**2019 STATE WAGE ORDER PURSUANT TO SECTION 50A OF THE ACT; APPLICATION FOR THE CREATION OF A PRINCIPLE DEALING WITH CLAIMS FOR EQUAL REMUNERATION FOR MEN AND WOMEN FOR WORK OF EQUAL OR COMPARABLE VALUE**

**WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

**CITATION :** 2019 WAIRC 00290

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| **CORAM** | **:** Chief Commissioner P E Scott Senior Commissioner S J Kenner Commissioner T Emmanuel Commissioner D J Matthews Commissioner T B Walkington |

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| **HEARD** | **:** | Wednesday, 22 May 2019; TUESDAY, 4 JUNE 2019 |

**DELIVERED :** FRIDAY, 14 JUNE 2019

**FILE NO. :** APPL 1 OF 2019; appl 34 of 2018

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| **BETWEEN** | **:** | on the commission's Own Motion |

Catchwords **:** State Wage order 2019 - Commission's own motion - Minimum wage for employees under *Minimum Conditions of Employment Act 1993* - Award rates of pay - State of and differences between WA and national economies - Signs of economic improvement - Effects on employment - Employer's capacity to pay - References to international research - "Stepping stone effect" of low paid work - Productivity and profitability of various industries - Income inequality - Living standards and measures of relative poverty - Median wage - Living wage - Principle established for equal remuneration for men and women for work of equal or comparable value

Legislation **:** *Industrial Relations Act 1979* (WA)
*Minimum Conditions of Employment Act 1993* (WA)

Result **:** 2019 State Wage order issued; Principle 8. Claims for equal remuneration for men and women for work of equal or comparable value created

**Representation:**

Mr B Entrekin on behalf of the Hon Minister for Industrial Relations

Mr S Farrell and with him Mr J Walsh on behalf of the Chamber of Commerce and Industry of Western Australia (Inc)

Dr T Dymond on behalf of UnionsWA

Mr C Twomey and later Mr G Hansen on behalf of the Western Australian Council of Social Service Inc

*Reasons for Decision*

Each year, before 1 July, the Commission is required to make a general order, the State Wage order (SWO), setting out the State Minimum Wage (SMW) applicable under s 12 of the *Minimum Conditions of Employment Act 1993* (WA) (the MCE Act) to employees 21 years of age and over, and to apprentices. The SWO is also to adjust rates of wages paid under awards and make consequential changes to the awards, pursuant to s 50A of the *Industrial Relations Act 1979* (WA) (the IR Act).

The SWO also sets out a Statement of Principles to be applied and followed in the Commission’s exercise of jurisdiction under the IR Act to set the wages, salaries, allowances and other remuneration of employees, or the prices to be paid in respect of their employment (s 50A(1)(d)).

The Commission issued this application on its own motion on 2 January 2019 and published notices inviting submissions:

(1) on the Commission’s website on 12 March 2019;

(2) in the *Western Australian Industrial Gazette* on 27 March 2019 (2019)  99 WAIG 251;

(3) in *The West Australian* newspaper on 3 April and 13 April 2019; and

(4) in *WA Business News* on 1 April 2019.

Written submissions were received from a range of persons and organisations; from the Hon Minister for Industrial Relations (the Minister), the Chamber of Commerce and Industry of Western Australia (Inc) (CCIWA), UnionsWA, and the Western Australian Council of Social Service Inc (WACOSS).

Community Legal Centres Association (WA) Inc (CLCA) indicated an intention to appear and make a submission regarding equal remuneration for men and women for work of equal value. However, having had an opportunity to read and consider WACOSS’s submission on that issue, CLCA wrote to us advising that it supports that submission. We will deal later with CLCA’s comments.

The Commission convened on Wednesday, 22 May 2019 to hear oral submissions and receive evidence. The Commission reconvened on Tuesday 4 June 2019 after the Fair Work Commission (FWC) issued its Annual Wage Review decision (AWR) [***Annual Wage Review 2018-19***[2019] FWCFB 3501] on Thursday, 30 May 2019, which dealt with the National Minimum Wage (NMW).

The Commission again had the considerable benefit of evidence from Mr David Christmas, Director of the Economic and Revenue Forecasting Division of the Western Australian Department of Treasury regarding the state of the Western Australian economy. He also dealt with how it compares with the national economy. He did so by reference to a range of indicators including:

(a) the global and national economic conditions;

(b) the labour market including employment, unemployment and participation;

(c) wages including the wage price index;

(d) inflation; and

(e) risks to the economic outlook.

We express our appreciation for those submissions and evidence and acknowledge the research and effort taken by those who have made submissions. We have given them detailed consideration.

# The proposed increases

The Minister says that an increase to the SMW and adult award rates of pay of $19.20 is appropriate. A flat dollar amount is said to ensure that the lowest paid receive the greatest benefit.

CCIWA submits that the Commission ought to carefully consider the circumstances of the Western Australian economy, in the short to longer term, and adopt a cautious approach to the adjustment to the SMW. CCIWA recommends an increase to the SMW of no more than 1.4%.

UnionsWA advocates an increase in award wages and statutory minimum wage of $43.61 per week or 6%, whichever is greater. The full increase should be applied to apprentices and juniors. UnionsWA set out the effect on each award classification level by reference to the *Metal Trades (General) Award* which demonstrates that effect on the C 14 classification, the minimum wage rate, through to the C 5 rate at $961.20. The effect of 6% increase at the C 5 rate would be $57.67 with proportionate increases below that level.

WACOSS submits that an increase to the SMW of 6% or $43.61 per week is necessary to maintain a fair system of wages and conditions in the current Western Australian context, and that such an increase is very reasonable and takes into account the current economic conditions.

# The issues to be considered under the IR Act

In making a general order setting the SMW and award wages, the Commission is required to take into account a range of matters set out in s 50A(3) of the IR Act. They are:

(a) the need to —

 (i) ensure that Western Australians have a system of fair wages and conditions of employment; and

 (ii) meet the needs of the low paid; and

 (iii) provide fair wage standards in the context of living standards generally prevailing in the community; and

 (iv) contribute to improved living standards for employees; and

 (v) protect employees who may be unable to reach an industrial agreement; and

 (vi) encourage ongoing skills development; and

 (vii) provide equal remuneration for men and women for work of equal or comparable value;

 and

(b) the state of the economy of Western Australia and the likely effect of its decision on that economy and, in particular, on the level of employment, inflation and productivity in Western Australia; and

(c) to the extent that it is relevant, the state of the national economy; and

(d) to the extent that it is relevant, the capacity of employers as a whole to bear the costs of increased wages, salaries, allowances and other remuneration; and

(e) for the purposes of subsection (1)(b) and (c), the need to ensure that the Western Australian award framework represents a system of fair wages and conditions of employment; and

(f) relevant decisions of other industrial courts and tribunals; and

(g) any other matters the Commission considers relevant.

In exercising its jurisdiction, the Commission is also required to apply the requirements set out in s 26(1) of the IR Act including that it:

…

(c) shall have regard for the interests of the persons immediately concerned whether directly affected or not and, where appropriate, for the interests of the community as a whole; and

(d) shall take into consideration to the extent that it is relevant —

 (i) the state of the national economy;

 (ii) the state of the economy of Western Australia;

 (iii) the capacity of employers as a whole or of an individual employer to pay wages, salaries, allowances or other remuneration and to bear the cost of improved or additional conditions of employment;

 (iv) the likely effects of its decision on the economies referred to in subparagraphs (i) and (ii) and, in particular, on the level of employment and on inflation;

 (v) any changes in productivity that have occurred or are likely to occur;

 (vi) the need to facilitate the efficient organisation and performance of work according to the needs of an industry and enterprises within it, balanced with fairness to the employees in the industry and enterprises;

 (vii) the need to encourage employers, employees and organisations to reach agreements appropriate to the needs of enterprises and the employees in those enterprises.

It is clear that a number of the considerations in s 50A(3) of the IR Act overlap with those in s 26(1).

We also note the objects of the IR Act set out in s 6 and that a number of those objects are particularly relevant to the determinations the Commission is required to make. They include:

...

(ac) to promote equal remuneration for men and women for work of equal value; and

(ad) to promote collective bargaining and to establish the primacy of collective agreements over individual agreements; and

...

(af) to facilitate the efficient organisation and performance of work according to the needs of an industry and enterprises within it, balanced with fairness to the employees in the industry and enterprises; and

(ag) to encourage employers, employees and organisations to reach agreements appropriate to the needs of enterprises within industry and the employees in those enterprises; and

...

(ca) to provide a system of fair wages and conditions of employment; and

...

# Impact of the SWO

The Minister notes that in 2018 approximately 162,000 employees were paid entirely in accordance with State or national awards (ABS (2019), Employee, Earnings and Hours, Australia, May 2018, Data Cube 5 and ABS (2017), Employee Earnings and Hours, Australia, May 2016, Data Cube 5).

The Minister produced *Table 7: Employment and award reliance by industry, WA and Australia, February 2019* which sets out the proportions of the workforce in Western Australia (WA) and Australia by industry, according to their award reliance:

|  |  |  |  |
| --- | --- | --- | --- |
| **Industry** | **WA: Proportion of Workforce** | **Australia: Proportion of Workforce** | **Australia: Proportion of employees paid by award** |
| **Accommodation and food services** | 7.0% | 7.1% | 44.9% |
| **Administrative and support services** | 3.0% | 3.4% | 41.3% |
| **Other services** | 4.5% | 4.1% | 38.1% |
| **Health care and social assistance** | 11.8% | 13.3% | 31.7% |
| **Retail trade** | 10.2% | 10.1% | 30.1% |
| **Rental, hiring and real estate services** | 1.4% | 1.6% | 29.4% |
| **Arts and recreation services** | 1.7% | 2.0% | 22.5% |
| **Manufacturing** | 6.2% | 6.7% | 20.8% |
| **Construction** | 8.9% | 9.0% | 16.6% |
| **Wholesale trade** | 3.0% | 3.0% | 16.1% |
| **Transport, postal and warehousing** | 5.0% | 5.3% | 12.7% |
| **Public administration and safety** | 7.0% | 6.7% | 10.9% |
| **Education and training** | 7.2% | 7.8% | 10.0% |
| **Professional, scientific and technical services** | 8.1% | 8.9% | 8.0% |
| **Information, media and telecommunications** | 1.0% | 1.7% | 7.1% |
| **Financial and insurance services** | 2.0% | 3.5% | 5.2% |
| **Electricity, gas, water and waste services** | 1.5% | 1.2% | 4.1% |
| **Mining** | 7.7% | 1.9% | 0.9% |
| **Agriculture, forestry and fishing** | 2.6% | 2.7% | N/A \* |
| **All industries** | **100%** | **100%** | **22.5%** |

\*N/A: Enterprises primarily engaged in agriculture, forestry and fishing are outside the scope of the ABS *Employee, Earnings and Hours* survey from which this data is drawn

The Minister also notes that the Department of Mines, Industry Regulation and Safety (DMIRS) has analysed the top five most commonly accessed private sector award summaries on its website between 1 July 2018 and 9 April 2019 and these are: award free employees minimum pay rates and entitlements summary; *Building Trades (Construction) Award 1987; Shop and Warehouse (Wholesale and Retail Establishments) State Award 1977; Restaurant, Tearoom and Catering Workers’ Award, and Hairdressers Award 1989*.

The top five most commonly discussed awards in calls to Wageline between 1 July 2018 and 9 April 2019 related to: award free employees; *Restaurant, Tearoom and Catering Workers’ Award; Shop and Warehouse (Wholesale and Retail Establishments) State Award 1977; Building Trades (Construction) Award 1987; and Metal Trades (General) Award*.

This suggests that awards in the hospitality, retail, construction, hairdressing, and metal trades sectors are the most commonly utilised within the State’s system. However, there are also significant numbers of award free employees.

CCIWA noted that of the 230,570 actively trading businesses in WA, 97.2% are considered small businesses. 33.4% employ between one and 19 employees and only 2.6% employ between 20 and 199 employees. (ABS Cat. No. 8165.0, Counts of Australian Businesses, including Entries and Exits, June 2014 to June 2018).

CCIWA also notes the Productivity Commission’s Enquiry Report No. 76, *Workplace Relations Framework*, 30 November 2015, where it noted that ‘[a]s a safety net, awards also increase the wages and conditions for some employees above what they would otherwise be able to negotiate for themselves (328)’. This was evidenced by ‘almost one in five employees whose wages and conditions are set at exactly the award rate’ and it is said that this is the way that awards ‘rectify some of the imbalance of bargaining power that can exist in employee-employee relationships’.

The Productivity Commission also noted that ‘[a]ward reliant employees are more likely to work in the accommodation and food services, administrative and support services, retail trade, and other services, and health care and social assistance industries. Award reliant employees are more likely to be female and are younger and less skilled on average than other groups (308)’.

CCIWA referred to the Australian Government’s submission to this year’s AWR that around 35% of small business employees are paid award classification wages and that proportion is higher in certain industries.

The following table sets out percentages of small business employees paid award classification wages and the share of employment of small businesses in each of those industries:

|  |  |  |
| --- | --- | --- |
| Industry | Percentage of employees at award rate | Small business as a percentage |
| Accommodation and food services | 44.9 | 45.9 |
| Administrative and support services | 41.3 | 30.0 |
| Other services | 38.1 | 68.2 |
| Health care and social assistance | 31.7 | 30.0 |
| Retail trades | 30.1 | 33.3 |

CCIWA notes that together these industries account for 67.5% of all award reliant employees.

CCIWA says that in the absence of accurate data regarding the actual coverage of the State system, it is reasonable to translate those percentages to the State award reliance considerations where low paid award classifications and industries would be concentrated. Therefore, it says the impact of the SWO will be largely felt by those on the SMW and lower award classifications.

UnionsWA points out that workers who are likely to be paid the lowest rate which they can lawfully be paid under the State system are more likely to be in precarious employment arrangements and most likely in the service industries such as retail, and accommodation and food services. This area of employment is forecast to be significant for WA’s future employment levels.

UnionsWA addressed who was likely to be impacted by the SWO and refers to the *Interim Report – Ministerial Review of the State Industrial Relations System* (the Interim Report) which set out the proportions and numbers of employees who are covered by the State system, being between 21.7% and 36.2% of the employees in the State. Businesses most likely to be in the State industrial relations system are unincorporated employers.

