policy.

The further reasons given in 2017

282. The passages added by the June 2017 decision to the FWC's May 2016 reasons for its conclusion regarding uniform percentage increases also seek to justify the wages relativities policy. It argued that the granting of uniform increases was supported by a "fundamental feature" of the legislation, which is "the requirement to establish and maintain 'a safety net of fair minimum wages', and a necessary element of this is that the level of those wages bears a proper relationship to the value of the worked performed" (June 2017 decision, paragraph 99). The claim that "a necessary element of this is that the level of those wages bears a proper relationship to the value of the worked performed" is contentious. If it were clear it might provide a basis for a challenge by parties who are aggrieved by classifications and the rates set for them. It might also be noted that the paragraph states that "Flat dollar increases *may* have had the effect of undermining the achievement of the objective in this respect" (emphasis added), which carries with it an element of speculation.
283. What is clear, however, is that award making provisions empower the FWC to make awards that attract different wage rates. The *Fair Work Act* intends that the NMW will be established as a general wage entitlement upon which awards may provide further minimum wage entitlements covering "skill-based classifications and career structures"; see section 139(1)(a)(i). The FWC has the capacity to adopt policies in relation to the

setting of classifications and the wages rates for those classifications. However, the exercise of that discretion cannot be inconsistent with the obligation to take into account the matters specified in the legislation, none of which deal with the basis upon which award rates might be set and adjusted. Importantly, for the present case, a policy in respect of award rates and their relativities cannot compromise the FWC's obligation to set the NMW as a fair safety net. The wage setting system established by the *Fair Work Act* intends that the wage relativities in the award system operate on the basis of a fair safety net intended to provide a decent standard of living. The FWC's primary obligation in setting wage rates is to set a safety net wage that will provide a decent standard of living.

284. A statutory tribunal such as the FWC is entitled to adopt policies to guide the way in which it exercises its jurisdiction. The application of principles and policies is acceptable, and may be very desirable, when a decision-maker is provided with a range of considerations that must be taken into account in coming to a decision. The application of a policy will be contrary to law if it is applied by a tribunal in a mechanistic way without proper regard to the particular circumstances of a matter before it or if the tribunal's reasoning is inconsistent with the terms of the legislation under which it operates. Both aspects were identified in the judgment of Tracey J in *Gbojueh v Minister for Immigration and Border Protection* [2014] FCA 883, at 39:

“At both common law and under statutory judicial review a decision-maker will not commit jurisdictional error merely by having regard to a principle or policy when exercising a statutory discretion. Error, may, however, occur if the decision-maker considers him or herself bound to apply the policy without regard to countervailing considerations and acts accordingly. In *Elias v Commissioner of Taxation* [2002] FCA 845; (2002) 123 FCR 499 at 506-7 Hely J summarised the position as follows:

“The Commissioner is entitled to adopt a policy to provide guidance as to the exercise of the discretion, provided the policy is consistent with the statute by which the discretion is conferred. Thus if the statute gives a discretion in general terms, the discretion cannot be truncated or confined by an inflexible policy that it shall only be exercised in a limited range of circumstances. A general policy as to how a discretion will ‘normally’ be exercised does not infringe these principles, so long as the applicant is able to put forward reasons why the policy should be changed, or should not be applied in the circumstances of the particular case.”

See also: *R v Moore; Ex parte Australian Telephone and Phonogram Officers' Association* [1982] HCA 5, (1982) 148 CLR 600 at 612; *Tang v Minister for*

Immigration and Ethnic Affairs (1986) 67 ALR 177 at 189-190 (Pincus J); *Madafferi v Minister for Immigration and Multicultural Affairs* [2002] FCAFC 220, (2002) 118 FCR 326 at 358.”

285. Since 2011 the NMW has been locked into a fixed percentage relationship to the C10 rate and, beyond that, to a fixed percentage of the award rate for higher skilled positions. For so long as the FWC's relativities policy continues, the position of the low paid will not improve. Their wage increases will be determined by a global assessment of what the FWC concludes should apply to all award classifications. The FWC has repeatedly said that it "reject[s] a mechanistic or decision rule approach to wage fixation" (May 2016 decision at paragraph 151), but the relativities policy has been mechanistic and rule driven.
286. The application of the wages relativities policy has been inconsistent with the terms of the legislation that require the setting of a fair safety net NMW fair safety net award wages. The application of the policy has meant that the NMW has not been set independently of the operation of the award system, as the legislation intends. Furthermore, the FWC's obligation under the *Fair Work Act* to take into account the "needs of the low paid", when setting the NMW (see section 284(1) (c)) and award rates of pay (see section 134(1)(a)) are effectively disregarded by this policy.
287. For these reasons, ACCER submits that the relativities policy, as applied by the FWC since 2011, has been contrary to law and, further, the FWC has failed to set the NMW in accordance with the terms of the *Fair Work Act*. ACCER asks the FWC to reconsider its decision on this matter in the June 2017 decision.

CHAPTER 8

CONCLUSION

288. The first seven chapters of this submission set out in some detail the matters upon which ACCER relies for its Living Wage and award claims.
289. These claims are made for the purpose of improving the living standards of the lowest paid workers in Australia. Families are living in poverty and unable to achieve a decent standard of living even when there is a full time worker in the family. Working families are living in poverty because wages are insufficient to meet their essential needs. The NMW and low paid award wages do not provide a decent standard of living for the average Australian family with dependent children. The NMW is not a living wage.
290. This does not have to be so. The NMW is intended to provide workers with a decent standard of living. The following is an appropriate description of the objective the NMW and award wage rates based on it.
- "Full time workers have a reasonable expectation of a standard of living that will be in excess of poverty and one which will enable them to purchase the essentials for a 'decent standard of living' and engage in community life, assessed in the context of contemporary norms."
291. The FWC has accepted that the 60% of median disposable income measure of living standards provides the measure of the standard of living that those in full time employment are entitled to expect. It is an important benchmark in minimum wage setting because it demonstrates that hundreds of thousands of wage-dependent families are deprived of a decent standard of living; and many of them are living in poverty. However, recently released budget standards research now available to the FWC demonstrates that the 60% of median measure is insufficient to provide a decent standard of living for families. The disposable incomes of single breadwinner couple parent families and sole parent families who rely on the NMW or low paid award rates leave them in poverty or deprived of a decent standard of living.
292. The minimum wages system introduced by the *Fair Work Act 2009* operates in a way that makes a clear distinction between the setting of the NMW and the setting of award wages. The NMW has to be fixed independently of award wages, with the objective of setting a wage that provides a decent standard of living. It is not expected to cover

unusual circumstances, but must cover the ordinary and expected circumstances in which workers live. It must be a reasonable and proportionate application of the right to a decent standard of living, which is recognised in human rights laws and the *Fair Work Act*.

293. For the reasons set out in this submission ACCER seeks the following orders:

- The National Minimum Wage (NMW) be set at \$735.00 per week and \$19.35 per hour.
- Award wage rates up to the C10 award classification rate be increased by \$32.00 per week and award wage rates above the C10 rate be increased by 3.9%.
- No award rate shall be less than the NMW.

