

ENFORCEABLE UNDERTAKING

This undertaking is **given** by Goodwin Aged Care Services Limited (ABN 82 120 298 946) and **accepted** by the Fair Work Ombudsman pursuant to section 715 of the *Fair Work Act 2009*.

ENFORCEABLE UNDERTAKING

PARTIES

1. This enforceable undertaking (**Undertaking**) is given to the Fair Work Ombudsman (**FWO**) pursuant to section 715 of the *Fair Work Act 2009* (Cth) (**FW Act**) by Goodwin Aged Care Services Limited (ABN 82 120 298 946) of 22 Marshall Street, Farrer, Australian Capital Territory (**ACT**) 2607 (**GACS**).

COMMENCEMENT OF ENFORCEABLE UNDERTAKING

2. This Undertaking comes into effect when:
 - a. the Undertaking is executed by GACS; and
 - b. the FWO accepts the Undertaking so executed (**Commencement Date**).

BACKGROUND

3. GACS operates a business within the aged care services sector.
4. GACS is a registered charity that provides retirement living, residential aged care, home care and allied health services to aging clients in the ACT and New South Wales. At the time the underpayment was reported to the FWO, GACS engaged 748 employees.
5. In July 2024, GACS wrote to the FWO self-reporting non-compliance in relation to wages and entitlements for current and former employees (**the Report**). The Report was the result of an internal audit commissioned by GACS, which reviewed entitlements of current and former employees to determine whether GACS had complied with the *Goodwin Aged Care Services Enterprise Agreement 2016-2020* (**EA**). The review ultimately revealed that Individual Flexibility Arrangements (**IFAs**) in place between GACS and 313 of its employees did not leave the employees better off overall as required by clause 6.1(c) of the EA and therefore GACS had contravened section 50 of the FW Act. GACS and its employees confirmed that IFAs were freely entered into, however a reliance upon non-monetary benefits in being better off overall meant that IFA employees were subsequently rostered and paid at the base rate for:
 - a. up to 90 ordinary hours in a fortnight (beyond the maximum of 76 ordinary hours);
 - b. up to 12 ordinary hours in a day (beyond the maximum of 10 hours); and
 - c. with a break of only 8 hours between rostered shifts (below the minimum of 10 hours break).
6. GACS engaged both Russell Kennedy Lawyers and FTI Consulting to provide advice and forensic accounting services in completing the review.

7. On 27 March 2025, GACS made a further disclosure to the FWO, advising that during the review undertaken by FTI Consulting it had identified an additional contravention of the EA relating to some residential aged care employees who were not paid a 10% early afternoon shift penalty. The contravention relates to a section 190 undertaking dated 31 August 2016 [AG2016/3786], which required GACS to apply the early afternoon shift clause of the *Aged Care Services Award 2010* to eligible employees. GACS reported the underpayment was a result of an incorrect role configured within the payroll system and the impact was heightened during the COVID-19 pandemic when staff worked atypical shifts attracting the shift penalty in instances they would not ordinarily. The issue affected employees who entered into IFAs, as well as a further 22 employees who were not subject to the GACS earlier IFA disclosure.
8. The FWO acknowledges the cooperation and early and open disclosures made by GACS to the FWO.
9. The FWO also acknowledges GACS' commitment to establish and implement systems/processes across the organisation to avoid any future similar contraventions occurring as detailed in, but not limited to, the undertakings in clause 16 below.
10. In consideration of these matters, the FWO accepts this Undertaking, the terms of which are set out below.

ADMISSIONS

11. The FWO has a reasonable belief, and GACS admits, that GACS contravened the following EA clauses, and therefore contravened section 50 of the FW Act, with respect to its employees during the period 2 July 2018 to 16 March 2025 (**Period**):
 - a. 6.1(c) which relates to the requirements for employees to be better off overall under IFAs;
 - b. 17.2 which relates to the payment of overtime; and
 - c. the undertaking [AG2016/3786] dated 31 August 2016 as Appendix 1 to the EA which relates to the payment of afternoon shift penalties for employees engaged in residential care facilities in the provision of care services.
12. The contraventions referred to in clause 11 do not include:
 - a. any contraventions which relate to or arise as a consequence of GACS failing to correctly apply the EA to any employee who is not one of the Affected Employees (listed in Schedule A) or arising from GACS failing to apply any provision of the EA not set out in clause 11 to the Affected Employees; and/or
 - b. any contraventions which have not yet occurred at the date that this Undertaking

is offered by GACS; and/or

- c. any contraventions of the EA by GACS which occurred outside of the relevant Period referred to in clause 11.