UnionsWA notes that the Interim Report also provides a list of award free employees in WA. While some may be employed under modern awards, there is still a significant case that award free workers need a strong SMW outcome if they are employed by an unincorporated employer.

UnionsWA refers to research carried out for the FWC for the 2018 AWR which identifies the characteristics of minimum wage workers. UnionsWA says that it is likely that these characteristics are shared by WA minimum wage workers. They are:

* + more likely to be female (just under 60%);
	+ around one quarter are aged 30-49 years;
	+ 22.3% aged between 15 and 20 years and not earning junior rates;
	+ 17% aged between 15 and 20 years on the NMW;
	+ the majority (77.2%) work part-time, compared with all employees (38.9%);
	+ primarily engaged on a casual basis (79.6%);
	+ nearly half were award reliant, that is, paid at the award rate only, while fewer than one quarter of all employees were award reliant;
	+ 98.7% were working in a business in the private sector;
	+ three fifths worked for small employers, that is, fewer than 20 employees;
	+ the accommodation and food services industry has the highest proportion of NMW earners at 27.9%;
	+ a significant proportion, 28.3%, are sales workers and labourers; and
	+ most NMW earners were concentrated in the lowest skill levels with 56.7% working in skill level 5.

The increasing significance of the service economy to employment growth generally means that this is an area justifying a strong SMW increase to ensure these workers obtain decent pay outcomes.

In 2016, we noted the difficulty in determining with any precision, who is covered by SWO, however, we also noted:

144 There are varying views on the basis for calculating the number of employees and employers covered by the State industrial relations system and affected by the State Wage order. In the private sector, they are employees of sole traders, partnerships, some trusts and incorporated businesses which are not trading or financial corporations. In addition, there are State public sector employees.

 145 We note that the State Wage order deals not merely with the minimum wage for award free employees but also award covered employees and also award rates. It will directly affect some and will have indirect effects on others. It covers the rates for juniors, apprentices and trainees, and sets out the Principles to be applied to a range of types of claims which might come before the Commission, so as to guide the parties in pursuing, and the Commission in deciding, those claims.

 146 While the State Wage order deals with more than the minimum wage, this is its most direct effect, along with setting the increase for award rates. Therefore, its most direct effect is on award free and award covered employees and their employers. It also provides a floor and, what some have described as, a signalling effect to those not directly covered, for their wage setting. So while the numbers actually covered or directly affected by the minimum wage is difficult to determine, it is clearly of significance to many employers and employees, either directly or indirectly.

 147 Those employees dependent on the minimum wage are more likely to be employed in small businesses.

 148 As UnionsWA submits, it is likely that vulnerable groups of employees are overrepresented within the private sector of the state industrial relations system, partly due to them being employed in small private sector businesses.

 149 In terms of low income households, UnionsWA refers to the Productivity Commission's report, noting that:

Employees in the lowest income groups are more likely to be on the minimum wage than those in higher income groups (and by more than a fivefold factor) (figure 4.8). So, while most people in the lowest quintile are not in work (and therefore do not receive any wages), almost half of those who are in work are paid at a minimum rate.

(2016 State Wage Case [2016] WAIRC 00358; (2016) 96 WAIG 636)

 From the submissions and the information provided to us, these conclusions remain relevant in 2019. The number of employers and employees affected by the SWO is significant. As we discuss later, award reliance is high, and enterprise bargaining is limited to a very small area. In those circumstances, the SWO is important to many employers and employees in this State.

## The issues to be considered

We have set out earlier the matters the IR Act requires us to consider. They can be loosely grouped as social and equity considerations and economic and labour market considerations. We note that they are interrelated and interdependent.

### **A Social and equity issues**

These include a system of fair wages and conditions of employment; the needs of the low paid; living standards and equal remuneration for men and women for work of equal value.

In respect of the last of these, we will deal later with the aspect of the creation of a principle to explicitly provide for equal remuneration.

#### The Minister’s submissions

The Minister notes the essential role of the minimum and award wages framework in protecting the needs of the low paid and ensuring their living standards are maintained and improved in line with those in the broader community. The most recent Australian Bureau of Statistics (ABS) Employee Earnings and Hours, Australia, data (May 2018) indicates that award reliant employees in WA receive substantially lower average hourly rates of pay than those engaged under collective agreements and individual agreements. Many low paid workers are dependent on increases determined in the State Wage Case to meet their everyday living costs.

Employees who are award free have significantly fewer protections than those who are covered by awards and many award free employees are reliant on minimum rates of pay determined under the MCE Act. Those on the SMW are, according to the Minister, unquestionably low paid.

#### CCIWA’s submissions

CCIWA notes that while it is essential to ensure that Western Australians have a system of fair wages and conditions of employment, concepts of fairness should be applied to employees and employers equally.

CCIWA concentrates its comments around the balancing of improved living standards by an increase in income with the necessity to maintain employment and increase employment opportunities, and the availability of more work, in an economy where there is excess capacity and underemployment. It is desirable to increase overall workplace participation in WA and therefore it says that balance is crucial.

Further CCIWA notes that low paid jobs play a principal role as an entry point into the workforce, from which people build skills and experience to gain higher paid work in the future. Compared to unemployed people, people in employment have a higher level of wellbeing and lower levels of financial stress (The Productivity Commission’s 2015 Inquiry Report, No 76, Workplace Relations Framework, 30 November 2015, p 16).

In considering the needs of the low paid, CCIWA urges the Commission to take into consideration the need for the low paid to remain in employment, and in circumstances of higher levels of under-employment among the low paid, the need for employees to have access to more hours of work. CCIWA says that if wages are set at a level that is too high there will be consequential reductions in employment opportunities and hours. CCIWA says that ‘[i]t is through a strong and viable business community that employment opportunities for Western Australians will be generated, creating prosperity for the greater community and improving the living standards for all Western Australians’ (CCIWA submissions filed 14 May 2019 [17]).

#### UnionsWA’s submissions

As with its submissions made in the years following the State’s investment and resources boom, UnionsWA argues that workers in the lower levels of rates of pay did not receive their fair share of WA’s previous strong economic growth and are in danger of slipping further behind the State’s current economic circumstances. This is said to be demonstrated by measures of inequality such as:

* + the gender pay gap;
	+ the disparity between the minimum wage and median weekly earnings; and
	+ household income inequality.

UnionsWA refers the Commission to an open letter from 124 labour policy experts which calls for proactive measures to help accelerate the rate of wages growth in Australia’s economy (The Centre for Future Work’s ‘124 Labour Policy Experts Call for Measures to Promote Stronger Wage Growth’ (19 March 2019) <https://www.futurework.org.au/wages_open_letter>). Amongst other things, this letter says that for the last several years Australian wages have experienced an unprecedented slowdown and that nominal wages have been growing at only about 2% per year since 2015. It said that this has a number of consequences on consumer spending, household indebtedness and financial stress, slower growth in government revenue and widening inequality.

The ACTU’s briefing paper “*Inequality in Australia An economic, Social & Political Disaster*” says that Australia has an ‘income recession’ as household incomes started falling behind rising living costs from late 2015 onwards. This is said to be as a result of low wages growth.

UnionsWA also says that living costs outstripped household incomes by 2.9% over the past three years resulting in the biggest fall in living standards for more than 30 years.

UnionsWA also notes that the Governor of the Reserve Bank of Australia, Dr Philip Lowe, advocates for wage increases of 3.5%.

Therefore UnionsWA says that decisive action is required to address wage stagnation at the bottom end of wage distribution.

UnionsWA says that minimum wage decisions in recent years have seen a decline in the minimum wage ‘bite’ compared to median weekly earnings and notes that a more recent flattening of that decline is more to do with low wage growth generally than wage growth at the bottom.

## Living wage

UnionsWA notes the ACTU’s advocacy of a medium term target for the minimum wage of 60% of the median wage for full time employees and that this would deliver a ‘living wage’ reflective of the [*Ex parte H.V. McKay* (Harvester Case) (1907) 2 CAR 1] (Harvester Decision) in meeting normal needs of the average employee, regarded as a human being living in a civilised community.

UnionsWA notes that the Organisation for Economic Co-operation and Development (OECD) has defined the level of relative poverty to be 60% of full-time median earnings and the Living Wage policy proposed by unions adopted that benchmark. This has been explicitly adopted in the United Kingdom where the Low Pay Commission recently found that since the minimum wage was introduced in 1999, it had risen faster than average earnings and inflation without damaging jobs.

UnionsWA notes that the ACTU is arguing for a two stage process over two years to bring the minimum wage back to 60% of median earnings (full-time), otherwise an increase of over 10% (or $72.80 per week) will be necessary to close that gap.

 The SMW is said to require a larger increase than that amount to reach 60% of WA’s full-time median weekly earnings and therefore UnionsWA says that $43.61 per week or 6%, whichever is greater, is a modest claim that recognises the State’s economic circumstances, while keeping the SMW relatively higher than the NMW.

UnionsWA says that between 2005 and 2018 the SMW fell from 57% to 50.4% of the median wage. It is notable that the Australian comparator is a figure of 57.7% to 54.5%.

UnionsWA says that minimum wages are substantially lower than what they would be if the minimum wage bite had been held constant, with the result that living standards of minimum wage workers are too low compared to other workers.

UnionsWA notes that the Gini coefficient for equivalised disposable household income, the gender pay gap and average weekly ordinary time earnings have persistently shown WA as a highly unequal state in terms of the minimum wage bite, relative to Australia as a whole. Recent relative improvement is, unfortunately, in keeping with the post-boom patterns in WA. The rates become more equal in the post-boom period because high income earners do not move to WA and/or move away.

UnionsWA noted increases in living costs in WA arising from the last WA State Budget. These are said to impact disproportionately on low wage workers and therefore an increase to the minimum wage above CPI inflation is said to be justified. The total increase in tariffs, fees and charges arising from the 2019-20 WA Budget was 2%. Whilst these increases are lower than in previous years, some increases go beyond 2%. For example, UnionsWA has selected certain components of the Consumer Price Index CPI and examined the percentage changes from corresponding quarters in previous years.

UnionsWA refers to the State Government’s Wages Policy of a maximum of $1,000 per annum increase and says that it appears that the moderate increase in State tariffs, fees and charges is the principal means by which the State Government proposes to relieve low wage growth. However UnionsWA refers to recent research by the Centre for Future Work as demonstrating that changes to taxes and charges are no substitute for regular, ongoing wage increases. Whilst the analysis is from a national level, where taxes are more progressive, the principles are still said to apply.

UnionsWA says that the needs of the low paid, and particularly the need to improve living standards of the low paid require an increase to the SMW beyond the CPI increase.

UnionsWA cautions against the claim that the interests of the unemployed and the low paid are best served by them getting a job, any job, regardless of how much they are paid or how they are treated when in employment. It refers to a study by P Butterworth, LS Leach, and others “*The Psychological Quality of Work Determines Whether Employment Has Benefits for Mental Health: Results from a Longitudinal National Household Panel Survey*”, Occupational and Environmental Medicine 2011; 68:806-812. This study is said to have found that jobs with poor psycho-social attributes are no better, and may have worse effects on mental health, than unemployment. It found that:

‘(a)n employment continuum which contrasted unemployment with different employment categories including optimal jobs, inadequate jobs, jobs with poor psychosocial conditions (low decision latitude, high job demands, low social support) and jobs with low pay or few benefits. While unemployment and inadequate jobs (salary below the poverty line) were associated with significantly greater levels of depression than optimal jobs, so too were poor quality jobs that combined adverse psychosocial conditions.’

UnionsWA also refers to Juan Du and J Paul Leigh’s “Effects of Minimum Wages on Absence from Work Due to Illness” (November 13, 2017) (available at SSRN: [https://ssrn.com/abstract=3071132](https://ssrn.com/abstract%3D3071132) or <http://dx.doi.org/10.2139/ssrn.3071132>) and other studies that found that raising the minimum wage can have positive effects on the health of low-wage workers and their families. Du and Leigh found that:

‘[I]ncreases in real minimum wages resulted in decreases in all absenteeism and in absenteeism due to own illness, and that these health benefits can accrue to low-wage adults, not just teenagers. These effects are likely not due to changes in labor supply or job-related attributes. Instead, we find a possible mechanism: higher minimum wages improve self-reported health for lower educated workers.’ (21).

UnionsWA also refers to a study dealing with economic policies and their effects on depths of despair and found that a higher minimum wage can significantly reduce non-drug suicides (William H Dow and others, “*Can Economic Policies Reduce Deaths of Despair*?” NBER Working Paper No. 25787 (April 2019) pp.24-25).

UnionsWA says that these studies make clear that the quality of the job is important for the wellbeing of workers and that job quality is inseparable from having decent pay and conditions that actually improve living standards, not by paying workers just enough to cover immediate living costs.

UnionsWA notes that the minimum wage is significant in terms of the ‘bite’ compared to median wages for maintaining a fair system of wages and conditions in WA, and in particular, in respect of the gender pay gap.

UnionsWA says that the increases it advocates will assist in redressing the disparity between the minimum wage and median weekly earnings to provide a fair system of wages and conditions in WA. It says the increase it proposes is needed to help maintain that system.

#### (4) WACOSS’s Submission

In its ‘*Cost of Living 2018’* Report, WACOSS analysed of income and expenditure data provided by financial counselling agencies of 404 households who experienced financial hardship and stress in 2017/18.

This data is said to provide insight into the spending patterns of those households and the areas of expenditure they are forced to cut back in, contributing to a lower standard of living. In examining low income, wage-only, households in this data set, WACOSS says it reveals that more than half of the average general expenditure of these households is on housing, at 50.2%, equating to $649.08 per fortnight.

WACOSS says that there is clear evidence of Western Australians experiencing significant financial hardship and living cost pressures. An increase in the SMW is essential to meet the needs of the low paid and contribute to improved living standards for employees.

WACOSS says that the CPI is not a cost of living index. It does not take into account the change in the mode of living as well as price changes. It says that while it is a valuable indicator, it is fundamentally a measure of the changes in the prices of a fixed basket of goods and services, rather than changes in the minimum expenditure needed to maintain a certain standard of living. As such it has inherent limitations for the purposes of drawing inferences about the real living cost pressures faced by low income households. For this reason WACOSS focusses on a number of other important data sources.