294. This year, as in past years, ACCER has made NMW and award claims that provide relatively more (in percentage terms) to low paid workers. This claim in respect of the NMW represents an increase of \$40.10 per week, \$8.10 per week more than the increase sought for award wage rates. To prevent award rates falling below the NMW, ACCER asks the FWC to determine that no award rate shall be less than the NMW.

295. The extra amount claimed in respect of the NMW is sought on the basis of it being the first step in the adjustment of the NMW to a level that achieves the statutory objective of the NMW. It is evident from the matters covered in the foregoing chapters that the NMW is manifestly inadequate. The NMW has to be adjusted over time having regard to matters such as the unmet needs of worker and economic circumstances.

296. There are a limited number of awards which have wage rates at the same level as the NMW, which are generally referred to as the C14 rate, and they are usually fixed as a transitional rate for the first three months of employment, with the next award rate being at the C13 rate, or its equivalent. The C13 rate is currently \$20.00 per week more than the NMW. The NMW has been effectively tied to the C14 rate since 1997 when the Federal Minimum Wage was set at the C14 level. This is an inappropriate basis for setting the NMW under the *Fair Work Act*.

297. ACCER proposes that award transitional rates, and any other rates in this \$20.00 per week range, be absorbed by successive adjustments to the NMW, so that the transitional classifications with rates that only apply below the C13 wage rate become redundant and the minimum rate of any award within this range be lifted to the C13 rate. This

would mean, for example, that the three month transitional rate in the *Restaurant Industry Award 2010* would be abolished, but the three month transitional rate in the *Miscellaneous Award 2010* (where the next rate is the C12 rate) would continue to operate, but with a higher minimum during the first three months of employment.

298. ACCER submits that the *Fair Work Act* enables these variations to the award system. The adjustments to particular award classification rates can be made by the FWC pursuant to section 285 and the consequential changes to award classifications can be made by the FWC, differently constituted, pursuant to section 157.
299. In this proposed transition towards a NMW that gives full and proper effect to the statutory objective, the proposed increase for 2018 would have an immediate benefit for the lowest paid workers in Australia. In the Annual Wage Review 2016-17 the number of employees on the NMW rate was estimated to be 66,100, with a further unknown number covered by the *Miscellaneous Award*; see June 2017 decision at paragraphs 160-1. The economic costs of ACCER's claim would be negligible, but would provide a significant in the lives of the lowest paid Australian workers.
300. If the FWC is prepared to increase the NMW in the manner proposed, ACCER will provide submissions as to how further increases in the NMW may be introduced in a way that recognises the need to have appropriate award relativities based on a NMW which is assessed independently of the award classification system. One of the matters that would need to be considered in this matter is the apparent inconsistency between the rates set for low paid workers in the award system; for example after the transitional period of employment the *Restaurant Industry Award* provides the C13 rate of \$714.90 per week, whereas the *Miscellaneous Award* provides the C12 rate of \$742.30 per week; and base rate for cleaners in the *Cleaning Services Award 2010* is only 20 cents per week less than the C12 rate.

APPENDIX A: Family Profiles and Incomes August 2016

Table A1. Count of Dependent Children in Couple Parent Families by Total Family Income (weekly), 2016

	Negative and Nil income	\$1-\$149 (\$1-\$7,799)	\$150-\$299 (\$7,800- \$15,599)	\$300-\$399 (\$15,600- \$20,799)	\$400-\$499 (\$20,800- \$25,999)	\$500-\$649 (\$26,000- \$33,799)	\$650-\$799 (\$33,800- \$41,599)	\$800-\$999 (\$41,600- \$51,999)	\$1,000- \$1,249 (\$52,000- \$64,999)	\$1,250- \$1,499 (\$65,000- \$77,999)	\$1,500- \$1,749 (\$78,000- \$90,999)	\$1,750- \$1,999 (\$91,000- \$103,999)	\$2,000 or more (\$104,000 or more)	Partial income stated and All incomes not stated	Total
Couple family with: No dependent children	1,824	592	1,327	940	1,730	3,383	7,803	12,984	25,976	27,646	27,919	27,505	243,494	98,739	481,862
Couple family with: One dependent child	4,521	1,962	3,338	2,272	8,479	11,634	20,571	31,220	49,008	57,197	55,237	56,656	404,189	97,479	803,763
Couple family with: Two dependent children	4,277	1,790	2,788	1,737	7,501	10,434	18,523	32,056	53,545	66,507	67,927	72,043	530,399	100,983	970,510
Couple family with: Three dependent children	1,659	662	1,124	700	3,546	4,629	7,744	13,164	21,781	25,847	25,551	26,292	175,875	39,710	348,284
Couple family with: Four dependent children	635	263	461	239	1,465	1,888	2,772	4,625	6,524	7,674	6,974	6,965	34,030	11,530	86,045
Couple family with: Five dependent children	169	62	96	89	395	526	716	1,160	1,570	1,752	1,469	1,341	5,465	2,650	17,460
Couple family with: Six or more dependent children	132	42	93	46	231	294	431	631	759	847	717	635	2,157	1,312	8,327
Total	13,217	5,373	9,227	6,023	23,347	32,788	58,560	95,840	159,163	187,470	185,794	191,437	1,395,609	352,403	2,716,251

Table A2. Count of Dependent Children in Sole Parent Families by Total Family Income (weekly), 2016

	Negative and Nil income	\$1-\$149 (\$1-\$7,799)	\$150-\$299 (\$7,800- \$15,599)	\$300-\$399 (\$15,600- \$20,799)	\$400-\$499 (\$20,800- \$25,999)	\$500-\$649 (\$26,000- \$33,799)	\$650-\$799 (\$33,800- \$41,599)	\$800-\$999 (\$41,600- \$51,999)	\$1,000- \$1,249 (\$52,000- \$64,999)	\$1,250- \$1,499 (\$65,000- \$77,999)	\$1,500- \$1,749 (\$78,000- \$90,999)	\$1,750- \$1,999 (\$91,000- \$103,999)	\$2,000 or more (\$104,000 or more)	Partial income stated and All incomes not stated	Total
One parent family with: No dependent children	2,927	1,695	4,049	2,173	9,609	11,697	27,727	36,947	41,841	34,984	25,802	21,844	70,582	50,260	342,137
One parent family with: One dependent child	8,836	4,072	13,553	17,258	26,105	38,894	29,972	31,177	32,521	23,029	18,006	13,212	32,021	27,530	316,186
One parent family with: Two dependent children	5,209	2,115	7,027	10,292	14,425	28,953	24,043	21,199	21,028	14,441	10,987	7,888	17,896	18,493	203,996
One parent family with: Three dependent children	1,685	699	2,122	3,580	4,547	9,878	11,391	7,812	6,665	4,182	2,958	1,991	4,456	7,218	69,184
One parent family with: Four dependent children	525	193	599	967	1,340	2,635	3,594	3,005	1,930	1,037	684	368	935	2,420	20,232
One parent family with: Five dependent children	170	54	169	284	339	671	886	927	580	255	180	116	210	822	5,663
One parent family with: Six or more dependent children	72	21	75	73	101	177	246	285	320	137	103	61	117	382	2,170
Total	19,424	8,849	27,594	34,627	56,466	92,905	97,859	101,352	104,885	78,065	58,720	45,480	126,217	107,125	959,568

