

10 October 2024

Gerard Hayes
Secretary
Health Services Union (NSW/ACT/QLD)

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DISCLOSURE OF NON-COMPLIANCE

Dear Mr Hayes,

I write to you in my capacity as Chief Executive Officer of Sunnyfield ABN 72 000 415 127 (**Sunnyfield**) to disclose a non-compliance issue resulting in some current and former employees of Sunnyfield not being paid correctly.

I have set out below some information about Sunnyfield, the circumstances of the underpayment, the steps taken / to be taken by Sunnyfield to remediate the underpayment, and our commitment to this process. I would welcome the opportunity to meet at your convenience to discuss these matters further.

About Sunnyfield

Sunnyfield is a member based, registered not-for-profit charity.

Our mission is to enrich the lives of people with intellectual disability through person-centred active supports that creates choice, opportunities and skills for life.

Each day our valued employees deliver nearly 2,000 support services for people with disability, including children, teenagers, adults and seniors.

Sunnyfield currently employs over 1,800 people in NSW and the ACT, to deliver accommodation services, social and community participation, supported employment, skills development and support coordination.

Background

During a regular audit of payroll processes, Sunnyfield found an issue in the way it has applied some terms and conditions of employment to a number of employees. This issue has resulted in these employees being underpaid based on their applicable rate of pay.

The issue relates to employees who are covered by the:

- *Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS Award)*, and
- *Sunnyfield Housing & Support Division Group Home Enterprise Agreement 2012-2015 (EA)*.

As the EA does not include a classification or pay point structure, the SCHADS Award classification pay point progression structure applies to staff under the EA.

Sunnyfield has determined that some employees have not consistently moved through the pay point progression (**PPP**) provisions under the SCHADS Award when eligible and, as a result, may not be on a pay point that accurately reflects their continuous employment, experience and performance with Sunnyfield.

The period of the underpayment is six years from the first full pay period after 5 October 2018, to the first full pay period after 5 October 2024 (**Underpayment Period**).

We have informed all our current employees today (including those impacted by the error) of the underpayment. We have expressed that we are deeply sorry that this has happened and unreservedly apologised to them that we have fallen short of the standards we set for ourselves. Sunnyfield would never deliberately underpay its employees, as it goes against everything we believe in. We regret this mistake has happened.

We have expressed to our employees that the work they do is vitally important to our clients and the community, and the dedication shown by them is respected by the Board and Senior Management. Sunnyfield understands the importance of ensuring they receive the right payments against the right terms and conditions for the work they do.

We have also confirmed to our employees that we have strengthened our assurance processes to ensure the highest levels of accuracy and compliance going forward.

We have contacted the Fair Work Ombudsman (FWO) and the Australian Services Union (ASU) to inform them of the issue and the Remediation Plan.

In addition, we have:

1. Briefed our management team so that they can answer employee questions.
2. Scheduled three all-employee meetings to talk through the issue with our people and provide them with the opportunity to make comment and answer their questions directly.
3. Set up a dedicated employee hotline.
4. Set up a dedicated email address to receive and answer questions.
5. Reminded our people of the counselling services available to them.
6. Scheduled smaller group education sessions for PPP procedures going forward.
7. Made commitment to our employees to provide regular updates.

We understand some of our people may have concerns about this issue. We intend to be open and transparent in all our communications with our people, our clients and other stakeholders.

We have made provision in Sunnyfield's 2024 financial statements for our financial obligations arising from the underpayments. Our balance sheet remains strong, and we are in a sound financial position to accommodate these remediation payments.

How we provide services for our clients will not be impacted.

Steps taken / to be taken by Sunnyfield to remediate the underpayment

Sunnyfield has determined a three-step process to remediate the underpayment. We anticipate the Remediation Process will be completed by 1 July 2025.

Step 1 – Correct the issue (partially completed):

- Review all employment worked by current employees eligible for PPP and their current classification. Where an employee's pay point does not reflect their continuous employment over 12-month periods and satisfactory performance, Sunnyfield will increase the employee's pay point as appropriate. This is due to be completed by the end of November 2024 as a priority.
- Simplify the PPP process to ensure it is compliant with the SCHADS Award for future employee pay point progression.
- The revised 'Classification and Pay Point Procedure' reflecting the simplification of the PPP process, has been completed and circulated to current employees. A copy of this revised procedure is attached.

Step 2 – Repay Current Employees

- We have engaged law firm (Sparke Helmore) and accounting financial firm (Stewart Brown) to assist in identifying and calculating back payment entitlements owing to current employees and oversee the remediation process.
- These advisers will support Sunnyfield to review:
 - Our records over the Underpayment Period to identify and calculate any back pay that may be owed to an affected current employee of Sunnyfield during this time, including any additional superannuation owing to employees affected by the PPP issue, as well as the payment of interest on the amounts determined; and
 - the terms and conditions Sunnyfield have, are correctly built into its workforce management systems to ensure employees receive the correct terms and conditions of employment in the future.
- We have identified all affected current employees.

Step 3 – Repay Former Employees

- Sparke Helmore and Stewart Brown will also assist to identify and calculate any back payment entitlements owing to former employees. We will do this by reviewing Sunnyfield's records over the Underpayment Period to identify and calculate any back pay that may be owed to an affected former employee of Sunnyfield during this time, including any additional superannuation expected to be owing to employees affected by the PPP issue, as well as the payment of interest on the amounts determined.
- We have identified all affected former employees.

Commitment

We are committed to providing regular updates to you, FWO, ASU, our employees and other stakeholders affected by this issue.

I look forward to meeting with you at your nominated time, to discuss these matters further.

Yours faithfully,

Andrew Hyland

Andrew Hyland

Chief Executive Officer