##### Household costs and income

 WACOSS’s study is based on various household models which included single parent families, working families, unemployed singles, and other groups. The *Cost of Living* 2018 Report found very low income growth across the various model households in 2017/18, with any improvements in their financial positions primarily driven by the continued decline in median rental costs in the Perth metropolitan area. Food expenditure is said to have also declined slightly, while utility costs have seen sizable increases. For those households that owned a car, transport costs have decreased slightly whereas public transport cost has increased. It says that reductions in government supplements such as the Schoolkids Bonus and an increase in tax paid saw little extra income in the single parent’s pocket at the end of the week. There were also reductions in other government payments. WACOSS produced a schedule of weekly income and expenditure of its model households:



Source: WACOSS Cost of Living 2018 Report

WACOSS says that it is important to note that the calculations in its report are focussed on the bare essentials of the basic standard of living and make no allowance for savings, training to improve employment prospects or to respond to unexpected costs or crises. A single parent family does not have any health or home and contents insurance and the model does not provide for spending on items such as birthday presents, school excursions or other so-called non-essential items.

##### Housing

Housing cost is the biggest contributor to financial hardship and the biggest risk factor for financial crisis for those on low incomes. Rental affordability has stabilised in Perth in recent years. It still accounts for over 48% of the SMW. Those households in the bottom 40% of Australia’s income distribution are considered to be in housing stress when their housing costs exceed 30% of their income and their earnings are in the bottom 40% of equivalised disposable income.

WACOSS notes that the Department of Communities’ *Demand Model* estimates that approximately 61,000 very low, low and moderate income households constitute an unmet social and affordable housing need in WA. The Australian Housing and Urban Research Institute estimates that around 59,000 Western Australians are unable to enter market housing and a further 73,000 require rent assistance.

WACOSS says that the risk of poverty is more than twice as high for households renting privately than home-owners with or without a mortgage. Poverty is highest amongst public renters, though this is due in part to the fact of eligibility requirements for public housing, that this group has some of the lowest incomes.

WACOSS notes that the lack of available and affordable housing to rent for various income groups in various regions of the State differs. It notes that the low level of accessible properties available to rent for single minimum wage earners and single parents on the SMW, in particular, strongly indicates the likelihood that many of those households will be living in housing stress or housing that is not appropriate to their circumstances.

##### Food

WACOSS refers to research undertaken by Foodbank Australia (Foodbank’s Hunger Report 2018), that 49% of people experiencing food insecurity had been unable to buy food due to an unexpected expense or a large bill. Thirty-five per cent experienced food insecurity as a result of having to pay rent or make mortgage repayments. Forty-three per cent were unable to buy food because they were receiving a low income or pension.

Foodbank’s *Rumbling Tummies: Child Hunger in Australia 2018 Report*, found that 32% of parents living in food insecure households with children under the age of 15 are employed full-time with a further 17% employed part-time. Fifty-two per cent of food insecure households with children under the age of 15 faced food insecurity because of an unexpected expense or large bill, with 44% reporting that they could not afford enough food because they simply did not have enough money in the first place.

##### Utilities and household fees

WACOSS refers to the 2019/20 State Budget having increased household fees and charges by 2% or $127.77 for the representative household. It notes that ‘[w]hile this was the lowest increase in household fees and charges in 13 years, it follows very significant increases in the previous two budgets. In 2017/18, the representative household saw an increase of 7.74% (equating to around $438.39) and a further 4.8% in the 2018/19 Budget (around $292.07).’ The increase in the cost of energy is said to impact disproportionately on households with the lowest incomes and they have little if any capacity to absorb additional costs.

WACOSS examined electricity and gas disconnections and instalment plans for residential customers who were having difficulty in paying their energy bills. The numbers on hardship programs or instalment plans had increased each year for the last three years.

Fees for water, sewerage and drainage had increased by 2% in 2019/20, around $40.39 for the representative household. In 2018/19, it was 5.5% or $91.04 and 6% in 2017/18 or $96.92.

WACOSS says that limiting cost increases to around the CPI may reduce the rate of increase in financial hardship for those on average incomes but it does little to help those already experiencing hardship whose incomes remain insufficient to match previous price increases.

##### Digital access

WACOSS notes that one in four Western Australian households in the lowest income quintile do not have access to internet compared with almost universal access for the highest quintile. With State and federal governments increasingly moving towards transactional services online, and access to other essential community services often requiring online applications, digital access limitation is detrimental and problematic for a number of different groups including, in particular, job seekers. Community resource centres and local public libraries report that they are dedicating increasing amounts of staff and volunteer time to assisting people to access services and entitlements, including Medicare and Centrelink services.

##### Costs in regions

WACOSS says the differing cost of living in different regions of WA require consideration. There are significant differences across the regions between the costs for rent, food and beverages, electricity and water.

##### Financial stress and hardship

WACOSS refers to research by the FWC in 2019, *Statistical report – Annual Wage Review,* indicating that 27.9% of low paid employee households had financial stress. It examined Western Australian households who are experiencing hardship and stress by reference to the mean of all WA households compared with WA wage-only and low income wage-only households and notes that there are significant pressures being faced by households across WA who are experiencing financial hardship and stress. The mean of all Western Australian households has a deficit of $141.74 per fortnight; wage-only households have a deficit of $130.06 per fortnight and low income wage-only households have a deficit of $69.87 per fortnight.

WACOSS notes in particular that the community as a whole bears the cost when households on low incomes or in financial troubles cut back on their access to primary healthcare, the quality of their food and nutrition, and their recreational activities. They lead to higher rates of chronic disease, greater demands on our hospital and tertiary care systems, reduced productivity and life expectancy.

##### Income inequality

WACOSS notes that ‘the growth in the gap between SMW rates and median pay levels has contributed to income inequality in WA. As of November 2018, the SMW was only 41.4% of the WA Average Weekly Ordinary Time Earnings (AWOTE). In November 2005, the SMW was 47.6% of the WA AWOTE. In comparison, the NMW was 44.8% of Australia-wide seasonally adjusted average weekly earnings as of November 2018.

It notes that since 2005, AWOTE has increased in WA by 72.6% while the SMW has increased by 50% over the same period. There was a nearly 10% drop between 2005 and 2013 and the WA SMW’s share of AWOTE has remained relatively stable since then.

WACOSS says that research undertaken by the FWC found that 44% of minimum wage earners were in the lowest three deciles of household income for households where at least one member was employed.

##### Gender pay gap

WACOSS referred to a 2017 research report from the Melbourne Institute of Applied Economic and Social Research by B Broadway, R Wilkins (2017) “Probing the Effects of the Australian System of Minimum Wages on the Gender Wage Gap”, Melbourne Institute Working Paper No. 31/17. This found that female employees are significantly more likely than men to be paid an award wage, at a rate of 18.5% compared with 12.4%.

WA continues to have the highest gender pay gap in the country at 23.1% compared to 14.1% nationally. It is said by the Workplace Gender Equality Agency and Bankwest Curtin Economics Centre “Gender Equity Insights 2017: Inside Australia’s Gender Pay Gap”, that the gender pay gap can depress economic growth and productivity and it slows the rate of wealth accumulation by women relative to men.

##### Poverty

WACOSS refers to the Australian Council of Social Service’s “Poverty in Australia 2018” Report, that around 360,000 or 13.7% of Western Australians live in poverty. This is based on the most common international poverty line of 50% of median incomes. WA’s poverty rate is the highest in the country after South Australia and higher than the poverty rate of 13.2% nationally.

WACOSS notes that the effects of poverty on health, including psychological health, wellbeing and life prospects of children are well established. Young people who have experienced poverty in the family while growing up have much poorer employment outcomes than those on a greater standard of living. Young people, particularly those with backgrounds of hardship, are much more likely to be seeking and relying upon income from minimum wage positions, often moving in and out of short term and precarious work.

WACOSS says that the increase to the SMW it proposes would be an important step towards enabling those in low income households to improve their financial resilience, enabling them to respond more effectively to changing employment and financial circumstances.

### **B Economic and labour market issues**

#### (1) The Minister’s submissions

The Minister refers to the 2019 State Wage Case - Economic Outlook document prepared by the Department of Treasury and provided by Mr Christmas as part of his evidence.

##### The State of the Western Australian Economy

The Minister notes the current state of the WA economy by reference to major economic indicators. These are:

**Table 1: Economic forecasts – major economic aggregates, WA**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Indicator** | **2017-18 Actual** | **2018-19 Estimated Actual** | **2019-20 Budget Forecast** | **2020-21 Forward Estimate** | **2021-22 Forward Estimate** |
| **Gross State Product** | 1.9% | 2.0% | 3.5% | 3.0% | 3.0% |
| **State Final Demand** | 1.0% | -1.0% | 3.0% | 3.5% | 3.5% |
| **Employment Growth** | 2.2% | 1.0% | 1.75% | 2.0% | 2.0% |
| **Unemployment Rate** | 6.1% | 6.25% | 6.0% | 5.75% | 5.5% |
| **Wage Price Index** | 1.5% | 1.75% | 2.25% | 2.75% | 3.0% |
| **Consumer Price Index** | 0.9% | 1.25% | 1.75% | 2.25% | 2.5% |

A number of key indicators are projected to strengthen across the forward estimates period, in line with a recovery in the State’s domestic economy. They include that Total State Output, measured by Gross State Product (GSP) is expected to increase by 2.0% in 2018-19, up from 1.9% in 2017-18. This is expected to grow further by 3.5% in 2019-20. There has been a lift in job vacancies, new iron ore and lithium projects, and a forecast return to positive business investment growth.

On the other hand, though, the Minister says growth in retail turnover continues to be subdued, youth unemployment remains elevated and the level of underemployment indicates spare capacity in the labour market. The State continues in its transition from the mining-led investment boom.

The Minister notes that recent AWOTE data indicates that the gap between male and female earnings in WA increased in the 12 months to November 2018, as male earnings rose at a faster rate than female earnings.

According to the Minister, it is apparent that some sectors of the Western Australian economy have performed better than others in recent years. The Gross Operating Surplus (GOS) plus Gross Mixed Income (GMI) measure, produced by the ABS, demonstrates that some industries are facing a more challenging trading environment. Across all industries, GOS plus GMI increased by 3.4% in 2017/18, led by the mining industry, which recorded the strongest growth in the second year in a row.

##### Protecting employees who are unable to bargain

The Minister says that an analysis of current industrial agreements registered by the Commission that are yet to reach their nominal expiry date reveal that almost all agreements are concentrated in a limited range of sectors. They are the WA public sector; independent schools; community, health and disability support organisations; regional local government authorities; registered political parties; and union/labour organisations. Industries where there is a higher reliance upon awards, particularly accommodation and food services and the retail trade in the smaller, unincorporated businesses in the hospitality and retail sectors are not utilising industrial agreements at present. The Minister says that many of these businesses are likely to be guided by State awards, either directly or indirectly in regard to wage determination for their employees.

##### Skills development

The Minister provided data regarding commencements of apprenticeships and traineeships for 2018 and previous years, including information on the proportion of each type of training arrangement undertaken by employees over the age of 21. This data demonstrates that apprenticeship commencements increased from 6,436 in 2017 to 6,834 in 2018. The proportion of apprentices 21 years and over continues to grow and most recently is 38.6%. The Minister notes that apprenticeship commencements in the automotive trades increased by 22.4% in 2018, while they rose by 12.9% in metals, manufacturing and services trades and 5.5% in wholesale, retail and personal services. In contrast, apprenticeship commencements in building and construction trades declined by 10.6% in 2018.

Traineeships continued to decline in 2018, by 22.6% from 14,692 in 2017 to 11,369. There was a significant decline, of 41.3%, in commencements in the finance, property and business services and 68.2% in process manufacturing. Mining industry commencements continued to rise, by 10.6%.

The Minister notes that between 2012 and 2018, traineeship commencements in WA have declined by 56.6% in total.

However, the total number of apprentices in training increased by 0.8% in the 2018 calendar year. This is the first time in six years that total apprenticeship numbers have increased in WA and was driven by the increased automotive trades and the metals, manufacturing and services trades. However, the number of apprentices in building and construction trades declined in 2018, by 12.6%. Trainees in training declined in 2018 from 17,011 to 13,497.

Across WA, the total number of people in training (apprentices and trainees) fell by 10.6%.

##### Evidence by Mr Christmas

###### (i) The State’s economy

The economic outlook information provided by Mr Christmas notes that the Western Australian economy overall is forecast to grow by 2.0% in 2018/19, after growing by 1.9% in 2017/18, and its first contraction on record of 1.8% in 2016/17. The economic conditions have been affected by ongoing tightening of access to credit in response to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry as well as declining house prices, both nationally and at a State level. These factors are said to have moderated growth in household spending and dwelling investment at a time when business investment continues to decline as construction work on the last remaining LNG project is completed.

The State’s economy, measured by GSP, is expected to increase by 3.5% in 2019/20, underpinned by the first substantial lift in business investment in seven years. This is said to reflect the commencement of work on a number of new resources and infrastructure projects and progress in work on existing projects. GSP growth is forecast at 3.0% per annum in 2020/21 and beyond.

Household spending is expected to progressively increase over the forecast period due to consolidation in consumer confidence, a lifting population growth and a strengthening in labour market conditions.

The State’s domestic economy, measured by State Final Demand (SFD), is projected to contract by 1.0% in 2018/19, mainly reflecting declines in business and dwelling investment. SFD is forecast at 3.0% per annum in 2019/20 and above in years to come.

Construction of new and replacement iron ore projects and new lithium projects are expected to contribute to employment growth of 1.75% in 2019/20. Government investment in major road and rail infrastructure projects is said to be supporting improvements in the labour market.

###### (ii) Global outlook

Global economic conditions are said to have started to weaken late in 2018, particularly in advanced economies, concentrated in manufacturing, including in Japan and Germany. Commodity prices, however, have remained relatively elevated partly due to the resilient construction activity in China and ongoing demand growth in the populace nations in south and south east Asia such as India and Vietnam. It is said that the global economy will expand by 3.3% in 2019, down from 3.6% in 2018 with forecasts of improvement to 3.6% by 2020.

Global commodity markets are significant for WA and the demand for commodities has been stronger than expected over the past year. There have been increases in iron ore, gold, oil, LNG and alumina, partially offset by declines in copper and zinc. The Commodity Price Index has continued to rise but remains well below the extraordinarily high levels during the mining investment boom.

The collapse of a tailings dam at Vale’s Córrego do Feijão mine in Brazil in January 2019 reduced Vale’s production and the recent Cyclone Veronica in the Pilbara tightened global supplies of iron ore. The tightness in the iron ore market makes its price more susceptible to short-term supply impacts.