Table A3. Labour Force Status of Parents in Couple Parent Families by Total Family Income (weekly), One Dependent Child in Family, 2016

	Negative and Nil income	\$1-\$149 (\$1-\$7,799)	\$150-\$299 (\$7,800- \$15,599)	\$300-\$399 (\$15,600- \$20,799)	\$400-\$499 (\$20,800- \$25,999)	\$500-\$649 (\$26,000- \$33,799)	\$650-\$799 (\$33,800- \$41,599)	\$800-\$999 (\$41,600- \$51,999)	\$1,000- \$1,249 (\$52,000- \$64,999)	\$1,250- \$1,499 (\$65,000- \$77,999)	\$1,500- \$1,749 (\$78,000- \$90,999)	\$2,000 or more (\$104,000 or more)	Partial income stated and All incomes not stated	Total
Couple family: Both employed, worked full-time	305	122	95	39	190	216	585	958	2,443	5,878	7,201	11,165	146,152	13,934
Couple family: One employed full-time, other part-time	155	98	126	51	243	503	1,175	3,230	10,121	17,960	19,693	20,603	133,245	13,500
Couple family: One employed full-time, other away from work	29	7	8	4	13	61	139	377	898	1,829	1,993	2,435	28,219	1,720
Couple family: One employed full-time, other unemployed	42	27	36	43	110	417	962	2,103	3,148	2,850	2,780	2,346	8,914	1,148
Couple family: One employed full-time, other not in the labour force	221	128	213	225	590	1,885	4,493	10,259	16,249	14,762	13,442	11,654	49,744	6,430
Couple family: One employed full-time, other labour force status not stated	3	0	4	3	7	9	29	50	54	57	62	55	277	19,554
Couple family: Both employed, worked part-time	58	62	118	35	331	609	1,511	2,439	4,135	4,336	2,976	2,676	11,515	2,150
Couple family: One employed part-time, other away from work	19	11	17	7	35	106	172	360	661	839	782	714	4,829	818
Couple family: One employed part-time, other unemployed	37	61	191	201	492	797	900	1,227	1,115	818	585	407	1,609	476
Couple family: One employed part-time, other not in the labour force	153	218	600	610	1,418	2,630	3,744	4,611	4,296	3,098	2,205	1,669	5,826	2,176
Couple family: One employed part-time, other labour force status not stated	3	3	0	3	14	14	28	27	30	16	20	12	77	12,988
Couple family: Both employed, away from work	50	22	10	5	35	39	81	148	303	497	450	555	4,744	1,345
Couple family: One away from work, other unemployed	10	9	19	20	54	73	118	149	171	174	115	122	496	154
Couple family: One away from work, other not in the labour force	81	42	77	54	168	304	460	701	922	745	644	548	2,428	1,127
Couple family: One away from work, other labour force status not stated	13	9	3	0	0	10	17	23	32	23	32	35	87	2,731
Couple family: Both unemployed	452	161	224	72	550	341	359	281	238	163	127	92	357	233
Couple family: One unemployed, other not in the labour force	728	263	514	269	1,171	1,070	1,120	938	770	517	306	244	1,056	502
Couple family: One unemployed, other labour force status not stated	0	4	0	0	7	9	6	3	4	6	0	4	12	1,804
Couple family: Both not in the labour force	2,138	709	1,065	615	3,012	2,520	4,620	3,266	3,345	2,546	1,795	1,285	4,421	3,407
Couple family: One not in the labour force, other labour force status not stated	14	8	13	12	20	26	35	39	35	22	22	8	35	9,560
Couple family: Both labour force status not stated	13	0	5	3	13	10	34	31	34	40	29	23	120	1,728
Total	4,524	1,964	3,338	2,271	8,473	11,649	20,588	31,220	49,004	57,176	55,259	56,652	404,163	97,485

Table A4. Labour Force Status of Parents in Couple Parent Families by Total Family Income (weekly), Two Dependent Children in Family, 2016

	Negative and Nil income	\$1-\$149 (\$1-\$7,799)	\$150-\$299 (\$7,800- \$15,599)	\$300-\$399 (\$15,600- \$20,799)	\$400-\$499 (\$20,800- \$25,999)	\$500-\$649 (\$26,000- \$33,799)	\$650-\$799 (\$33,800- \$41,599)	\$800-\$999 (\$41,600- \$51,999)	\$1,000- \$1,249 (\$52,000- \$64,999)	\$1,250- \$1,499 (\$65,000- \$77,999)	\$1,500- \$1,749 (\$78,000- \$90,999)	\$1,750- \$1,999 (\$91,000- \$103,999)	\$2,000 or more (\$104,000 or more)	Partial income stated and All incomes not stated	Total
Couple family: Both employed, worked full-time	376	133	86	31	212	241	628	1,128	2,707	6,090	7,497	11,612	173,506	12,616	216,863
Couple family: One employed full-time, other part-time	292	138	220	42	340	692	1,507	4,126	12,327	23,246	27,357	30,704	219,446	14,369	334,806
Couple family: One employed full-time, other away from work	32	9	17	8	28	61	130	337	911	1,715	1,995	2,410	23,216	1,598	32,467
Couple family: One employed full-time, other unemployed	45	21	48	34	92	315	757	1,834	3,354	3,208	3,126	2,939	11,541	1,142	28,456
Couple family: One employed full-time, other not in the labour force	300	155	234	191	570	1,739	4,158	10,139	18,070	18,536	17,831	15,682	64,405	6,463	158,473
Couple family: One employed full-time, other labour force status not stated	3	0	0	0	4	3	25	51	56	82	68	72	327	19,272	19,963
Couple family: Both employed, worked part-time	56	67	116	37	301	570	1,357	2,364	4,304	4,675	3,455	3,188	14,009	1,808	36,307
Couple family: One employed part-time, other away from work	20	16	17	4	50	80	174	316	685	847	851	839	5,462	817	10,178
Couple family: One employed part-time, other unemployed	41	69	167	157	358	730	837	1,220	1,140	792	599	430	2,043	436	9,019
Couple family: One employed part-time, other not in the labour force	152	206	503	514	1,238	2,346	3,370	4,745	4,845	3,161	2,121	1,584	5,252	1,662	31,699
Couple family: One employed part-time, other labour force status not stated	0	0	7	5	7	7	15	20	23	33	19	14	81	17,875	18,106
Couple family: Both employed, away from work	64	17	13	6	31	38	100	145	333	500	520	538	4,032	1,403	7,740
Couple family: One away from work, other unemployed	7	14	18	8	33	69	76	135	155	151	124	90	454	153	1,487
Couple family: One away from work, other not in the labour force	90	44	69	46	157	293	404	768	982	927	754	699	2,564	1,034	8,831
Couple family: One away from work, other labour force status not stated	11	0	3	0	0	5	12	15	31	28	19	20	98	2,551	2,793
Couple family: Both unemployed	398	139	177	90	473	321	352	390	244	179	104	110	350	185	3,512
Couple family: One unemployed, other not in the labour force	635	238	363	187	1,039	901	1,172	1,180	713	507	360	283	938	478	8,994
Couple family: One unemployed, other labour force status not stated	0	5	0	0	4	3	0	5	10	0	7	3	8	2,068	2,113
Couple family: Both not in the labour force	1,722	512	707	367	2,536	1,975	3,396	3,075	2,569	1,752	1,080	791	2,519	2,136	25,137
Couple family: One not in the labour force, other labour force status not stated	18	16	14	5	12	22	31	32	40	34	20	17	37	11,396	11,694
Couple family: Both labour force status not stated	12	0	3	3	15	18	21	22	37	42	23	30	115	1,518	1,859
Total	4,274	1,799	2,782	1,735	7,500	10,429	18,522	32,047	53,536	66,505	67,930	72,055	530,403	100,980	970,497