RECTIFICATIONS

Back Payment of Wages

13. GACS confirms that a total amount of \$1,395,359.73 has been paid in rectification of the contraventions outlined in clause 11 (Wage Underpayment), comprising:
 - a. \$1,393,379.54, including applicable interest and superannuation, paid directly to the Affected Employees; and
 - b. \$1,980.19 paid to the FWO as unclaimed monies in respect of Affected Employees who could not be located. This amount comprises gross wages only, with no tax withheld, and excludes gratuities, interest, superannuation and any other amounts not payable under the applicable EA.
14. GACS declares that interest has been paid to all Affected Employees at the Federal Court of Australia pre-judgement rate (RBA + 4% adjusted every 6 months).
15. GACS declares that, where relevant, superannuation contributions outstanding on wages owed have been paid together with interest to employees' superannuation funds.

Further Actions Taken

16. GACS confirms they have updated and implemented the base IFA template document to ensure compliance with clause 6 of the EA (noting, IFAs are meant to be individual and will be amended accordingly as and when negotiated);
17. GACS declares that they have created and implemented policies and procedures relating to the implementation of IFAs, to ensure that:
 - a. all IFAs are genuinely entered into by employees and that employees requesting IFAs will be made aware of resources on the FWO website relating to IFAs;
 - b. they accommodate the genuine needs of employees;
 - c. they are in line with the 'Use of Individual Flexibility Arrangements - Best Practice Guide' as contained at fairwork.gov.au;
 - d. each IFA entered into by GACS and any of its employees is reviewed at least annually to ensure ongoing compliance; and
 - e. each IFA between GACS and any of its employees is approved by the Executive Manager of People and Culture or the Chief Operating Officer.

UNDERTAKINGS

18. GACS will take the actions set out at clauses 19 to 53 (inclusive) below. Where a due date falls on a weekend or public holiday, the due date for the Undertaking will be taken to be the following business day.

Workplace Relations Processes and Reporting

19. By 01 November 2026, GACS will, in further consultation with FWO, undertake, implement or have implemented the following reviews and reporting measures to avoid any repeat of similar contraventions that are relied on as the basis for this Undertaking:
 - a. reports to the Board People and Culture Remuneration subcommittee are tabled, at least bi-annually, including the number of IFAs in place between employees and GACS and an overview of terms/clauses the IFAs vary; and
 - b. review the policies and procedures GACS have implemented as detailed in clause 17 to confirm they continue to comply with 17 (a) to 17 (e) of this Undertaking.
20. By 30 June 2027, GACS will provide to the FWO Reasonable Evidence of GACS' compliance with clause 19.

Independent Audits

21. GACS must, at its cost, engage an appropriately qualified, experienced, external and independent accounting professional or an employment law specialist (Independent Auditor) to conduct a minimum of one audit of GACS' compliance with the FW Act and Fair Work Regulations 2009 (Cth) (FW Regulations) in relation to the EA and any future industrial instrument that may replace it (Audit).
22. If contraventions are identified in the first instance, a second Audit, no later than 12 months following the first, must be undertaken.
23. GACS will notify the FWO of its proposed Independent Auditor by no later than 31 October 2026. The FWO may in its sole discretion approve the Independent Auditor or otherwise require GACS to propose other Independent Auditors until the FWO has approved in writing an Independent Auditor. The Independent Auditor must be approved by the FWO in writing before being engaged by GACS.
24. GACS must ensure that each Audit conducted by the Independent Auditor includes:
 - a. an assessment of 3% of all employees to whom the EA (or any replacement industrial instrument) applies, across a range of classifications, locations and