The global demand for lithium is increasing. WA’s lithium production and the movement towards lithium battery growth is contributing to the value of WA’s mineral production.

The oil market is important to WA as it is a major cost input for businesses and a significant source of export income. It is likely to grow in significance for the Western Australian economy as LNG, a cleaner alternative to coal, increases in popularity.

The Department of Treasury says that despite increases over 2018 and early 2019, prices for WA’s key commodities are expected to remain low compared to levels reached during the mining investment boom.

###### (iii) National economic outlook

The Department of Treasury notes that the Australian economy, measured by Gross Domestic Product (GDP) is expected to grow by 2.25% in 2018/19, after expanding by 2.8% in 2017/18. Short-term growth is expected to remain below the historical average of 3.0% per annum. Tighter credit conditions and a decline in house prices have affected household consumption and dwelling investment. The forecast for consumption growth has been downgraded since the 2018/19 Mid-Year Economic Fiscal Outlook by 0.25% to 2.25% in 2018/19. Household consumption growth is expected to increase in 2019‑20 to 2.75% and in 2020/21 to 3.0%. This is underpinned by expected continued growth in employment and increasing wage growth, and supported by continued low interest rates and personal income tax relief.

The Department of Treasury provided Table 3 – Major Economic Parameters, Australia showing annual growth as a percentage in a range of economic measures.



The Minister notes that wages growth in Australia has been more muted than in past cycles in response to improving labour market conditions. The Commonwealth attributes this, at least in part, to lower inflation expectations and spare capacity in the labour market as indicated by broader measures of labour under-utilisation. This in turn is said to reflect, at least in part, that strong employment growth has also drawn people into the labour market who were not previously looking for work. Slower wage growth is also said to reflect adjustments associated with unwinding of the terms of the trade boom in Australia.

###### (iv) WA’s economic outlook

As noted earlier in 2018/19, the Western Australian economy is forecast to grow by 2.0 per cent, up slightly from 1.9% in 2017/18. In 2019/20, both the domestic economy, particularly business investment and household consumption, as well as net exports, are expected to contribute 3.5% growth to GSP.

SFD is expected to decline by 1.0% IN 2018/19, reflecting declines in dwelling investment and business investment. These are said to be partially offset by weak growth in household consumption as well as growth in Government consumption and investment. Household spending on housing and consumer goods and services has been affected by the tightening of credit availability through 2018 which has impacted both the State and national economies. Spending has also been impacted by a weaker outlook for wealth as a result of declining house prices. SFD is expected to grow by 3.0% in 2019/20, before stabilising at 3.5% per annum which is slightly below the long run growth rate.

The Department of Treasury notes that in contrast to the current weakness in Western Australia’s domestic economy, domestic demand nationally has increased in recent years (2.9% in 2017 and 3.0% in 2018). Household consumption expenditure in Australia is 2.6% compared with 1.1% in WA; business investment is at 3.9% compared with -6.2% in WA; dwelling investment is 4.4% compared to 4.3%; Government consumption at the national level is 4.8% whereas it is 1.6% in WA. There is a significant difference between Government investment at the national level of 1.1% and -6.5% in WA. SFD is –0.50% compared with Domestic Final Demand at a national level of 3.0%.

Consumer spending is expected to grow by just 0.75% in 2018/19 after increasing by 1.6% in 2017/18 in WA. Recent improvements in consumer sentiment are said not to have yet translated into higher spending. Households are maintaining high savings rates and continue to restrain spending on non-essential goods. The gradual recovery in household income and wealth, together with a steady increase in population growth are expected to support modest increases in consumption in future years.

Dwelling investment is expected to decline by 1.75% in 2018/19 and further 2.75% in 2019/20.

Business investment is expected to decline by 10.0% in 2018/19 due to the completion of construction work on the last major LNG projects. Investment is then expected to increase, growing by 6.0% in 2019/20. The Department of Treasury says that ‘[t]he lift in investment will be primarily supported by iron ore projects that are intended to replace production at existing mines, and new lithium projects’.

Business investment for WA will not return to the 2007/08 level until 2022/23, after the peak in 2012/13 and remains subdued.

Merchandise exports are forecast to grow by 4.0% in 2019/20 as the remaining LNG projects increase shipments and as lithium and gold production increases. Growth was anticipated for 2018/19 of 4.25%.

Merchandise imports are forecast to decline in 2018-19 as fewer imports of large capital goods are required for the construction of major projects, and consumer goods imports fall in response to weak household spending.

The conditions in the Western Australian labour market have softened over the past year. Employment grew 2.2% in 2017/18 but is forecast to grow by only 1.0% in 2018/19. This compares with a 28 year average of 2.1%. Full-time hiring has contributed 1.2% to overall growth, offset by a decline of 0.1% in part-time employment. Hiring has been led by the resources sector and related industries. Employment in other industries, including the construction industry, education and training and financial and insurance services has contracted, and to a lesser extent in accommodation and food services, arts and recreation services, and the retail trade.

The unemployment rate increased to an annual average rate of 6.2% in the year to March 2019 from 5.9% in March 2018. It remains above the national level of 5.2%. WA’s unemployment rate has been higher than the national average since April 2016.

#### (2) CCIWA’s submissions

###### Global issues

CCIWA notes the dependence of the Western Australian economy on China and its consumers and businesses which contribute around 30% to the Western Australian economy. Forty-nine per cent of WA’s exports go to China and 53% of its GSP is made up of exports. The Chinese businesses and other customers contribute to education, tourism, property activity and new projects in WA. The policy response in China to the reduction of tariffs will result in a reduced demand for minerals and resources and could affect projects in WA.

###### Signs of recovery

In spite of positive signs of economic recovery that are emerging, Western Australian businesses will continue to face challenging business conditions with compressed margins and cost management pressures. CCIWA says that the recovery needs to be nurtured and guided carefully and not impeded or put at risk.

###### Labour market

CCIWA notes the trend unemployment rate for WA at 6.1% is the second highest in the country and is yet to reach the level consistent with full employment, which the Reserve Bank of Australia (RBA) has recently estimated could be as low as 4.5% nationally. Spare capacity in the Western Australian labour market adds to downward pressure on wage increases.

CCIWA says that continued business investment is crucial to growing employment and the economy as WA continues to recover. Unemployment is expected to decrease with improved business investment. In the longer term, WA’s labour market also faces more challenges as technology reshapes work.

WA also continues to have one of the highest levels of youth unemployment in the country and an unemployment rate for those 15 to 24 years being 13.7% in March 2019 compared to 12.8% nationally. CCIWA says that minimum wage setting is important to actively facilitate and support employment opportunities for young people and those seeking to gain or add skills and qualifications. Minimum wages are said to be an important part of the parameters for doing business and employing in WA, particularly for small businesses. CCIWA supports reasonable and sustainable wage growth through a minimum wage that considers productivity, and therefore business capacity, as a fundamental ingredient for growth and employment in WA.

###### Small business community

CCIWA notes that small businesses do not have a high capacity to absorb increases in operating costs or respond to weakening demand, and generally have less capacity to adjust to adverse economic conditions as experienced in WA in recent years.

CCIWA provided data on small business activities in Australia, noting that of the 2,313,291 actively trading businesses operating at the end of 2017/18, 93% had an annual turnover of less than $2,000,000. A relatively small proportion, 3.0%, had an annual turnover of $5,000,000 or more. Nearly a quarter of actively trading businesses had a turnover of less than $50,000; approximately one-third had turnover of $50,000 to less than $200,000, and a further one-third of businesses had an annual turnover of $200,000 to less than $2,000,000 (ABS Cat. No. 8165.0 - Counts of Australian Businesses, including Entries and Exits, June 2014 to June 2018.) Thirty-three point four per cent of small businesses employ between one and 19 employees. Only 2.6% employ between 20 and 199 employees.

CCIWA notes that labour costs have a direct and immediate bearing on the capacity of small businesses to employ additional employees and provide additional hours of work to existing part-time and casual employees. The competitive environment has been challenging not only due to economic conditions within the State but with competition from interstate and overseas businesses.

###### Cost of living

CCIWA notes that the Perth CPI fell 0.1% over the March 2019 quarter and rose by 1.1% over the year. In annual terms, Perth recorded the second smallest increase in CPI for capital cities around the country in March 2019. CCIWA says that cost of living pressures are much lower in WA than the national average, a position that has existed since June 2015. Nationally, the CPI remained unchanged over the March 2019 quarter and increased by 1.3% over the year. CCIWA expects inflation to lift modestly to 1.8% in 2018/19 and 2.2% in 2019/20, within the RBA’s target range of 2.0 to 3.0%.

###### Productivity growth

CCIWA notes that productivity growth is necessary for wages growth to enable businesses to pay its employees more. If wages artificially increase without a corresponding lift in productivity, businesses are likely to respond with:

* + automation;
	+ reduced profits;
	+ increased costs passed on to consumers resulting in higher living costs; or
	+ cost absorption which may result in businesses either lowering their profits or reducing expenditure elsewhere such as capital investment.

Business owners may increase their working hours, reduce service levels such as having fewer staff employed at any one time or reduce trading hours.

CCIWA undertakes surveys of business and consumer confidence. It says that businesses are investing in a wider range of new mining projects but these will not make up for the major LNG projects that have been or are yet to be completed. Consumers and businesses are more confident about future economic conditions but are worried about their present financial circumstances. Business investment has not experienced the decline CCIWA had forecast for last year due to new investments and project delays but a decline is expected for 2018/19. Business investment is forecast to fall by 15.0% in 2018/19 as the last of the LNG projects are completed. As a result, CCIWA expects the domestic economy to contract this year after 1.1% growth in State Final Demand in 2017/18, returning to a sustained, but subdued, growth trajectory in 2019/20.

###### Business and consumer confidence and investment

CCIWA refers to its WA Super - CCI Business Confidence Survey March Quarter 2019 and notes the different short term and longer term outlooks for business confidence.

Table 4: Business Confidence

|  |  |  |
| --- | --- | --- |
| Expectation of Economic Conditions | Three-Month Outlook | Twelve-Month Outlook |
| Weaker | 47% | 25% |
| No change | 31% | 38% |
| Stronger | 22% | 36% |

Source: CCIWA Business Confidence Survey, March 2019

Business expectations for future employment opportunities have declined and three out of four small businesses with one to ten employees expect their workforce to contract or remain unchanged over the next quarter. Almost one in three retailers are expecting to lay off staff in the next three months compared with only 9% who are expecting to hire more staff. One in two businesses reported a decline in profitability over the March quarter, with only 10% stating that their profit margins improved.

CCIWA notes that 38% of businesses see weak demand as the largest barrier to growth. Weak demand may be attributed to dampening consumer spending. Mining businesses considered availability of skilled labour as a bigger barrier to growing their businesses suggesting that there may be a growing demand for skilled labour in pockets of the domestic economy.

CCIWA’s WA Super – CCI Consumer Confidence Survey, the March Quarter 2019, indicates consumer confidence has decreased by 0.9 index points over the March quarter but remains well above its long term average. The results of this survey indicate that economic recovery in WA is under way and consumers are more confident about the economy compared to this time last year.

Costs of living continue to be the biggest dampener on consumer confidence with three out of five consumers considering living costs such as transport, groceries and utilities as having a negative influence on confidence, about the same as the last quarter. Household consumption represented 46% of the economy in the December 2018 quarter. It rose by 1.6% in 2017/18 and 1.0% in 2016/17, but below annual growth of 2.7% over the past 10 years.

Consumers have been spending more of their income and remain optimistic about future economic conditions. CCIWA says this implies that consumers will spend more of their income on purchases now, given they think economic conditions will improve in the future, and they will earn a similar income from their job and investment.

CCIWA notes that there is a decrease in the savings rate which signals that a future increase in wages growth or employment will not immediately result in an equivalent increase in consumption. This is said to be because a key outcome of a fall in the savings rate is that more people operate closer to their borrowing constraint. This means that: (1) more consumers are experiencing some financial stress; and (2) there is less room for people to increase their spending or make major purchases in the future. Fifty-four per cent of consumers have experienced some financial stress in the last three months and over two thirds believe that it is unlikely that they will be making any major household purchases over the next three months.

CCIWA expects that a soft WA property market will continue to affect consumption growth. Since 2013, reductions in property prices in WA have reduced the wealth and borrowing power of property owners.

###### Retail trade

Annual growth in retail sales in WA has been less than at the national level due to it coinciding with a decline in the resources construction and investment phase. Growth has been on a downward trajectory since 2015 and through 2017/18 has cycled between positive and negative growth, reflecting continued uncertainty.

Retail turnover for WA, seasonally adjusted is reflected in CCIWA’s Chart 9:



###### Dwelling investment

Dwelling investment has contracted by 2.8% in 2017/18, following a decline of 24% in 2016/17. Further contraction is forecast in 2018-19 before an expected improvement in 2019/20 and 2020/21. There are some indicators of what CCIWA referred to as ‘rebalancing’ in the Perth property market, including a reduction in the vacancy rate. It is likely that a weak east coast property market will dampen the recovery of property prices in Perth.

Conversely, a decrease in the RBA cash rate in 2019 could put upward pressure on Western Australian property prices. The median house price fell by 0.7% in 2017/18 and is expected to contract for a third consecutive year in 2018/19, down 0.9%.

CCIWA examined the CPI in respect of rent and noted that quarterly changes appeared to be improving compared with December 2017 through to June 2018. The rental prices in WA have been contracting for the last two years compared to Australia generally, where prices have increased by less than 0.3% each quarter.

New dwelling purchases in WA, as compared to the Australian level, have been significantly lower however they are improving.

###### Western Australian Labour Market

CCIWA noted the population increase of 0.3% over the September quarter of 2018 and that it is expected to remain modest in 2018/19 at 1% before gradually increasing to 1.3% in 2019/20, 1.5% in 2020/21 and 1.6% in 2021/22. The largest contributor to population growth in WA over the last three years has been natural increase. A recovery in interstate migration in line with improvements in the domestic economy is expected to assist population growth by 2021/22. The employment to population ratio of 63.7% was down slightly from 63.8% in February 2019.

The labour market is showing signs of improvement with a number of job vacancies increasing by 1%, or 150 advertisements over the year to March 2019. Job vacancies have been trending upwards since a low point of 14,400 job vacancies in May 2015.