Table A5. Labour Force Status of Parents in Couple Parent Families by Total Family Income (weekly), Three or more Dependent Children in Family, 2016

	Negative and Nil income	\$1-\$149 (\$1-\$7,799)	\$150-\$299 (\$7,800- \$15,599)	\$300-\$399 (\$15,600- \$20,799)	\$400-\$499 (\$20,800- \$25,999)	\$500-\$649 (\$26,000- \$33,799)	\$650-\$799 (\$33,800- \$41,599)	\$800-\$999 (\$41,600- \$51,999)	\$1,000- \$1,249 (\$52,000- \$64,999)	\$1,250- \$1,499 (\$65,000- \$77,999)	\$1,500- \$1,749 (\$78,000- \$90,999)	\$1,750- \$1,999 (\$91,000- \$103,999)	\$2,000 or more (\$104,000 or more)	Partial income stated and All incomes not stated	Total
Couple family: Both employed, worked full-time	173	46	53	20	122	122	335	581	1,265	2,334	2,636	4,152	56,365	6,307	74,511
Couple family: One employed full-time, other part-time	121	79	104	41	178	371	822	2,017	5,498	9,745	11,414	13,103	92,169	8,367	144,029
Couple family: One employed full-time, other away from work	13	6	14	3	13	29	60	157	429	763	877	1,070	8,202	854	12,490
Couple family: One employed full-time, other unemployed	19	16	18	23	54	138	314	646	1,218	1,484	1,319	1,277	4,578	681	11,785
Couple family: One employed full-time, other not in the labour force	198	90	131	121	391	1,150	2,524	5,386	10,677	12,762	12,289	10,760	38,986	5,294	100,759
Couple family: One employed full-time, other labour force status not stated	0	0	0	0	4	5	13	26	43	45	41	42	167	6,410	6,796
Couple family: Both employed, worked part-time	22	24	49	9	146	261	553	1,049	1,803	1,985	1,506	1,304	5,534	1,185	15,430
Couple family: One employed part-time, other away from work	10	10	9	5	34	43	102	155	321	410	374	400	2,154	460	4,487
Couple family: One employed part-time, other unemployed	16	32	81	61	193	326	431	598	621	447	302	206	759	336	4,409
Couple family: One employed part-time, other not in the labour force	108	102	320	285	768	1,520	2,040	2,975	3,722	2,626	1,601	1,078	2,800	1,557	21,502
Couple family: One employed part-time, other labour force status not stated	0	0	3	5	4	18	21	18	18	16	20	14	27	7,632	7,796
Couple family: Both employed, away from work	23	7	7	9	8	26	50	84	158	234	225	218	1,403	735	3,187
Couple family: One away from work, other unemployed	6	9	10	6	18	27	53	68	86	81	81	63	186	126	820
Couple family: One away from work, other not in the labour force	75	29	62	45	108	192	294	575	727	715	600	471	1,560	1,073	6,526
Couple family: One away from work, other labour force status not stated	0	3	0	0	0	7	12	0	9	13	12	8	44	1,124	1,232
Couple family: Both unemployed	182	66	76	32	278	221	248	315	200	122	66	70	135	216	2,227
Couple family: One unemployed, other not in the labour force	421	138	279	141	921	759	917	1,418	889	542	307	235	602	596	8,165
Couple family: One unemployed, other labour force status not stated	0	0	3	0	0	4	0	8	3	0	6	0	4	967	995
Couple family: Both not in the labour force	1,184	357	547	267	2,362	2,084	2,815	3,446	2,864	1,746	1,003	741	1,757	2,484	23,657
Couple family: One not in the labour force, other labour force status not stated	17	8	5	4	24	17	26	30	53	24	16	12	37	7,686	7,959
Couple family: Both labour force status not stated	12	0	7	3	8	16	14	23	37	30	16	10	56	1,113	1,345
Total	2,600	1,022	1,778	1,080	5,634	7,336	11,644	19,575	30,641	36,124	34,711	35,234	217,525	55,203	460,107

Table A6. Labour Force Status of Parents in Sole Parent Families by Total Family Income (weekly), One Dependent Child in Family, 2016

	Negative and Nil income	\$1-\$149 (\$1-\$7,799)	\$150-\$299 (\$7,800-\$15,599)	\$300-\$399 (\$15,600-\$20,799)	\$400-\$499 (\$20,800-\$25,999)	\$500-\$649 (\$26,000-\$33,799)	\$650-\$799 (\$33,800-\$41,599)	\$800-\$999 (\$41,600-\$51,999)	\$1,000-\$1,249 (\$52,000-\$64,999)	\$1,250-\$1,499 (\$65,000-\$77,999)	\$1,500-\$1,749 (\$78,000-\$90,999)	\$1,750-\$1,999 (\$91,000-\$103,999)	\$2,000 or more (\$104,000 or more)	Partial income stated and All incomes not stated	Total
One parent family: Employed, worked full-time	251	174	365	490	944	3,137	7,328	12,565	16,515	13,420	11,871	9,201	23,204	9,627	109,092
One parent family: Employed, worked part-time	253	751	2,397	3,703	6,523	14,034	12,772	11,114	8,868	5,409	3,607	2,215	4,415	5,744	81,805
One parent family: Employed, away from work	103	115	275	355	594	1,038	964	958	980	710	563	427	1,050	1,364	9,496
One parent family: Unemployed	1,402	738	2,943	2,902	3,915	3,919	1,509	1,190	1,029	622	376	253	611	1,485	22,894
One parent family: Not in the labour force	6,783	2,261	7,495	9,743	14,043	16,676	7,320	5,286	5,076	2,847	1,567	1,094	2,698	7,332	90,221
One parent family: Labour force status not stated	47	31	85	72	90	94	85	60	60	34	21	27	48	1,982	2,736
Total	8,839	4,070	13,560	17,265	26,109	38,898	29,978	31,173	32,528	23,042	18,005	13,217	32,026	27,534	316,244

Source of data: Australian Bureau of Statistics - Census of Population and Housing 2016 (TableBuilder LFSF by CDCF by FINF)

Table A7. Labour Force Status of Parents in Sole Parent Families by Total Family Income (weekly), Two Dependent Children in Family, 2016