- employment types (including full-time, part-time and casual), during the relevant audit period (**Sampled Employees**) in respect of their employment by GACS;
- b. an assessment of whether the Sampled Employees have been correctly classified by GACS;
 - c. an assessment of whether the pay and conditions of the Sampled Employees during the relevant audit period are compliant with the FW Act and FW Regulations and the EA (or replacement industrial instrument);
 - d. the production of a written report on each Audit setting out the Independent Auditor's findings, and the facts and circumstances surrounding them, to the FWO; and
 - e. that each of the written reports referred to in d above contains the following declarations from the Independent Auditor:
 - i. the Independent Auditor has no actual, potential or perceived conflict of interest in providing the report to the FWO,
 - ii. notwithstanding that the Independent Auditor is retained by GACS the Independent Auditor undertakes that it has acted independently, impartially, objectively and without influence from GACS in preparing the report,
 - iii. the report is provided in accordance with applicable professional standards (which will be listed in the report), and
 - iv. the report is provided to the FWO for its benefit and the FWO can rely on the report.

The First Audit

- 25. GACS must ensure the Independent Auditor commences the first of the Audits by no later than 6 months from the Commencement Date (First Audit).
- 26. The relevant audit period for the First Audit must have at least 3 full pay periods falling within the period 01/10/2026 to 31/12/2026.
- 27. Within 6 months of the Commencement Date, GACS will provide for the FWO's approval, details of the methodology to be used by the Independent Auditor to conduct the First Audit.
- 28. GACS will use its best endeavours to ensure the Independent Auditor:
 - a. provides a draft written report of the First Audit directly to the FWO no later than 12 months after the Commencement Date setting out the draft First Audit findings, and the facts and circumstances supporting the First Audit findings;
 - b. provides a copy of the draft report to GACS within two working days of the FWO

receiving the report; and

- c. GACS will ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to GACS without the FWO's approval.
29. GACS will be given the opportunity to seek clarification and provide comments on any matters raised in the draft report, including by reviewing the draft calculations. Any such communications between GACS and the Independent Auditor must be made available to the FWO upon request.
30. GACS will use its best endeavours to ensure the Independent Auditor:
- a. finalises the First Audit and provides a written report of the First Audit (**First Audit Report**) directly to the FWO within 1 month of the FWO providing any comments on the draft report to the Independent Auditor; and
 - b. provides a copy of the First Audit Report to GACS within two working days of the FWO receiving the report.

The Second Audit

31. A second audit will be carried out in the circumstance that the First Audit identifies contraventions of the FW Act, FW Regulations and/or the EA (or replacement industrial instrument) and the FWO reasonably believes that significant, systemic and/or serious or ongoing non-compliance with workplace laws is still occurring.
32. Should the FWO reasonably believe that a second audit is required, GACS must ensure the Independent Auditor commences the second of the Audits by no later than 6 months (Second Audit) from the date the FWO notifies GACS of the requirement (Audit Notification Date).
33. The relevant audit period for the Second Audit must be at least 3 full pay periods falling within the 6-month period preceding the commencement of the Second Audit.
34. Within 4 months of the FWO notifying GACS of the requirement for the Second Audit, GACS will provide for the FWO's approval, details of the methodology to be used by the Independent Auditor to conduct the Second Audit.
35. GACS will use its best endeavours to ensure the Independent Auditor:
- a. provides a draft written report of the Second Audit directly to the FWO by no later than 9 months after the Audit Notification Date, setting out the draft Second Audit findings, and the facts and circumstances supporting the Second Audit findings; and
 - b. provides a copy of the draft report to GACS within two working days of FWO receiving the report.
 - c. GACS will ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to GACS without the FWO's approval.

36. GACS will be given the opportunity to seek clarification and provide comments on any matters raised in the draft report, including by reviewing the draft calculations. Any such communications between GACS and the Independent Auditor must be made available to the FWO upon request.
37. GACS will use its best endeavours to ensure the Independent Auditor:
- a. finalises the Second Audit and provides a written report of the Second Audit (**Second Audit Report**) directly to the FWO within 2 months of FWO providing any comments on the draft report to the Independent Auditor; and
 - b. provides a copy of the Second Audit Report to GACS within two working days of the FWO receiving the Second Audit Report.