Thirty per cent of businesses increased their employment levels over the March 2019 quarter while a quarter of businesses employed fewer people. CCIWA expects these conditions to trend downwards over the next quarter, with 29% of businesses expecting to increase their workforce in the next three months, but the majority are anticipating no changes.

WA’s unemployment rate decreased to 6.1% during March 2019 down from 6.2% in February 2019. The trend remains higher than Australia’s unemployment rate which was 5% in March 2019. WA had the second highest unemployment rate following Tasmania at 6.5% in trend terms.

Youth unemployment has steadily increased since January 2015 and was 13.7% in March 2019. The Western Australian youth unemployment rate exceeds the national average and has done since mid-2017.

CCIWA notes the slight downward trajectory in the underemployment rate in 2018 and early 2019 and says while this is a positive sign that some spare capacity is being taken up in the domestic economy, the degree of spare capacity in the Western Australian labour market remains high, and higher than the Australian rate. WA’s in March 2019 was 8.9% whereas Australia’s rate was 8.2%. CCIWA says many businesses remain wary about adding to the labour costs in the current economic environment and therefore support a cautious approach to wage adjustment to ensure that this does not result in significant or unexpected labour cost increases that discourage businesses from providing additional jobs and additional hours of work, and from utilising the spare capacity in the labour market.

This is a measure of spare capacity in the labour market and combines unemployed and underemployed. Australia’s underutilisation rate between February 2017 and March 2019, seasonally adjusted, improved by 1.6% points, reaching a high of 14.9% in February 2017 and a low of 13.2% in March 2019. WA’s underutilisation rate is currently 13.2% (March 2019), and is 1.5% below the high of 14.7% recorded in November 2017. WA’s underutilisation rate remains 2.5% higher than its 10 year average, indicating that relative to previous periods, the underutilisation rate and unemployment rate showed that there is a sizeable number of people in WA who would like to work more hours than is currently being offered in the marketplace. It is conceivable that the existing labour market slack may remain in the short term given that business investment is forecast to improve in 2019/20 and 2020/21. Weak demand is prompting businesses to be cautious about hiring workers, with rising operating costs and strong competition.

The participation rate measures the share of the working age population either working or looking for work at a point in time. The Western Australian participation rate in March 2019 remained steady at 67.8% in seasonally adjusted terms. This is slightly higher than Australia’s participation rate of 65.7% for the same period. WA’s participation rate is close to the 2018/19 Western Australian Government Mid-Year Financial Projects Statement Forecast of an annual average participation rate of 68.6% in 2018/19. The female participation rate for WA decreased slightly from 62.8% to 61.9% between March 2018 and March 2019. Similarly, the male participation rate fell from 74.8% to 73.9% over that period.

###### Apprentices and trainees

CCIWA notes that apprenticeships and traineeships are essential to developing highly skilled and qualified workers who contribute to the growth and productivity of the domestic economy. They have been strongly supported by businesses across the economy. CCIWA says that adjustments in award wages for apprentices and a government-sponsored incentive affect the relative attractiveness of apprentices to employers and would-be apprentices, with unknown impacts. CCIWA referred to the Productivity Commission Inquiry Report, Workplace Relations Framework, Overview and Recommendations, No. 76, 30 November 2015, page 20, saying that a ‘precipitous adjustment to award wages as far as a cascade to apprentices and trainees could have a negative effect on the employment opportunities for apprentices’. Businesses are therefore said to support a cautious approach to wages adjustment to ensure that any movement in wages costs does not exert unsustainable wages pressure that dampens or discourages businesses from continuing to provide employment pathways for apprentices and trainees.

###### Wages growth

Private sector wages growth in WA measured in the Wage Price Index (WPI) has decreased over the last three years, reaching its lowest point of 1.0% through the March and June quarters in 2017. It has improved through the December quarter of 2017 (1.5%) finishing in the December quarter of 2018 at 1.7%. Private sector wages growth has been at or below 2% in WA since December 2014. It is expected that wages growth measured by the WPI of 1.75% in 2018/19 will gradually pick up over the remainder of the forward estimates period to 3.25% in 2021/22 as economic activity continues to strengthen and spare capacity in the labour market is absorbed.

CCIWA forecasts wages growth of 1.8% in 2018/19, increasing to 2.2% in 2019/20 and 2.5% in 2020/21. This is predicated on trends in WA’s multi-factor productivity and capital deepening, where businesses invest in machinery and equipment that increases business output and revenue.

WA’s WPI shows that its growth in wages is the lowest of all of the states whereas in 2012 it was the highest.

WA has the highest AWOTE of the states for November 2018 at $1,757.10, seasonally adjusted, and exceeded the Australian AWOTE by $151.60 per week. CCIWA says that this is largely the cumulative result of employment in the resource industries.

Private sector full-time AWOTE for WA over the 12 months to November 2018 increased by 0.8% while the private sector increase for Australia was 2.2%.

CCIWA says the Commission should consider the promotion of social inclusion through workplace participation when setting the SMW, award wages and allowances. Access to paid employment opportunities is said to be a critical part of ensuring social inclusion and that any minimum wage fixation framework would not be effective if it did not consider the impact on, and therefore the likely response of, employers to minimum wage outcomes.

###### Employer’s capacity to pay

CCIWA says that if wages are set at a level that is higher than the productive value of the individual employee, this will result in negative employment impacts. If wage increases cannot be passed on or absorbed, employers will be forced to reduce costs which might ultimately include working hours, rates of pay and employee headcount. The employment costs extend beyond the base award rates of pay to superannuation, payroll tax, leave liabilities, penalty rates and workers compensation premiums. Excessive increases in wages should not be contemplated and any increases must be sustainable for those required to fund them, such as small and micro-businesses with higher level award reliance.

CCIWA notes that excessive wages will create inflationary pressures in the economy. A low inflationary environment, as currently exists in WA, should also direct against a large increase in wages where the revenue of a business will not adjust as readily to fund excessive wage increases through price increases passed on to the consumer. If labour costs increase at a rate faster than inflation, the increased costs will need to be absorbed by the businesses, bringing negative employment effects discussed earlier.

###### Profitability

CCIWA says that populist commentary generalises and discusses all business in the context of large corporations which are said to be unrepresentative of the economy which is comprised of over two million businesses, the smallest co-hort being large business. It says that around three quarters of businesses in WA are unincorporated. Their profit growth adjusted for inflation over the five years to 2018 increased at just 1.2% in real terms per year on average for the same period. This is compared with corporate profit growth which was 4.2% per year on average.

Mining accounted for approximately 70% of the increase in corporate profits after a period of unprecedented investment in large capital works. This had a distorting effect on the calculation of profit. CCIWA says that excluding mining, over the five years to 2018, adjusted for inflation, total corporate profit grew by a total of 14.3%, or 2.7% per year on average in real terms. This is compared with 1.2% per year for unincorporated bodies.

###### WA compared with other jurisdictions

Over the last five years:

* + construction in WA has contracted by 8.6% per year on average while expanding in New South Wales and Victoria by 4.3% and 5.7% per year on average respectively;
	+ retail has been flat in WA, growing by 1.1% on average in year-ended terms, while growing by 4.5% and 4.9% in New South Wales and Victoria respectively;
	+ there is reduced demand for labour in WA compared with other states;
	+ total construction employment has decreased by 1.6% per year on average in WA while growing 3.3% in New South Wales and 3.5% in Victoria;
	+ total retail employment has grown at 1.2% in WA while growing 2.5% in New South Wales and 2.8% in Victoria per year on average; and
	+ total accommodation and food services employment has grown at 4.1% in WA per year compared with 4.6% in New South Wales and, 4.9% in Victoria.

###### Encouraging employers, employees and unions to reach agreements

It is noted by CCIWA that industrial agreements are not a practical or viable option for the small business employers in the State system. CCIWA quotes the Productivity Commission that ‘increasing the wages of the low paid through minimum wages and conditions is a better method of income redistribution than the tax transfer system’ Productivity Commission Inquiry Report, Workplace Relations Framework, Overview and Recommendations, No. 76, 30 November 2015, page 331). CCIWA notes that it was further stated that no system of re-distribution is perfectly targeted and that many households that receive award wages are not in the lowest-income households.

###### Productivity

CCIWA provided evidence regarding productivity trends. It set out national productivity data from the Commonwealth Treasury, noting that the labour productivity grew by 1.4% per year on average between 2007/8 and 2015/16. It says that ‘[t]his has led to more output per worker as each worker has more efficient machines, technology and assets to make more goods or services.’ The other factor is multifactor productivity (or worker and management efficiency), which is said to have contributed 0.2% to annual growth in labour productivity on average.

Figure 1: Labour productivity and growth decomposition

Source: Commonwealth Treasury, (2017) page 4. ABS cat. no. 5260.0.55.002 and Treasury calculations.

CCIWA also notes that the ABS has released ‘experimental data’ on productivity on a State basis. For the last 10 years it showed labour productivity growing at around 3.4% on average. Capital is said to have accounted for 60-80% of that productivity growth around (2.0 - 2.7%) and multifactor productivity between 20 – 40%, (0.7 and 1.4%).

CCIWA also notes ABS’s data on the contributions to growth in productivity at a national level in, for example, the retail trade. Between 2009/2010 and 2016/2017, the total output of the retail trade grew by 2.66% per year on average. This is comprised of capital contribution of 0.81%; hours worked of 0.49%, and multifactor productivity of 1.36%. This multifactor productivity is considered to be worker efficiency and contributed most to the grown in the retail output on average on a national level.

#### (3) UnionsWA submissions

###### Employees who are unable to reach an industrial agreement

UnionsWA contends that ‘it is more probable that a minimum wage increase will act as a spur to bargaining, particularly where employees are considered award free and need a “signal” of what constitutes an acceptable wage [7.13]’.

###### Encouraging ongoing skills development

UnionsWA notes the National Centre for Vocational Education Research (NCVER) 2019, *Apprentices and trainees 2018: September Quarter – Western Australia* Report shows that commencements in apprenticeships and traineeships continue to fall. It contends that this is a consequence of a failure to make undertaking training pay for the trainee. It refers to other reports including the 2011 NCVER research report “*The Impact of Wages And The Likelihood Of Employment On The Probability Of Completing An Apprenticeship Or Traineeship*”. The completion wage premium is said to be a significant factor in apprentices completing their training. Completion rates decrease with increases in the difference between wages in alternative employment and training wages. It is noted by UnionsWA that in the long run, those engaged in training still need to survive in the short term on low wages.

UnionsWA also notes that it has previously submitted that the main cost to employers in training apprentices is the cost of supervision rather than wages cost, and that this was supported by the NCVER report “*The Cost of Training Apprentices*”. UnionsWA says that for apprentices, there is an opportunity cost involved in the time spent as an apprentice. Unless regular and generous increases in apprenticeship wages flow on from decisions such as the minimum wage, apprenticeships become increasingly unattractive.

UnionsWA notes the recent State Budget included an additional $182.4 million over the forward estimates to stimulate growth in apprenticeships and traineeships. This is particularly aimed at including small businesses and to enable the government to target assistance to meet the state’s workforce priorities. These incentives should provide additional scope for small businesses to accommodate any increase in apprentice and trainee pay rates, according to UnionsWA.

###### Providing equal remuneration for men and women for work of equal or comparable value

UnionsWA says that an increase in the SMW at or below the CPI inflation rate will make the gender pay gap worse rather than contribute to its improvement. It says that a bold increase in the SMW is needed to address the continuing gender pay gaps in WA and nationally.

###### The state of the economy of WA and Australia

UnionsWA notes the 2018/19 WA State Budget papers noted that the State’s economy, as measured by GSP, is expected to accelerate from 2% in 2018/19 to 3.5% in 2019/20. This reflects an expectation of continuing solid growth in exports, combined with increasing business investment as spending on a new wave of resource sector projects, mostly iron ore and lithium, gathers pace. There is also reference to government investment in major road and METRONET rail infrastructure which are expected to see employment growth of 1.75% in 2019/20 up from an estimated 1% in 2018/19.

Household consumption is expected to grow by just 0.75% in 2018/19, after growth of 1.6% in 2017/18. It is said that recent improvements in consumer sentiment have not yet translated into higher spending, as households have maintained a high savings rate and continued to restrain spending on non-essential goods.

UnionsWA contends that spending on non-essential goods and services is weak because of low wage growth, and the disparities in wage distribution in WA. It says that the State Wage Case can address consumption growth by increasing award wages. It notes that the Budget Papers refer to increased spending over the forecast period being dependent on progressive increases in income and wealth (proxied by house prices) providing households with confidence to spend. It notes that there is a risk that consumers may further delay spending decisions until wages growth has been sustained and growth in disposable incomes is considered to be permanent (2019-20 WA Budget Papers, Budget Paper No. 3: Economic and Fiscal Outlook, page 17).

UnionsWA also notes that the RBA *Statement on Monetary Policy May 2019* says that the outlook for consumption was a key source of uncertainty for the forecasts and that this was important for the outlook for consumption. The RBA noted ‘[s]hould households conclude that low income growth will be more persistent than previously expected, households may adjust their spending by more than currently projected and consumption growth could remain weak for a longer period.’ (RBA *Statement on Monetary Policy May 2019,* p 76).

Reference was also made to the National Australia Bank’s *State Economic Overview April 2019* regarding household consumption growth having softened in 2018 and that weak wage growth is a factor. This report also noted that WA has the lowest wage growth of any state or territory.

UnionsWA says that a substantial increase to the SMW will assist in the growth of household consumption by increasing aggregate demand. It also notes the RBA’s *Monetary Policy Statement February 2019* which noted that ‘[m]inimum wage increases could push up aggregate wages growth and increase inflationary pressures, depending on how employment and hours worked are affected.’

UnionsWA also reports on the United Kingdom Low Pay Commission’s report, 20 years of the National Minimum Wage (April 2019), which it refers to as recent which includes the period 2000-2018. It examines the nominal and real growth in minimum wages for OECD countries. UnionsWA says that this shows that while Australia has a reputation for high minimum wages, the last 10 years have not been outstanding in terms of wage growth. It says that the economy needs the accompanying boost to household consumption and expenditure that would result from increased wages growth.

###### The capacity of employers as a whole to bear costs of increased wages

UnionsWA says that employers’ monopsony position in the labour market has provided them with substantial power to hold labour costs down. It says there is no reason in such an environment for the Commission to restrain the SMW.