	Negative and Nil income	\$1-\$149 (\$1-\$7,799)	\$150-\$299 (\$7,800-\$15,599)	\$300-\$399 (\$15,600-\$20,799)	\$400-\$499 (\$20,800-\$25,999)	\$500-\$649 (\$26,000-\$33,799)	\$650-\$799 (\$33,800-\$41,599)	\$800-\$999 (\$41,600-\$51,999)	\$1,000-\$1,249 (\$52,000-\$64,999)	\$1,250-\$1,499 (\$65,000-\$77,999)	\$1,500-\$1,749 (\$78,000-\$90,999)	\$1,750-\$1,999 (\$91,000-\$103,999)	\$2,000 or more (\$104,000 or more)	Partial income stated and All incomes not stated	Total
One parent family: Employed, worked full-time	136	91	160	310	545	1,720	3,821	6,679	9,452	7,887	7,012	5,553	13,046	6,427	62,839
One parent family: Employed, worked part-time	170	436	1,545	2,425	4,067	9,455	9,859	9,258	7,323	4,005	2,501	1,413	2,536	4,426	59,419
One parent family: Employed, away from work	79	64	133	184	307	739	645	568	521	366	280	200	503	798	5,387
One parent family: Unemployed	896	327	1,303	1,488	1,939	3,438	1,606	811	629	382	201	117	338	1,081	14,556
One parent family: Not in the labour force	3,902	1,190	3,850	5,844	7,507	13,523	8,040	3,851	3,066	1,784	984	596	1,456	4,701	60,294
One parent family: Labour force status not stated	30	8	33	47	60	66	72	35	40	17	12	8	16	1,070	1,514
Total	5,213	2,116	7,024	10,298	14,425	28,941	24,043	21,202	21,031	14,441	10,990	7,887	17,895	18,503	204,009

Source of data: Australian Bureau of Statistics - Census of Population and Housing 2016 (TableBuilder LFSF by CDCF by FINF)

Table A8. Labour Force Status of Parents in Sole Parent Families by Total Family Income (weekly), Three Dependent Children in Family, 2016

	Negative and Nil income	\$1-\$149 (\$1-\$7,799)	\$150-\$299 (\$7,800- \$15,599)	\$300-\$399 (\$15,600- \$20,799)	\$400-\$499 (\$20,800- \$25,999)	\$500-\$649 (\$26,000- \$33,799)	\$650-\$799 (\$33,800- \$41,599)	\$800-\$999 (\$41,600- \$51,999)	\$1,000- \$1,249 (\$52,000- \$64,999)	\$1,250- \$1,499 (\$65,000- \$77,999)	\$1,500- \$1,749 (\$78,000- \$90,999)	\$1,750- \$1,999 (\$91,000- \$103,999)	\$2,000 or more (\$104,000 or more)	Partial income stated and All incomes not stated	Total
One parent family: Employed, worked full-time	61	24	66	97	165	535	1,215	1,909	2,650	2,163	1,926	1,425	3,459	2,258	17,953
One parent family: Employed, worked part-time	63	166	588	774	1,365	3,123	3,730	3,676	3,247	1,702	977	511	928	2,231	23,081
One parent family: Employed, away from work	32	26	55	83	117	280	296	267	233	148	107	75	134	386	2,239
One parent family: Unemployed	304	148	421	574	669	1,543	1,526	809	433	259	112	78	159	805	7,840
One parent family: Not in the labour force	1,982	587	1,821	3,368	3,982	7,843	9,316	5,348	2,925	1,328	797	437	1,012	4,352	45,098
One parent family: Labour force status not stated	11	15	12	11	29	40	41	19	20	9	6	11	20	804	1,048
Total	2,453	966	2,963	4,907	6,327	13,364	16,124	12,028	9,508	5,609	3,925	2,537	5,712	10,836	97,259

Source of data: Australian Bureau of Statistics - Census of Population and Housing 2016 (TableBuilder LFSF by CDCF by FINF)

Note: the following tables do not include the numbers of families recording nil or negative income, nor do they include Partial income stated and all incomes not stated.

Table A9**Working patterns of couple parent families with one child**

	Total income less than \$1000 per week		Total income \$1000 per week or more		Total families	
	N	%	N	%	N	%
1. One full time and other not in labour force	17793	22.4	105851	17.0	123644	17.6
2. One part time and other not in labour force	13831	17.4	17094	2.7	30925	4.4
3. One away from work and other not in labour force	1806	2.3	5287	0.8	7093	1.0
4. One unemployed and other not in labour force	5345	6.7	2893	0.5	8238	1.2
5. Both not in labour force	15807	19.9	13392	2.2	29199	4.2
6. Both full time	2205	2.8	172839	27.8	175044	24.9
7. One full time and other part time	5426	6.8	201622	32.4	207048	29.5
8. Both part time	5105	6.4	25638	4.1	30743	4.4
9. Both (employed and) away from work	340	0.4	6549	1.1	6889	1.0
10. One away from work and other unemployed	442	0.6	1078	0.2	1520	0.2
11. One part time and other away from work	708	0.9	7825	1.3	8533	1.2
12. One full time and other away from work	609	0.8	35374	5.7	35983	5.1
13. One full time and other unemployed	3698	4.7	20038	3.2	23736	3.4
14. One part time and other unemployed	3869	4.9	4534	0.7	8403	1.2
15. Both unemployed	1988	2.5	977	0.2	2965	0.4
16. Status of one or both not stated	531	0.7	1263	0.2	1794	0.3
Totals	79503	100.0	622254	100.0	701757	100.0

Table A10
Working patterns of couple parent families with two children

	Total income less than \$1250 per week		Total income \$1250 per week or more		Total families	
	N	%	N	%	N	%
1. One full time and other not in labour force	35256	27.5	116454	15.8	151710	17.5
2. One part time and other not in labour force	17767	13.8	12118	1.6	29885	3.5
3. One away from work and other not in labour force	2763	2.2	4944	0.7	7707	0.9
4. One unemployed and other not in labour force	5793	4.5	2088	0.3	7881	0.9
5. Both not in labour force	15137	11.8	6142	0.8	21279	2.5
6. Both full time	5166	4.0	198705	27.0	203871	23.6
7. One full time and other part time	19392	15.1	300753	40.8	320145	37.0
8. Both part time	9116	7.1	25327	3.4	34443	4.0
9. Both (employed and) away from work	683	0.5	5590	0.8	6273	0.7
10. One away from work and other unemployed	508	0.4	819	0.1	1327	0.2
11. One part time and other away from work	1342	1.0	7999	1.1	9341	1.1
12. One full time and other away from work	1501	1.2	29336	4.0	30837	3.6
13. One full time and other unemployed	6455	5.0	20814	2.8	27269	3.2
14. One part time and other unemployed	4678	3.6	3864	0.5	8542	1.0
15. Both unemployed	2186	1.7	743	0.1	2929	0.3
16. Status of one or both not stated	607	0.5	1197	0.2	1804	0.2
Totals	128350	100.0	736893	100.0	865243	100.0

Table A11**Working patterns of couple parent families with three or more children**