Outcome of Audits

38. If the First or Second Audit identifies underpayments to any current or former employees, GACS will:
- a. rectify any underpayments identified in the relevant audit period within 30 days of the relevant Audit Report being provided to GACS; and
 - b. conduct a reconciliation of the amounts paid and owed to those employees in the 12-month period immediately before the relevant audit period and rectify any underpayments that are identified within 60 days of the relevant Audit Report being provided to GACS.
39. GACS will provide to the FWO Reasonable Evidence of such rectification and reconciliation referred to in clause 38 above within 30 days of undertaking the rectification and reconciliation.
40. If any employees identified in the Audits as having underpayments owing to them cannot be located within 120 days of the conclusion of each Audit, GACS will pay those amounts to the Commonwealth of Australia (through the FWO) in accordance with section 559 of the FW Act. GACS will complete the required documents supplied by the FWO for this purpose.
41. If any of the Audits identify an underpayment of minimum entitlements to one or more employees, and the FWO reasonably believes that employees not included in the Audits are also likely to have been underpaid, GACS will engage the same approved auditor, as set out at clause 21, to conduct a further audit of all its employees to whom the EA (or any replacement industrial instrument) applies, as determined by the FWO (Additional Audit). Any Additional Audit must be paid for by GACS and must adhere to the same requirements as the First Audit, as set out at clauses 25 to 30 above, with timeframes to be agreed with the FWO, including approval of the auditor's proposed methodology and reporting.

42. If requested by the FWO, GACS will provide the FWO with all records and documents used to conduct any or all of the Audits (including any Additional Audit), within 30 days of such a request.

Corporate Governance

43. GACS will review and, where necessary, amend their internal processes for reporting to GACS Board of Directors (Board) to ensure that the Board is appropriately notified of GACS' compliance with their FW Act obligations and any potential breaches of their FW Act obligations. In particular, GACS will:
- a. ensure that any and all Audit Reports prepared from any of the Audits described in clauses 21 to 42 are tabled before its Board;
 - b. ensure that all reports presented to the Board for the purposes of clause 43 are tabled and approved by the Board and that where issues are identified, those issues are rectified in a timely manner, with the action taken to address those issues being subsequently reported to the Board; and
 - c. by no later than 12 months after the Commencement Date, ensure the Board provides documentation to the FWO which demonstrates that the Board is regularly updated, on at least a 3 monthly basis, on GACS' compliance with its FW Act obligations and this Undertaking.
44. The FWO may, at any time while GACS has obligations under this Undertaking, request copies of documents held by the GACS Board in respect of their monitoring of GACS' workplace relations compliance, including but not limited to reports prepared for the Board and Board minutes.

Worker Voice

45. GACS is committed to genuine employee consultation and two-way communication. In addition to following the consultative provisions of the EA in relation to workplace change and workplace disputes, GACS has established multiple ways for employees to share their views and experiences, reflecting a commitment to two-way communication and continuous improvement. These include:
- a. the Workplace Consultative Committee (**WCC**) which meets quarterly and consists of at least two (2) peer elected employee representatives from each residential aged care facility, home care, retirement living and corporate services, any of whom may be a union delegate, together with the Chief Operating Officer and the Executive Manager Development People and Culture;

- b. the People, Culture and Remuneration Committee (**PCR-Board Subcommittee**), to whom the outcomes of the WCC quarterly meetings are reported;
- c. a dedicated email address for employees to contact the People and Culture and Payroll team with specific wage or condition related concerns; and
- d. employee access to a digital system for raising queries or concerns. The digital system will allow for data to be collated and reported to the WCC, the PCR-Board Subcommittee and/or the Board directly.