It also refers to the paper by Saul Eslake in *The Wages Crisis in Australia* (by Stuart, Stanford and Hardy (2018) pages 218 to 219), in which he says that the rewards of improvement in productivity have accrued to employers rather than to employees, ‘that the divergence between labour productivity growth and the real producer wage reveals that most of the income gains arising from the net improvement in Australia’s terms of trade since the early 2000s … have also accrued, at least in the first instance, to employers (or to governments, in the form of taxes).’

Mr Eslake also noted that:

Wages paid by small businesses are on average 44% lower than those paid by medium-sized businesses … and 53% lower than those paid by large businesses. … That stems partly from the fact that labour productivity (industry value added per employee) is lower, on average, in small businesses than in larger ones. But it also suggests that increasing small businesses’ share of total employment – which would appear to be one intention of taxing small business incomes at a lower rate than the income of larger businesses – would do nothing to increase average wages.

…

The decline in the share of national income accruing to labour in Australia and other industrial economies over the past two decades – and the corresponding increase in the share accruing to ‘capital’ – has not resulted in faster growth in business incomes, or in economic activity more broadly.’ (226-227).

UnionsWA says that an across the board, ‘institutional decision’, to lift wages is needed because employers and industry generally actively try to constrain wages growth. Increases in minimum wage rates will ensure that firms can compete on factors other than wage costs.

###### The need to ensure that the Western Australian award framework represents a system of fair wages and conditions of employment

UnionsWA examined the effect of flat dollar increases in recent State Wage decisions and the slight impact on the compression of relativities. UnionsWA says that relativities have begun to compress again after the 2017 decision where the Commission awarded an increase of 2.3% to C10 and above. It said that an increase of $43.61 per week or 6%, whichever is greater, best balances the range of factors the Commission must take into account and will assist in giving both substantial increases to the lowest paid but also preserving the existing skill-based relativities for award classifications.

UnionsWA notes that nationally the WPI rose 0.5% in the March quarter of 2019 and 2.3% through the year. For WA through the year, private sector wages have increased by 1.7% as opposed to 2.3% nationally. UnionsWA also notes that the Centre for Future Work released a briefing paper *The Impact of Minimum Wages on Recent Wage Trends,* which pointed out that:

Because it holds the composition and quality of jobs constant from one period to the next, the WPI does not capture the wage impacts of changes in the composition of jobs over time. In Australia in recent years, employment has become more dependent on part-time work; average hours worked per employee have declined; and other forms of insecure or low paid work have also become more common. These effects are excluded by definition from the WPI, and hence it has overstated the true growth of realised wage income.

(paragraph 2.2 UnionsWA reply)

UnionsWA also notes that both the Minister and CCIWA refer to household consumption being weak and the concerns that this causes. The GSP growth of 1.9% in 2018/19 has been driven by household consumption (along with business investment and dwelling investment). Household consumption represented 46% of the economy in the December 2018 quarter.

UnionsWA says that CCIWA then tries to claim that, because the national household savings ratio has fallen, ‘a future increase in wages growth or employment will not immediately result in an equivalent increase in consumption’ (CCIWA submission [77] and [78). UnionsWA says that this is a highly debatable claim because the behaviour of lower paid workers is that they are more likely to be earning award and minimum wages and the relationship between income and expenditure means that every extra dollar a low-wage worker earns is more than likely to end up boosting demand for goods and services, with those on the lowest incomes spending a proportionally higher amount of their earnings.

UnionsWA says that when those on the lowest incomes receive a rise in their wages, they spend it on much needed essential goods and services, typically locally, providing an injection to the economy of their community.

UnionsWA also notes that CCIWA reports that 38% of respondents to its consumer confidence survey identified weak demand as the largest barrier to growing their business over the coming year. Further, it said that weak consumer spending may have contributed to subdued demand levels and that WA consumers were unlikely to make any major household purchases next quarter. UnionsWA says that the stronger propensity to spend on the part of low wage earners means that a substantial SMW increase will make the strongest contribution to lifting consumer spending in WA, and consequently, feeding into household consumption.

# Fair Work Commission AWR - Decision

The FWC issued its AWR 2018/19 Decision on 30 May 2019. The Commission reconvened to hear submissions on the effect of that decision as required by s 50A(3)(f) of the IR Act.

We note that the FWC – AWR is set in a different statutory scheme to that applicable under the IR Act. There is overlap between some of the issues to be considered. The AWR decision takes account of the circumstances applying across Australia as a whole, those circumstances including the whole of the national economy, even though there are considerable variations across states and territories according to different circumstances relating to the nature of their industries, workforces, trading arrangements and the like. The State Wage Case decision is to take account of the national economy, however the Commission is able to look more specifically and directly at the circumstances prevailing in WA.

The AWR decision also considers social and equity issues including social inclusion through workforce participation, relative living standards and the needs of the low paid and the principle of equal remuneration for work of equal or comparable value.

The FWC – AWR 2019 decided to increase the NMW and award rates by 3%, making an increase of $21.60 to the NMW, taking it to $740.80 per week.

# Conclusions

In coming to a determination under the State Wage Case decision, the Commission is required to take an evaluative and balancing approach between competing considerations. Issues of fairness relate to both sides of the employment relationship and must take account of the effect on those who are employed as well as those who seek to be employed or to increase their employment hours.

None of the considerations set out in the legislation has priority. All are to be considered and weighed. Depending on all of the circumstances, some carry greater weight than others at particular times.

We note and have given careful consideration to the views of those who have made submissions.

In respect to ensuring that WA has a system of fair wages and conditions of employment, we note that the system in existence today is the product of decades of legislated attention, negotiations, conciliations and arbitrations. We come to this decision, not with a blank page, but with a system of wages and conditions covering all employees who are currently within the State system. The context of this determination is a review of the existing SMW and award wages, not the creation anew. The limitation on this review is to set a SMW and adjust award rates. The submissions put to us are all aimed at providing a justification for the rate of increase that each espouses. It is against this background that we apply the considerations set out in the IR Act.

The IR Act does not impose an obligation to set social, taxation or economic policy. We must take those matters as they exist and apply them to the task of reviewing the SMW and award wages. We are required to balance competing and conflicting views, approaches and interpretations to a wide range of economic and social considerations.

We start by dealing with the employment effects of minimum wage increases.

Firstly, moderate, regular increases in the minimum wage in the Western Australian context do not have discernible, significant adverse effects on employment. In last year’s decision, we reiterated our conclusion reached over a number of years. We said:

158. Overall, based on the materials considered by us in the 2017 State Wage Case; the work undertaken for the Commission by the late Professor David Plowman in 2006, *Report Prepared for the Western Australian Industrial Relations Commission: State Minimum Wage Review, May 2006*; observations of the FWC in its AWRs; and the above research, our opinion remains that moderate, regular increases in the SMW do not lead to negative employment consequences. What is 'moderate' will depend on the circumstances at the time. As we have noted previously, minimum wage increases in the past in this State have exceeded increases in the NMW, in times when the State's economy was very strong and had the capacity to support them. Increases in the SMW over the last five years of between $13 and $20 per week can be considered as moderate. The highest such rise was $29 per week in 2008 during very different economic circumstances. There has been no submission or evidence that any of these increases, in the context of the particular times, have had any adverse employment effects.

[2018] WAIRC 00363

We also noted last year:

121. Small businesses reported that their short-term responses to increases in costs would be to implement strategies to manage or reduce their wage bill (69.4 per cent). This included:

(1) reducing hours of casual staff (71.8 per cent);

(2) work more hours themselves (69.3 per cent);

(3) reduce the number of employees by attrition (63.1 per cent);

(4) reduce the length of shifts (54.3 per cent); and

(5) reduce overtime (50.7 per cent).

122. This is consistent with the evidence given to the Commission in 2013 by Professor Rowena Barrett. Other responses related to reducing other business costs.

123. In the cost containment strategies set out above, small business owners may substitute their own labour, reducing staff working hours. This has an impact on the health and wellbeing of those business owners. CCIWA also notes the negative impacts on the physical and mental wellbeing of work‑related stress by more than 50 per cent of small business owners.

[2018] WAIRC 00363

CCIWA sought to persuade us this, by reference to economic research by:

1. Dr Andrew Leigh in respect of increases to WA’s minimum wage (Leigh, A (2003). Employment effects of minimum wages: Evidence from a quasi-experiment, Australian Economic Review, 36(4), 361-373 and Leigh A (2004a), Employment Effects of Minimum Wages: Evidence from a Quasi-Experiment – Erratum. Australia Economic Review, 37(1), (102-110); and
2. David Neumark and William Wascher (Neumark, D., and Wascher, W.L. (2007). Minimum wages and employment. Foundations and Trends in Microeconomics, 3(1-2), 1-182),

that there are demonstrable adverse effects to employment by the increases to the minimum wage.

## Dr Leigh’s Research

In an article in the *Australian Financial Review*, of 14 January 2004, Dr Leigh noted that ‘setting the federal minimum wage is a balancing act. On the one hand, a higher minimum wage improves the living standards of thousands of working Australians. At the same time, raising the minimum wage may cost jobs’.

Dr Leigh compared the circumstances in the United States of America (USA) with Australia and said that ‘[g]iven that Australian minimum wages are higher (compared with median earnings) than US minimum wages, translating this research into the Australian context is not straightforward.’ Dr Leigh reported that within Australia that ‘modest increases are not likely to cause significant employment losses’. Dr Leigh was referring to the case by the ACTU in 2004 calling for a 6% increase in the federal minimum wage compared with the federal government’s submission of 2-3%. He said:

My findings suggest the ACTU’s claim would result in a 0.8 percentage point fall in employment, while the government’s would cause a 0.3 percentage point drop.

Only half a percentage point separates the employment effect of the two claims a relatively small amount, given that the employment rate often moves by this amount from one month to the next due to seasonal variation.

The employment costs of raising the minimum wage appear relatively small, while the chance to provide a boost to the incomes of the working poor is real.

## Neumark and Wascher’s research

This research examined over 100 reports about the effects, in particular in the United States of America (USA), of increasing the minimum wage. This paper is not, with respect, particularly helpful in examining what has occurred or is likely to occur in WA. It examined increases in the minimum wage in the USA in the late 1980s and early 1990s. Increases of between 10% and 26% were made after a decade-long freeze in the federal minimum wage. The structural, institutional and economic circumstances in the various states of the USA and the amount of the increases make it very difficult to attach much weight to this research for the purposes of considering the SMW wage and increases to award wages.

We also note, as we have previously, the research done in Australia and in particular by Professor Plowman referred to in previous years.

Also Dr James Bishop, in “*The Effects of Minimum Wage Increases on Wages, Hours Worked and Job Loss”*, Research Discussion Paper (RDP) 2018-06 recorded:

The effect of minimum wages on employment has been widely debated. Despite a vast research effort, economists remain divided on the issue. In Australia, these effects have been particularly difficult to quantify, in part due to Australia’s complex system for setting minimum wages. Due to this lack of evidence, policymakers have tended to rely on the evidence for the United States and United Kingdom. However, as the Productivity Commission (2015b, p 190) has argued, we should be cautious in drawing lessons from the US and UK experiences, due to the ‘significantly different institutional wage setting arrangements and lower minimum wages’ in those countries compared to Australia (1).

In his paper, Dr Bishop noted the unique institutional features of wage setting in Australia. He concluded by stating:

I find that small, incremental adjustments to awards are most likely passed on to wages in award-reliant jobs. These adjustments appear to have little adverse effect on hours worked or job loss. These findings are consistent with the international evidence and the FWC’s (2017) current assessment of that evidence base. (15).

Dr Bishop went on to note some limitations to his conclusions. [F]irstly … my results are for adult employees only and do not include juniors. Secondly, the results may not necessarily generalise to large, unanticipated changes in award wages’. He went on to say that ‘although I find no statistically significant evidence of an effect of award adjustments on job destruction, this does not rule out an adverse effect on employment. For instance, the adverse consequences of higher wage floors may be borne by job seekers, rather than job holders (15-16).’

While the research is not unequivocal, there remains no research set in our unique wage setting system, which would lead us to change our view that moderate, regular increases in the minimum and award wages have no significant and discernible negative employment consequences. The issue is what constitutes moderate. Further, the fact of both the NMW and SMW being revised each year is well reported. It is highly unlikely in that context that the level of increases awarded over the years would not be anticipated and factored in to businesses budgeting.

In considering what is fair, we need to weigh the interests of those who receive pay rises as a consequence of our decision, those who make those payments, and the community generally, including those looking for work.

# Social and equity consideraitons

We note the comments of the FWC – AWR 2019 decision that:

[15] 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.

…

[17] 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. The risk of poverty is also relevant in addressing the needs of the low paid. We accept, as we have in previous Review decisions, that if the low paid are forced to live in poverty then their needs are not being met. We also accept that those in full-time employment can reasonably expect a standard of living that exceeds poverty levels.

We also note UnionsWA and WACOSS’s submissions regarding the needs of the low paid, and living standards including the case for a rate taking account of the relative poverty benchmark. We note the circumstances of a variety of different households and the effects of low paid work.

We have also noted the ‘stepping stone effect’. The FWC - AWR 2019 said at [159] ‘that about half of low paid workers spend less than a year in low paid work before moving to higher-paid work. The remainder either spend more than one year in low paid work, or move from a low paid job into unemployment or leave the labour force’. It then went on to set out the following tables demonstrating this effect:



As to a living wage, by reference to a relative poverty line, we note that the HILDA analysis defines low paid as less than two-thirds of the median hourly rate, rather than the minimum wage. The median wage at a national level is $1,066, and two thirds equals $710.67. In Western Australia, the median wage is $1,150 and two thirds is $766.67, which is above the current SMW by nearly $40.00 per week. The WA median wage is $56.00 above the national median wage.

The FWC - AWR 2019 said of the living wage:

[60] The ACTU contends that we should set the NMW (or C14) rate at a level which lifts a single earner couple without children above the 60 per cent relative poverty line where the non-working partner is not seeking work. Both the ACTU and ACBC submit that the NMW (or C14) rate should be set at a level which lifts single earner couples with 1 or 2 children above the 60 per cent median income poverty line.

…

[62] In addition, low paid employment is often temporary and can act as a ‘stepping stone’ to higher paid work. The C14 (or NMW) rate only features in 45 of the 122 modern awards and in 39 of those awards it is a transitional rate from which employees progress after a period. We also accept that there are instances where low paid employment is not a pathway into higher paid work and as the Panel has observed previously ‘[w]e cannot be indifferent to the standard of living of low-paid workers just because many do not stay in that situation for long periods.