	Total income less than \$1,250 per week		Total income \$1,250 per week or more		Total families	
	N	%	N	%	N	%
1. One full time and other not in labour force	20470	26.0	74797	23.1	95267	23.7
2. One part time and other not in labour force	11732	14.9	8105	2.5	19837	4.9
3. One away from work and other not in labour force	2032	2.6	3346	1.0	5378	1.3
4. One unemployed and other not in labour force	5462	6.9	1686	0.5	7148	1.8
5. Both not in labour force	14742	18.7	5247	1.6	19989	5.0
6. Both full time	2544	3.2	65487	20.2	68031	16.9
7. One full time and other part time	9110	11.6	126431	39.1	135541	33.7
8. Both part time	3894	4.9	10329	3.2	14223	3.5
9. Both (employed and) away from work	349	0.4	2080	0.6	2429	0.6
10. One away from work and other unemployed	277	0.4	411	0.1	688	0.2
11. One part time and other away from work	679	0.9	3338	1.0	4017	1.0
12. One full time and other away from work	711	0.9	10912	3.4	11623	2.9
13. One full time and other unemployed	2427	3.1	8658	2.7	11085	2.8
14. One part time and other unemployed	2343	3.0	1714	0.5	4057	1.0
15. Both unemployed	1436	1.8	393	0.1	1829	0.5
16. Status of one or both not stated	502	0.6	660	0.2	1162	0.3
Totals	78710	100.0	323594	100.0	402304	100.0

Table A12
Working patterns of sole parent families with one child

	Total income less than \$800 per week		Total income \$800 per week or more		Total families	
	N	%	N	%	N	%
1. Employed, full time	12438	9.6	86776	57.9	99214	35.4
2. Employed, part time	40180	30.9	35628	23.8	75808	27.1
3. Employed, away from work	3341	2.6	4688	3.1	8029	2.9
4. Unemployed	15926	12.3	4081	2.7	20007	7.1
5. Not in labour force	57538	44.3	18568	12.4	76106	27.2
6. Labour force status not stated	457	0.4	250	0.2	707	0.3
Totals	129880	100.0	149991	100.0	279871	100.0

Table A13
Working patterns of sole parent families with two children

	Total income less than \$1000 per week		Total income \$1000 per week or more		Total families	
	N	%	N	%	N	%
1. Employed, full time	13326	12.3	42950	59.5	56276	31.2
2. Employed, part time	37045	34.3	17778	24.6	54823	30.4
3. Employed, away from work	2640	2.4	1870	2.6	4510	2.5
4. Unemployed	10912	10.1	1667	2.3	12579	7.0
5. Not in labour force	43805	40.5	7886	10.9	51691	28.7
6. Labour force status not stated	321	0.3	93	0.1	414	0.2
Totals	108049	100.0	72244	100.0	180293	100.0

Table A14**Working patterns of sole parent families with three or more children**

	Total income less than \$1,000 per week		Total income \$1,000 per week or more		Total families	
	N	%	N	%	N	%
1. Employed, full time	4011	7.1	11623	42.6	15634	18.6
2. Employed, part time	13422	23.7	7365	27.0	20787	24.8
3. Employed, away from work	1124	2.0	697	2.6	1821	2.2
4. Unemployed	5690	10.0	1041	3.8	6731	8.0
5. Not in labour force	32265	56.9	6499	23.8	38764	46.2
6. Labour force status not stated	167	0.3	66	0.2	233	0.3
Totals	56679	100.0	27291	100.0	83970	100.0

Table A15
2016 Census
Labour Force Status of 15-19 year olds

<i>LFSP Labour Force Status</i>	<i>Employed, worked full-time</i>	<i>Employed, worked part-time</i>	<i>Employed, away from work</i>	<i>Unemployed, looking for full-time work</i>	<i>Unemployed, looking for part-time work</i>	<i>Not in the labour force</i>	<i>Not stated</i>	<i>Total</i>
<i>TYPP Type of Educational Institution Attending</i>								
Preschool	0	0	0	0	0	0	0	0
Infants/Primary - Government	0	0	0	0	0	0	0	0
Infants/Primary - Catholic	0	0	0	0	0	0	0	0
Infants/Primary - Other Non Government	0	0	0	0	0	0	0	0
Secondary - Government	565	109,401	8,250	1,458	31,372	286,874	556	438,476
Secondary - Catholic	173	54,982	4,473	258	11,829	106,088	106	177,917
Secondary - Other Non Government	181	32,415	2,753	202	8,121	106,260	93	150,029
Technical or Further Educational Institution (including TAFE Colleges)	23,747	20,115	2,230	2,675	7,225	23,481	317	79,785
University or other Tertiary Institution	3,803	96,558	6,690	978	24,775	73,860	128	206,800
Other	1,557	3,954	357	758	1,440	9,843	89	17,999
Not stated	1,081	5,529	1,026	596	1,499	26,010	66,475	102,226
Not applicable	74,689	72,107	8,304	31,336	9,682	49,213	3,034	248,366
<i>Total</i>	<i>105,797</i>	<i>395,068</i>	<i>34,089</i>	<i>38,260</i>	<i>95,954</i>	<i>681,633</i>	<i>70,797</i>	<i>1,421,597</i>

APPENDIX B

MEASURES OF LIVING STANDARDS

Table B1
Median equivalised disposable household income
January 2001 – January 2017
(\$ per week)

	Median equivalised disposable household income (ABS)	Household Disposable Income per head (Melbourne Institute)	Median equivalised disposable household income (MEDHI)
January 2001	414.00	413.61	414.00
January 2002	-	455.00	437.00
January 2003	435.00	451.58	435.00
January 2004	500.00	477.34	500.00
January 2005	-	512.56	544.00
January 2006	568.00	530.84	568.00
January 2007	-	570.89	620.00
January 2008	687.00	619.91	687.00
January 2009	-	683.90	716.00
January 2010	714.00	680.19	714.00
January 2011	-	722.35	756.00
January 2012	790.00	753.39	790.00
January 2013	-	761.43	809.00
January 2014	844.00	795.09	844.00
January 2015	-	810.18	860.00
January 2016	853.00	814.54	853.00
January 2017	-	822.83	862.00
January 2018		819.09	858.00

Household Disposable Income (HDI) per head figures for January 2001 to January 2015 are taken from *Poverty Lines Australia, September Quarter 2016*, published by the Melbourne Institute. The figure used for each January is the published figure for the immediately preceding December quarter. The HDI figures for January 2016 and January 2017 are taken from *Poverty Lines Australia, September Quarter 2017*, the latest available publication in this series, with the figure used for January 2016 being the published figure for December 2015 and the figure for January 2017 being the figure for December 2016. The HDI estimate for January 2018 is the published figure for September 2017. The next in this series, covering the December quarter 2017, is due to be published in April 2018.