[63] It is important to identify with some precision the number of employees who are sought to be the beneficiaries of a particular policy. If it turns out that the number of employees in the household types below the 60 per cent of median income relative poverty line is very small or that they are transitioning to higher paid jobs then it raises a real question about whether the minimum wage system is the appropriate instrument to address these pockets of disadvantage. As the Panel has observed in the past, ‘increases in minimum wages are a blunt instrument for addressing the needs of the low paid … [and] the tax-transfer system can provide more targeted assistance to low-income households and is a more efficient means of addressing poverty. Of course to the extent that the tax transfer system fails to adequately address the ‘needs of the low paid’ more may need to be done through the minimum wages system.

We endorse those comments while noting that a relative poverty line is indeed relative and not absolute. The comparisons between the situation in WA and nationally demonstrates this and raises the question of the usefulness of such a measure for the purpose of setting a minimum wage.

WA’s median is higher than the national median even though the difference has declined since the peak of the mining and resources investment boom. The disparity between the two rates commenced in 2007 and was at its greatest in 2012. It is a volatile measure and has varied each year.

It also is difficult to properly compare WA’s relative poverty level with the national level when there are differing industry structures across the states, territories and regions.

We also concur with the FWC – AWR 2019 conclusion that the ‘increases in minimum wages are a blunt instrument for addressing the needs of the low paid … [and] the tax-transfer system can provide more targeted assistance to low-income households and is a more efficient means for addressing poverty [63]’.

We have considered the rate of increases in the SMW and award rates of pay in recent years to determine whether they have kept pace with, or provided an increase above, the cost of living. We note that the CPI is not a perfect measure of increases in the cost of living. However, it provides a stable measure of changes in the prices of a representative and fixed basket of goods and services. This is the best available measure of relative costs changes.

Each year, the submissions we receive point out the various costs which have risen above the CPI and others which have not. We do not see it as desirable to consider each year the relative impact of components of the CPI unless there are exceptional circumstances. To do so would provide instability and fuel regular arguments about the virtues of and trends in each component. What is helpful is that there is a measure which is known and relatively stable.

In comparing the Perth CPI with measures of increases in wages, we have chosen to use the WPI. It is less volatile than AWOTE and is recognised each year as being the appropriate measure for this purpose.

Since 2014-15 until 2017-18, the actual CPI for Perth, seasonally adjusted, has increased by a total of 4.3%. This is compared with the WPI which has increased by 7.0% and the SMW, which has increased by $61.00 per week, or 8.81%. This demonstrates that even since the decline in the growth of the State economy following the resources and investment boom, the SMW has benefited from significant and real increases. Until the FWC issued the 2019 AWR decision, to apply from 1 July this year, the SMW will be $7.70 above the NMW, notwithstanding that the State’s economic circumstances have been more challenging than at the national level.

The information provided by WACOSS about the living costs and total income of a number of different model households is helpful in considering the needs of the low paid, living standards generally, and contributions to improved living standards. The SMW and award wages have a role to play in household income, but the decision the Commission must come to is a rate of increase for an individual employees regardless of family or household circumstances. It cannot completely take account of the taxation rates applicable to each of them and the particular benefits they may be entitled to under State and national government programs for families, households and individuals.

We note that CCIWA has referred in its submissions to enhancing social inclusion. This is not one of the criteria set by the IR Act but arises from the FWC - AWR’s criteria. It does, however, have some reflection on issues of fairness and equity.

The Commission must also take account of the need for wages and employment to be sustainable. Employers must to be able to afford to pay the rates without undermining employment, either as a whole job or as increased hours of work.

Employees are entitled to work in jobs which are likely to enhance their daily lives and not be detrimental to their health. Employees are also entitled to be paid a fair, decent and sustainable wage. As the evidence has shown, a moderate increase in wage rates, in the context of what the economy and the employer can pay, is the key.

# The state of the Western Australian economy

1. Based on the evidence set out in the documents before us, we note the tentative signs of growth from the lows of recent years.
2. GSP growth in 2016/17 was – 2.7%. The estimated actual for 2017/18 was 2.5% but came in at 1.9%, that is a 4.6% improvement but not as good as expected. This compares with the peak in 2011 of nearly 10%.
3. SFD in 2016/17 was – 7.2%. The estimated actual last year, for 2017/18, was – 0.25%, however, it was in positive terms of 1.0%, being 1.75% better than expected.
4. Employment growth in 2016/2017 was – 0.9%, with an estimated actual for 2017/18 being 2.25%. This was an improvement of 3.95%, and exceeding expectations by 0.05%.
5. The unemployment rate was 6.2% in 2016/17. The estimated actual for 2017/18 was 5.75%, and the actual rate for 2017/18 was 6.1%. Therefore, there has been an improvement, but not as great as expected, and modest in the circumstances.
6. The WPI grew 1.4% in 2016/17. It was estimated to be 1.5% in 2017/18, and this has eventuated. This brings a 0.1% improvement in the WPI.
7. The CPI rose by 0.6% in 2016/17. It was expected to rise to 1.0% in 2017/18, but fell-short at 0.9%.
8. Business investment is at its lowest in nearly 15 years. It is expected to increase in 2019/20.

While employment in WA has grown in the resources and related industries, it has contracted in accommodation and food services, arts and recreation services and the retail trade, construction, education and training, and financial and insurance services.

1. Employment growth generally is expected to be 1.75% in 2019/20 compared with the 25 year average of 2.1%. We note the growth in full-time employment is a positive sign, compared with a number of years of part-time growth and full-time decline.
2. Consumption is at low levels, albeit that discretionary spending has increased slightly. Dwelling investment is at the lowest level in 20 years.
3. These major economic aggregates for WA demonstrate that while there is improvement overall, it is modest.
4. Leading indicators such as business and consumer expectations and confidence, housing starts, and investment underscore that, while the economy is not quite ‘bumping along the bottom’, it is still at a low level compared with the peak only a few short years ago. There are signs of increasing optimism and tentative growth.
5. This contrasts strongly with the state of the national economy, which the FWC - AWR 2018/19 decision described this way:

[6] Despite the recent fall in GDP growth, the Australian economy has performed moderately well and the relevant data are all indicative of a strong labour market. Although business conditions have declined from the high levels recorded in the first half of 2018, they remain consistent with trend growth in the economy and the labour market has performed strongly. As the RBA has recently observed, ‘[a]lthough GDP growth has moderated, employment has continued to expand by enough to reduce spare capacity in the labour market over the past year’. The Australian Government expects the economy to grow at its potential rate and to support future increases in employment. The proportion of the working-age population that is in employment is at record levels. (Footnotes omitted)

In comparing the national and state performance, GDP grew by 2.8% compared with GSP of 1.9%. Employment growth nationally was 2.7% compared with 2.2% in WA. The national unemployment rate was 5.4% compared with 6.1% in WA. The WPI nationally grew 2.1% compared with 1.5% in WA. The CPI increase nationally was 2.1% compared with 0.9% for Perth.

The Commission is required to consider the capacity of employers as a whole to bear the costs of increased wages, salaries, allowances and other remuneration. We note that an increase in the minimum wage and award rates of pay does not end with the weekly or hourly rate. It flows on to superannuation, workers compensation, leave and other costs.

In looking at the capacity of employers as a whole to bear those cost increases, it is useful to look at a number of measures including profitability and business survival ratios.

There are no profitability measures which are isolated for WA. However, at a national level GOS and GMI is used as a loose proxy for profitability.

1. The Minister’s Table 6 sets this out by industry, for the whole of Australia.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Industry** | **GOS + GMI June 2017 ($m)** | **GOS + GMI June 2018 ($m)** | **Annual Increase ($m)** | **Annual Increase (%)** |
| **Mining** | 56,733 | 63,258 | 6,525 | 11.5 |
| **Manufacturing** | 4,491 | 4,968 | 477 | 10.6 |
| **Professional, scientific and technical services** | 2,658 | 2,852 | 194 | 7.3 |
| **Wholesale trade** | 2,484 | 2,572 | 88 | 3.5 |
| **Health care and social assistance** | 1,594 | 1,644 | 50 | 3.1 |
| **Transport, postal and warehousing** | 5,800 | 5,974 | 174 | 3.0 |
| **Retail trade** | 2,868 | 2.954 | 86 | 3.0 |
| **Financial and insurance services** | 7,642 | 7,801 | 159 | 2.1 |
| **Electricity, gas, water and waste services** | 3,592 | 3,643 | 51 | 1.4 |
| **Education and training** | 830 | 835 | 5 | 0.6 |
| **Accommodation and food services** | 971 | 946 | -25 | -2.6 |
| **Information media and telecommunications** | 2,053 | 1,999 | -54 | -2.6 |
| **Arts and recreation services** | 558 | 539 | -19 | -3.4 |
| **Public administration and safety** | 1,342 | 1,278 | -64 | -4.8 |
| **Rental, hiring and real estate services** | 2,678 | 2,547 | -131 | -4.9 |
| **Administrative and support services** | 800 | 758 | -42 | -5.3 |
| **Agriculture, forestry and fishing** | 5,797 | 5,405 | -392 | -6.8 |
| **Other services** | 782 | 726 | -56 | -7.2 |
| **Construction** | 8,504 | 7,291 | -1,213 | -14.3 |
| **Total all industries** | **129,309** | **133,714** | **4,405** | **3.4** |

This demonstrates the average annual increase for the mining industry for 2017/2018 was 11.5% whereas the total for all industries was 3.4%. This is in a context of the Mining industry constituting over 47% of the total GOS and GMI as at June 2018.

Without the contribution made by the Mining industry, instead of an increase of 3.4%, there was an overall contraction of almost 3%. Interesting, too, is that the Mining industry contributes only 7.7% to WA’s workforce (see Minister’s Table 7). However, we were informed by Mr Christmas that the industry of Professional, scientific and technical, which constitutes 8.1% of the WA workforce has a significant number of people whose work is associated with the mining industry (ts 16). The Professional, scientific and technical services industry had an annual increase in GOS and GMI of 7.3%. Combined, these two industries experienced an 18.8% increase in GOS and GMI but constitute only 15.8% of the WA workforce. We note that this is not entirely a scientific consideration due to the GOS and GMI figures being national whereas the proportion of the workforce includes explicit WA figures. However, the proportion of the workforce in those two industries nationally is 10.8%. The Mining industry has only 0.9% of employees paid by award, and the Professional, scientific and technical services has 8.0%.

This is as compared with those industries that constitute a large proportion of those paid by award. The Accommodation and food services industry contributes 7% of the WA workforce and 44.9%, Australia wide, are paid by award. Its GOS and GMI was – 2.6%.

The Retail trade makes up 10.2% of the WA workforce, 30.1% are paid by award and its GOS and GMI was 3.0%.

Health care and social assistance industry employees make up 11.8% of the WA workforce, 31.7% are paid by award and its GOS and GMI is 3.1%.

Administrative and support services make up only 3.0% of the WA workforce, 41.3% are paid by award and its GOS and GMI is – 5.3%.

Therefore, the industries in WA with the highest proportion of award rate and minimum wage reliance are those where profitability is – 2.6%, 3.1% and 3.0% respectively. This includes the figures for large corporations as well as small businesses in the unincorporated sector.

There is no data before us about business survival rates to add to this consideration.

There are some positive signs of recovery in the Western Australian economy, however there is continued weakness over the short to medium term. There is real excess capacity in the labour market. The recovery of the economy from a protracted economic downturn since the decline of business investment following the peak of the resources industry construction boom in 2012 has been slow and is proving more volatile than expected. Declining business investment has been dragging on the economy, due to the end of the high level of LNG investment, and is expected to return to moderate growth in 2019/20.

Household consumption spending and dwelling investment remain sluggish and recovery in that area is likely to continue to be slow.

Global and national uncertainty have contributed to declines in business and consumer confidence in the first quarter of 2019, combined with the other economic and household factors. WA is expected to encounter more challenges before the domestic economy returns to sustained growth.

Last year we concluded that ‘the economic circumstances of Western Australia appear to have reached the bottom of the cycle and there are signs of improvement for the future [236].’ We have observed continued but not consistent or even moderate improvement.

We also noted, last year, that the small business sector was ‘facing the prospect of improved trading conditions but they have not yet developed [243]’. This remains the case. Consumer confidence and household spending are stubbornly low.

On Tuesday, 4 June 2019, the Governor of the RBA, Dr Philip Lowe spoke of the RBA’s concern, not in preventing inflation, but at addressing ‘subdued inflation pressures’. (See Today’s Reduction in the Cash Rate”, Reserve Bank Board Dinner, Sydney 4 June 2019).

Dr Philip Lowe noted that the aim of the RBA is to drive employment up by 4% (nationally) and consequently to tighten the labour market to take up the excess capacity. This in turn will fuel price rises and lift subdued inflation back into the 2-3% range.

These comments were made in a more healthy national economic environment and therefore apply with more resonance in WA. A moderate increase in wages must be the result in this case, to promote employment and absorb the excess capacity. An increase which exceeds what might be moderate may have adverse employment effects.

We also note that UnionsWA refers to Dr Lowe’s evidence to the House of Representatives Standing Committee on Economics in Sydney on 16 February 2018. It says that Dr Lowe advocates for wage increases of 3.5%. What Dr Lowe said was:

If we're going to deliver average inflation of 2½ per cent we should probably have average wage increases over long periods of time at 3½ per cent, if we can get decent productivity growth. My concern was that we were getting used to - and we didn't like it - wage increases of two to 2½ per cent. I've spoken publicly about the benefits of a pick-up in wage growth, to try to lift wage expectations and to reduce the probability of us getting stuck at this very low equilibrium.

This advocacy of wage increases of 3.5% referred to by UnionsWA needs to be viewed in the totality of the quote, which contained the caveat ‘if we can get decent productivity growth’.

There is clearly debate about the proper measurement of productivity. However, we note that productivity data from the ABS, including that for WA, demonstrate low levels of growth in recent years, despite higher levels on average in the past ten years.

The IR Act requires us to take account of the state of the economy of WA and the likely effects of the SWO on the economy and, in particular, on the level of employment, inflation, and productivity in WA (s 50A(3)(b)) and of any changes in productivity that have occurred or are likely to occur (s 26(1)(d)(v)).

It is clear then, that in weighing the various considerations we are required to have, that productivity growth is not robust, and that it pre-conditions the capacity of the economy to deal with wages growth, albeit that wages growth at the current levels is not desirable for the economy either.

This applies with the same intensity to rates of pay for apprentices and trainees, in that skills development needs to be enhanced.

We recognise that a moderate increase to the SMW and award wages will enhance gender equity, given that women make a very significant proportion of those on the lowest pay levels.

As in the past, an increase above the CPI, when it can be justified without being excessive, will aid in improving living standards.

1. Taking into account all of the matters that the IR Act requires us to consider, we have decided that the SMW and award rates of pay will be increased by 2.75%. This will result in the SMW being $746.90.
2. A percentage increase on this occasion will serve a number of purposes. It will assist in addressing the compression of relativities. It will also encourage ongoing skills development. This is because, while those at the lowest levels of pay need a decent increase, there is also a need to maintain the rewards for those who spend their time and efforts in improving their skills, and not to compress the difference in monetary reward from those efforts.
3. We also note that women are employed in many occupations which are award reliant. Under those awards, they may not necessarily be the lowest paid, however, a percentage increase may assist with the gender pay gap. This also assists in meeting the requirement for Western Australians to have a system of fair wages and conditions. The increase is, again, higher than the increase in the Perth CPI, and will assist in meeting the needs of the low paid and contribute to improving living standards for employees.
4. In the context of the economic environment in WA, and as it compares with the national economic situation, it is a moderate increase. We are of the view that it is within the range of reasonable increases that employers could anticipate and ought not to have any significant adverse employment effects.
5. It is lower than the percentage increase granted by the FWC-AWR decision. However, there are two things to note in that regard. Firstly, the SMW commences from a higher base, that is WA’s existing SMW is $726.90 whereas the NMW is $719.20 and will be $740.80 from 1 July 2019. Secondly the economic circumstances in WA are not as buoyant as those at the national level. The increase we have decided upon will further reduce the gap between the two rates from $7.70 to $6.10.
6. We are of the view that the increase we have determined will not adversely affect employers or employment as a whole or the state or national economy. It is not far removed from increases in general measures of productivity and may assist in promoting productivity and wage growth in an environment of low wage growth and low inflation. This in turn may encourage employers, employees and organisations to bargain at an enterprise level, albeit that formal bargaining resulting in registered agreements in the small business sector is not evident in WA. However, employers and employees may informally bargain at that level, to meet the needs of both the employers and employees, but not register their arrangements.

While we have decided on a percentage increase, the resultant amount aims to meet the needs of the low paid, albeit that they will not, on this occasion, receive as much benefit as those on higher award rates of pay.

# The Statement of Principles

None of those who made submissions suggested that the Principles require any change. As we noted in last year’s decision, the Statement of Principles has not been subject to any changes for a number of years. We said at that time that the Commission would bring on an application of its own motion for the purposes of developing a principle dealing with equal remuneration for men and women for work of equal or comparable value.

APPL 34 of 2018 was created on 28 June 2018 for that purpose. The Commission convened a number of conferences involving the Minister, CCIWA and UnionsWA for the purpose of a principle being developed. The Australian Mines and Metals Association (Incorporated), being an organisation listed, along with the Minister, CCIWA and UnionsWA, as having particular standing under s 50 of the IR Act, expressed its interest in being kept informed, and it was provided with details of progress as it was made.

We express our thanks to those organisations for the work they have contributed to the development of a proposed Principle, and for their co-operative and helpful approach. A proposed Principle has been agreed by them, and it was the subject of publication along with the notices published regarding the State Wage Case. The original draft was prepared by the Minister. It is based on that developed in Queensland.

The Proposed Equal Remuneration Principle for inclusion in the Statement of Principles provides:

1. Applications may be made under this Principle to implement equal remuneration for work of equal or comparable value.

2. The Commission must apply this principle when it:

a) hears applications to vary an award in order to implement equal remuneration for work of equal or comparable value;

b) arbitrates industrial disputes about equal remuneration; or

c) values or assesses the work of employees in ‘female dominated’ industries, occupations or callings.

3. In assessing the value of work, the Commission is required to examine the nature of work, skill and responsibility required and the conditions under which work is performed (which has the same meaning as it does for Principle 7 Work Value Changes) as well as other relevant work features.

4. The assessment is to be transparent, objective, non-discriminatory and free of assumptions based on gender.

5. The purpose of the assessment is to ascertain the current value of work. Changes in work value do not have to be demonstrated.

6. Prior work value assessments and/or the prior setting of pay rates for the work cannot be assumed to have been free of assumptions based on gender.

7. In assessing the value of the work, the Commission is to have regard to the history of the award including whether there have been any assessments of the work in the past and whether remuneration has been affected by the gender of the workers. Relevant matters to consider may include:

a) whether there has been some characterisation or labelling of the work as “female”;

b) whether there has been some underrating or undervaluation of the skills of female employees;

c) whether remuneration in an industry or occupation has been undervalued as a result of occupational segregation or segmentation;

d) whether there are features of the industry or occupation that may have influenced the value of the work such as the degree of occupational segregation, the disproportionate representation of women in part time or casual work, low rates of unionisation, limited representation by unions in workplaces covered by formal or informal work agreements, the incidence of consent awards or agreements and other considerations of that type; or

e) whether sufficient and adequate weight has been placed on the typical work performed and the skills and responsibilities exercised by women as well as the conditions under which the work is performed and other relevant work features.

8. Gender discrimination is not required to be shown to establish undervaluation of work, therefore there is no requirement for a male comparator.

9. Comparisons within and between occupations and industries are not required in order to establish undervaluation of work on a gender basis.

10. Such comparisons may be used for guidance in ascertaining appropriate remuneration. The proper basis for comparison is not restricted to similar work.

11. Where the Commission determines that there is not equal remuneration for work of equal or comparable value, the Commission is to make an assessment as to how equal remuneration is to be achieved. Outcomes may include but are not limited to the reclassification of work, the establishment of new career paths, changes to incremental scales, wage increases, the establishment of new allowances and the reassessment of definitions and descriptions of work to properly reflect the value of the work.

12. There will be no wage leapfrogging as a result of any changes in wage relativities arising from any adjustments under this principle.

13. The Commission will guard against contrived classifications and over classification of jobs.

14. The Commission may determine in each case whether any increases in wages will be absorbed into overaward payments.

15. Equal remuneration will not be achieved by reducing current wage rates or other conditions of employment.

16. The Commission may decide to phase in any decision arising from this principle. Any affected employer may apply to have any decision phased in. The merit of such application will be determined in the light of the particular circumstances of each case and any material relating thereto will be rigorously tested.

17. Claims brought under this principle will be considered on a case by case basis.

We note the history of the development of equal remuneration principles in Australia. They include:

1. The Pay Equity Inquiry Report by Glynn J of the Industrial Relations Commission of New South Wales in December 1998. In that Report, Glynn J noted:

On the basis of the selected industries and occupations, it would seem that a profile which, prima facie, could indicate the possibility, or even the probability, of an undervaluation of work based on gender, would include the following elements:

* female dominated;
* female characterisation of work;
* often no work value exercise conducted by the Commission;
* inadequate application of equal pay principles;
* weak union;
* few union members;
* consent award/agreements, and
* large component of casual workers;
* lack of, or inadequate recognition of, qualifications (including misalignment of qualifications);
* deprivation of access to training or career paths;
* small workplaces;
* new industry or occupation;
* service industry;
* home based occupations.

Originally in the Inquiry there was perhaps the expectation that merely looking at issues globally, such as qualifications, competencies and the like, would be sufficient to properly address the issues raised by Term 1. However, what the Inquiry has shown is that, in the actual assessment of an industry or occupation, the history of the area and of its award regulation is vital to discovering if inequities are truly suffered by employees, and whether any such inequities, if found to exist, are gender based or otherwise. There may well be a combination of factors acting to create undervaluation, and hence, care needs to be taken to avoid simplistic and single dimension approaches to ascertaining whether any undervaluation exists and what remedies, if any, are required (46-47).

2. The 2001 Queensland Pay Equity Inquiry conducted by Commissioner Glenys Fisher of the Queensland Industrial Relations Commission.

3. The “Pay Equity – The Industrial Relations Act Amendment Bill 2001, (Qld) report published in 2001 by the Queensland Parliamentary Library.

4. “The Equal Remuneration under the Fair Work Act 2009 report” by Dr Robyn Layton, Dr Meg Smith and Professor Andrew Stewart, commissioned by the Fair Work Commission’s Pay Equity Unit, found that the approaches taken in New South Wales and Queensland to whether it was necessary to have a mandatory requirement for male comparators and that such a requirement ‘would be unduly limiting at [6.4], (106). They also noted that in the New South Wales and Queensland proceedings the parties’ evidence was shaped by the terms of the equal remuneration principles in those jurisdictions, and that ‘previous proceedings demonstrated the under-valuation or otherwise of the work central to the application, including linking the undervaluation to gender or a gender associated cause [6.7] (114).’

5. Decisions of the New South Wales and Queensland Industrial Relations Commissions in –

a) New South Wales

(i) Librarians

In ***Crown Librarians, Library Officers and Archivists Award* *Proceedings - Applications under the Equal Remuneration Principle*** (2002) 111 IR 48, the union and employer parties agreed that the work of Librarians, Library Technicians and Archivists (collectively referred to as ‘Librarians’) had been undervalued, and after examining a range of evidence the Industrial Relations Commission of New South Wales (IRC NSW) concurred. Librarians were found to be engaged in a profession (they exercised skills based on theoretical knowledge, were required to have tertiary qualifications, were eligible for membership of independent professional associations, were subject to standards of competence and were required to follow ethical codes of conduct) yet they received lower pay rates than other professional groups in the New South Wales public service.

The IRC NSW determined appropriate pay rates for Librarians by comparing them with other mostly female-dominated, professional public service groups.

(ii) Childcare workers

***In Re Miscellaneous Workers' Kindergartens and Child Care Centres (State) Award*** (2006) 150 IR 290, the IRC NSW found that childcare workers had been undervalued on a gender basis, but determined that it was not necessary to compare their pay with predominantly male-dominated occupations to set appropriate rates.

The IRC NSW found that teaching, another female-dominated occupation, was an appropriate comparator group, and utilised teachers' rates of pay when determining appropriate pay scales for childcare workers.

(b) Queensland

(i) Dental assistants

In 2003, the Liquor, Hospitality and Miscellaneous Union (LHMU) brought a case on behalf of private sector dental assistants employed under the *State Dental Assistants' (Private Practice) Award* ***(Liquor Hospitality and Miscellaneous Union (Queensland Branch) v Australian Dental Association (Qld Branch****)* (2005) 180 QGIG 187).

In this matter, comparisons were made with male-dominated occupations in assessing gender-based undervaluation. After finding that dental assistants were undervalued on a gender basis, the Queensland Industrial Relations Commission (QIRC) first aligned the work value with the tradesperson rate in the *State Engineering Award*. It then added an Equal Remuneration Component, set at 1.25% of the base rate per annum, in recognition of the fact that most dental assistants were unable to engage in enterprise bargaining. It also made various award amendments, including a revised classification structure to recognise the career path of dental assistants and the role of practice managers.

(ii) Childcare workers

In ***Liquor Hospitality and Miscellaneous Union (Queensland Branch) v Queensland Union of Employers*** ((2006) 181 QGIG 568) (interim decision) and ***Liquor Hospitality and Miscellaneous Union, Queensland Branch, Union of Employees v Children's Services Employers Association*** ((2006) 182 QGIG 318) (final decision), the LHMU sought to vary the *Queensland Child Care Industry Award - State 2003*.

The QIRC found the work performed by childcare workers had been historically undervalued based on the gender of those workers. Following on from the Dental Assistants case, it established that a Certificate III gained for a predominantly female occupation had the same value as a Certificate III gained for a predominantly male occupation - attracting payment of the 100% (C 10) in the *State Engineering Award.*

(iii) Social and community services

The Queensland Services Union applied for a new award covering community services and crisis assistance workers in April 2008. ***Queensland Services, Industrial Union of Employees v Queensland Chamber of Commerce and Industry Ltd*** ((2009) 191 QGIG 19). The first stage of the application resulted in the creation of the *Queensland Community Services and Crisis Assistance Award - State 2008*, by consent.

The second stage saw the QIRC award increased pay rates, to correct historical undervaluation. It also awarded a 1% equal remuneration component in recognition that the relevant employees had experienced a low level of access to the higher wage rates that were available by way of enterprise bargaining.

In considering the rates to be applied in the new award, the QIRC was guided by the rates in industrial instruments in local government and the Queensland Public Service, which also covered a largely female-dominated cohort of workers.

(iv) Disability support workers

In ***Australian Workers' Union of Employees, Queensland v Queensland Community Services Employers Association Inc*** *((2009*) 192 QGIG 46), the Australian Workers' Union sought to increase the rates of pay in the *Disability Support Workers Award – State 2003*. The union and the respondent agreed that employees covered by the award had been historically undervalued for similar reasons to community services workers. The QIRC agreed, and awarded pay increases to employees under the award.

In deciding new pay rates, the QIRC gave consideration to two relevant female-dominated, comparators: the newly created *Queensland Community Services and Crisis Assistance Award - State 2008*, and the State Government Departments Certified Agreement 2006. The pay increase was phased in over five adjustments.

It is clear from an examination of the principles developed in New South Wales and Queensland, in particular the latter, that the principle proposed by the parties in this case is an appropriate means of establishing a basis for the Commission’s consideration of equal remuneration cases. The principle elements include:

* that it is not to be presumed that rates of remuneration had been properly assessed in female dominated industries in the past;
* that processes such as structure efficiency or minimum rates adjustments had been correctly or fully applied;
* in assessing whether work had been undervalued, comparison work may be useful as a guide, but it was necessary to establish that there was a proper basis for the comparison.

Gender neutral assessments were necessary and a number of those assessments which have been undertaken in New South Wales and Queensland have proceeded on the basis of female comparative positions. This has removed some of the impediments that have arisen in the application of the principle in the federal jurisdiction where the requirement for a male comparator has been problematic.

In all of the circumstances we are satisfied that the proposed equal remuneration principle developed through the process of consultation and conciliation in the last year is appropriate. Therefore, the Statement of Principles will be amended to include the Principle in the terms proposed.