The median equivalised disposable household income figures for 2001, 2003, 2004, 2006, 2008, 2010, 2012 and 2014 are respectively taken from the calculations for 2000-01, 2002-03, 2003-04,

2005-06, 2007-08, 2009-10, 2011-12 and 2013-14 in *Household Income and Wealth, Australia, 2013-14*, cat. no. 6523.0, at Table 1. As the published figures for all of those years are in 2013-14 prices, the earlier years have been re-calculated in accordance with the disclosed price adjustments in Table 1.1 and rounded to the nearest dollar. The median equivalised disposable household income figure for January 2016 is from *Household Income and Wealth, Australia, 2015-16*, cat. no. 6523.0, at Table 1. The financial year figures calculated by the ABS have been used for each January within the survey periods. The MEDHI figure for January 2017 is calculated by applying the HDI increase of 1.0% from December 2015 to December 2016 to the ABS calculated figure of \$853.00 per week in 2015-16. The MEDHI figure for January 2018 is calculated by applying the HDI increase of 0.6% from December 2015 to September 2017 to the ABS calculated figure of \$853.00 per week in 2015-16.

Table B2

Relative living standards single workers without children
January 2001 – January 2017
(\$ per week)

	Median equivalised disposable household Income (MEDHI)	Disposable income (DI) NMW- dependent	DI of NMW as % of MEDHI	Disposable income (DI) C12- dependent	DI of C12 as % of MEDHI	Disposable income (DI) C10- dependent	DI of C10 as % of MEDHI
January 2001	414.00	346.38	84%	370.50	89%	406.53	98%
January 2002	437.00	354.76	81%	380.05	87%	416.81	95%
January 2003	435.00	366.37	84%	391.74	90%	429.14	99%
January 2004	500.00	377.93	76%	408.93	82%	444.77	89%
January 2005	544.00	396.78	73%	421.18	77%	457.78	84%
January 2006	568.00	412.84	73%	438.14	77%	475.40	84%
January 2007	620.00	449.93	73%	475.17	77%	510.94	82%
January 2008	687.00	467.59	68%	500.28	73%	538.06	78%
January 2009	716.00	494.29	69%	526.67	74%	570.03	80%
January 2010	714.00	497.17	70%	529.54	74%	572.90	80%
January 2011	756.00	521.86	69%	553.15	73%	596.56	79%
January 2012	790.00	537.49	68%	569.59	72%	614.52	78%
January 2013	809.00	556.87	69%	589.96	73%	636.14	79%
January 2014	844.00	569.44	67%	603.31	71%	648.47	77%
January 2015	860.00	581.11	68%	615.71	72%	658.72	77%
January 2016	853.00	593.75	70%	629.22	74%	670.69	79%
January 2017	862.00	606.23	70%	641.07	74%	682.48	79%
January 2018	858.00	623.78	73%	656.23	76%	698.99	81%

Table B3

**Relative living standards of
Couple parent families with two children
January 2001 – January 2017
(\$ per week)**

	Median equivalised disposable household Income (MEDHI)	Disposable income (DI) NMW- dependent	DI of NMW as % of MEDHI	Disposable income (DI) C12- dependent	DI of C12 as % of MEDHI	Disposable income (DI) C10- dependent	DI of C10 as % of MEDHI
January 2001	869.40	553.80	64%	578.51	67%	615.33	71%
January 2002	917.70	573.16	62%	599.04	65%	636.62	69%
January 2003	913.50	591.41	65%	617.37	68%	655.59	72%
January 2004	1050.00	609.60	58%	641.18	61%	677.84	65%
January 2005	1142.40	660.49	58%	685.48	60%	722.90	63%
January 2006	1192.80	688.40	58%	714.28	60%	752.36	63%
January 2007	1302.00	731.95	56%	757.77	58%	794.36	61%
January 2008	1442.70	760.09	53%	793.37	55%	831.97	58%
January 2009	1503.60	795.93	53%	828.89	55%	873.07	58%
January 2010	1499.40	808.36	54%	841.31	56%	885.49	59%
January 2011	1587.60	840.44	53%	872.32	55%	916.54	58%
January 2012	1659.00	864.41	52%	897.12	54%	942.89	57%
January 2013	1698.90	915.54	54%	949.25	56%	996.30	59%
January 2014	1772.40	938.24	53%	972.75	55%	1,018.81	57%
January 2015	1806.00	961.70	53%	997.17	55%	1,041.41	58%
January 2016	1791.30	980.78	55%	1,017.15	57%	1,059.88	59%
January 2017	1810.20	973.71	54%	1,009.62	56%	1,052.18	58%
January 2018	1801.80	992.61	55%	1,026.31	57%	1,070.40	59%

Table B4

**Relative living standards of
Sole parent with two children families
January 2001 – January 2017
(\$ per week)**

	Median equivalised disposable household Income (MEDHI)	Disposable income (DI) NMW- dependent	DI of NMW as % of MEDHI	Disposable income (DI) C12- dependent	DI of C12 as % of MEDHI	Disposable income (DI) C10- dependent	DI of C10 as % of MEDHI
January 2001	662.40	553.80	84%	578.51	87%	615.33	93%
January 2002	699.20	573.16	82%	599.04	86%	636.62	91%
January 2003	696.00	591.41	85%	617.37	89%	655.59	94%
January 2004	800.00	609.60	76%	641.18	80%	677.84	85%
January 2005	870.40	660.49	76%	685.48	79%	722.90	83%
January 2006	908.80	688.40	76%	714.28	79%	752.36	83%
January 2007	992.00	731.95	74%	757.77	76%	794.36	80%
January 2008	1099.20	760.09	69%	793.37	72%	831.97	76%
January 2009	1145.60	795.93	69%	828.89	72%	873.07	76%
January 2010	1142.40	808.36	71%	841.31	74%	885.49	78%
January 2011	1209.60	840.44	69%	872.32	72%	916.54	76%
January 2012	1264.00	864.41	68%	897.12	71%	942.89	75%
January 2013	1294.40	915.54	71%	949.25	73%	996.30	77%
January 2014	1350.40	938.24	69%	972.75	72%	1,018.81	75%
January 2015	1376.00	961.70	70%	997.17	72%	1,041.41	76%
January 2016	1364.80	980.78	72%	1,017.15	75%	1,059.88	78%
January 2017	1379.20	973.71	71%	1,009.62	73%	1,052.18	76%
January 2018	1372.80	992.61	72%	1,026.31	75%	1,070.40	78%

Table B5

Poverty lines for workers and families
January 2001 – January 2017
(\$ per week)

	Median equivalised disposable household income	Poverty Line Single	Poverty Line Couple and 2 children	Poverty Line Sole parent and 2 children
January 2001	414.00	248.40	521.64	397.44
January 2002	437.00	262.20	550.62	419.52
January 2003	435.00	261.00	548.10	417.60
January 2004	500.00	300.00	630.00	480.00
January 2005	544.00	326.40	685.44	522.24
January 2006	568.00	340.80	715.68	545.28
January 2007	620.00	372.00	781.20	595.20
January 2008	687.00	412.20	865.62	659.52
January 2009	716.00	429.60	902.16	687.36
January 2010	714.00	428.40	899.64	685.44
January 2011	756.00	453.60	952.56	725.76
January 2012	790.00	474.00	995.40	758.40
January 2013	809.00	485.40	1019.34	776.64
January 2014	844.00	506.40	1063.44	810.24
January 2015	860.00	516.00	1083.60	825.60
January 2016	853.00	511.80	1074.78	818.88
January 2017	862.00	517.20	1086.12	827.52
January 2018	858.00	514.80	1081.08	823.68

Table B6

Wages, taxes and family payments for NMW-dependent workers and families
January 2001 – January 2017
(\$ per week)

Year	NMW	NMW per year	NMW net	Medicare exemption	FTB A	FTB B	FTB A Supp.	FTB B Supp.	Rental assist. max.	Disposable income
2001	400.40	20,893	346.38	6.00	116.20	34.79	-	-	50.43	553.80
2002	413.40	21,571	354.76	6.20	122.92	36.82	-	-	52.46	573.16
2003	431.40	22,510	366.37	6.47	126.70	37.94	-	-	53.93	591.41
2004	448.40	23,397	377.93	6.73	130.48	39.06	-	-	55.40	609.60
2005	467.40	24,389	396.78	7.01	133.56	39.97	23.50	2.87	56.80	660.49
2006	484.40	25,276	412.84	7.27	139.06	41.02	24.06	5.88	58.27	688.40
2007	511.86	26,709	449.93	7.68	140.84	42.14	24.76	6.02	60.58	731.95
2008	522.12	27,244	467.59	7.83	147.46	43.54	25.60	6.23	61.84	760.09
2009	543.78	28,374	494.29	8.16	151.34	44.87	26.20	6.44	64.63	795.93
2010	543.78	28,374	497.17	8.16	156.94	46.55	27.28	6.65	65.61	808.36
2011	569.90	29,737	521.86	8.55	160.30	47.53	27.84	6.79	67.57	840.44
2012	589.30	30,750	537.49	8.84	164.64	48.79	27.84	6.79	70.02	864.41
2013	606.40	31,642	556.87	9.10	193.25	50.53	27.84	6.79	71.16	915.54
2014	622.20	32,466	569.44	9.33	199.74	52.26	27.84	6.79	72.84	938.24
2015	640.90	33,442	581.11	12.82	204.51	53.66	27.84	6.79	74.97	961.70
2016	656.90	34,277	593.75	13.14	208.54	54.58	27.84	6.79	76.14	980.78
2017	672.70	35,101	606.23	13.45	186.99	55.49	27.84	6.79	76.92	973.71
2018	694.90	36,260	623.78	13.90	188.69	55.49	27.84	6.79	78.12	992.61

Source: Data for years to 2017 are from *Working Australia, 2017: wages, families and poverty*, Table 28.
Payments are calculated on the basis of the year being 52.18 weeks.

Table B7
Wages, taxes and family payments for C12-dependent workers and families
January 2001 – January 2017
(\$ per week)

Year	C12	C12 per year	C12 net	Medicare exemption	FTB A	FTB B	FTB A Supp.	FTB B Supp.	Rental assist. max.	Disposable income
2001	439.60	22,938	370.50	6.59	116.20	34.79	-	-	50.43	578.51
2002	452.60	23,617	380.05	6.79	122.92	36.82	-	-	52.46	599.04
2003	470.60	24,556	391.74	7.06	126.70	37.94	-	-	53.93	617.37
2004	487.60	25,443	408.93	7.31	130.48	39.06	-	-	55.40	641.18
2005	506.60	26,434	421.18	7.60	133.56	39.97	23.50	2.87	56.80	685.48
2006	523.60	27,321	438.14	7.85	139.06	41.02	24.06	5.88	58.27	714.28
2007	551.00	28,751	475.17	8.26	140.84	42.14	24.76	6.02	60.58	757.77
2008	561.26	29,287	500.28	8.42	147.46	43.54	25.60	6.23	61.84	793.37
2009	582.92	30,417	526.67	8.74	151.34	44.87	26.20	6.44	64.63	828.89
2010	582.92	30,417	529.54	8.74	156.94	46.55	27.28	6.65	65.61	841.31
2011	609.00	31,778	553.15	9.14	160.30	47.53	27.84	6.79	67.57	872.32
2012	629.70	32,857	569.59	9.45	164.64	48.79	27.84	6.79	70.02	897.12
2013	648.00	33,813	589.96	9.72	193.25	50.53	27.84	6.79	71.16	949.25
2014	664.80	34,689	603.31	9.97	199.74	52.56	27.84	6.79	72.84	972.75
2015	684.70	35,727	615.71	13.69	204.51	53.66	27.84	6.79	74.97	997.17
2016	701.80	36,620	629.22	14.04	208.54	54.58	27.84	6.79	76.14	1,017.15
2017	718.60	37,897	641.07	14..52	186.99	55.49	27.84	6.79	76.92	1,009.62
2018	742.30	38,733	656.23	14.85	186.99	55.49	27.84	6.79	78.12	1,026.31

Source: Data for years to 2017 are from *Working Australia, 2017: wages, families and poverty*, Table 29.
Payments are calculated on the basis of the year being 52.18 weeks.

Table B8
Wages, taxes and family payments for C10-dependent workers and families
January 2001 – January 2017
(\$ per week)

Year	C10	C10 per year	C10 net	Medicare exemption	FTB A	FTB B	FTB A Supp.	FTB B Supp.	Rental assist. max.	Disposable income
2001	492.20	25,683	406.53	7.38	116.20	34.79	-	-	50.43	615.33
2002	507.20	26,466	416.81	7.61	122.92	36.82	-	-	52.46	636.62
2003	525.20	27,405	429.14	7.88	126.70	37.94	-	-	53.93	655.59
2004	542.20	28,292	444.77	8.13	130.48	39.06	-	-	55.40	677.84
2005	561.20	29,283	457.78	8.42	133.56	39.97	23.50	2.87	56.80	722.90
2006	578.20	30,170	475.40	8.67	139.06	41.02	24.06	5.88	58.27	752.36
2007	605.56	31,598	510.94	9.08	140.84	42.14	24.76	6.02	60.58	794.36
2008	615.82	32,133	538.06	9.24	147.46	43.54	25.60	6.23	61.84	831.97
2009	637.48	33,263	570.03	9.56	151.34	44.87	26.20	6.44	64.63	873.07
2010	637.48	33,263	572.90	9.56	156.94	46.55	27.28	6.65	65.61	885.49
2011	663.60	34,627	596.56	9.95	160.30	47.53	27.84	6.79	67.57	916.54
2012	686.20	35,806	614.52	10.29	164.64	48.79	27.84	6.79	70.02	942.89
2013	706.10	36,844	636.14	10.59	193.25	50.53	27.84	6.79	71.16	996.30
2014	724.50	37,804	648.47	10.87	199.74	52.56	27.84	6.79	72.84	1,018.81
2015	746.20	38,936	658.72	14.92	204.51	53.66	27.84	6.79	74.97	1,041.41
2016	764.90	39,912	670.69	15.30	208.54	54.58	27.84	6.79	76.14	1,059.88
2017	783.30	40,873	682.48	15.67	186.99	55.49	27.84	6.79	76.92	1,052.18
2018	809.10	42,219	698.99	16.18	186.99	55.49	27.84	6.79	78.12	1,070.40

Source: Data for years to 2017 are from *Working Australia, 2017: wages, families and poverty*, Table 30. Payments are calculated on the basis of the year being 52.18 weeks.