46. GACS will:

- a. provide the FWO with the names and position titles of the members of the WCC including the employee representatives who hold a position in the WCC within 30 days following the completion of the WCC elections scheduled for September 2026;
- b. ensure that the WCC and the PCR-Board Subcommittee have a standing agenda item relating specifically to pay entitlement queries received via the People Culture and Payroll Team email address or via the appropriate digital system, and that the minutes of each WCC and PCR-Board Subcommittee meetings are recorded, retained and made available to FWO upon request; and
- c. ensure reports made to either the WCC and/or the PCR-Board Subcommittee meeting on enquiries received through the appropriate digital systems are retained and provided to FWO, upon request, a de-identified list of enquiries received which includes information about how enquiries were addressed.

Notification to Affected Employees

- 47. Within 35 days of the Commencement Date, but not prior to the FWO issuing a media release on the Undertaking, GACS will:
 - a. issue employees with a copy of the Notification Letter in the form of **Attachment A**; and
 - b. post to the home page of its Intranet site in a prominent location, a copy of the Notification Letter in the form of **Attachment A**. This notice shall stay in place on the home page for 2 weeks.
- 48. Within 7 days of completing the above, GACS will provide written assurance in the form of a letter or email that the Notification Letter was sent, and evidence that the intranet notice has been posted, to the FWO.

Reporting Changes in Circumstances

- 49. GACS will notify the FWO of any changes of circumstances that impacts on GACS' ability to

comply with this Undertaking, as soon as reasonably practicable after they become aware of such circumstances. Such circumstances include but are not limited to:

- a. a sale or potential sale (once a binding sale agreement has been entered into) of the business, or part of the business;
- b. ceasing or an expectation of ceasing to trade; and/or
- c. the business going into administration or liquidation.

Extensions of Time

- 50. GACS may request of the FWO an extension on a time specified for completion of an obligation under this Undertaking. The FWO will not unreasonably withhold agreement on a request for an extension of time.
- 51. Where a time specified for an obligation under this Undertaking is contingent on or follows from the time specified for the completion of another obligation under this Undertaking, and that time for completion has been extended by the FWO, the time specified for completion of the later obligation is correspondingly extended by the same period.

No Inconsistent Statements

- 52. GACS must not and must use its best endeavours to ensure that its officers, employees or agents do not, make any statement or otherwise imply, either orally or in writing, anything that is inconsistent with admissions or acknowledgements contained in this Undertaking.

ACKNOWLEDGEMENTS

- 53. GACS acknowledges that:
 - a. the FWO may:
 - i. make this Undertaking available on the FWO internet site at www.fairwork.gov.au;
 - ii. release a copy of this Undertaking pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
 - iii. issue a media release in relation to this Undertaking;
 - iv. from time to time, publicly refer to the Undertaking and its terms; and
 - v. rely upon the admissions made by GACS set out in clause 11 above in respect of decisions taken regarding enforcement action in the event that GACS is found to have failed to comply with its workplace relations obligations in the future, including but not limited to any failure by GACS to comply with its obligations under this Undertaking;

- b. consistent with the Note to section 715(4) of the FW Act, this Undertaking in no way derogates from the rights and remedies available to any other person arising from the conduct set out herein;
- c. consistent with section 715(3) of the FW Act, GACS may withdraw from or vary this Undertaking at any time, but only with the consent of the FWO; and
- d. if GACS contravenes any of the terms of this Undertaking:
 - i. the FWO may apply to any of the Courts set out in section 715(6) of the FW Act, for orders under section 715(7) of the FW Act; and
 - ii. this Undertaking may be provided to the Court as evidence of the admissions made by GACS in clause 11 above, and also in respect of the question of costs.

DICTIONARY

Unless the contrary intention appears, words in the singular include the plural, and other than terms defined, have their ordinary natural meaning.

The following defined terms are adopted in this Undertaking:

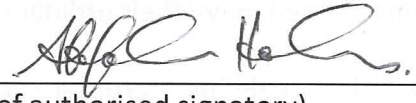
- **Reasonable Evidence** means such evidence as the FWO may reasonably require, and which could reasonably be expected to satisfy a court of:
 - a. the truth of any fact asserted by GACS or by any of its servants or agents; and/or
 - b. the accuracy and correctness of any information provided by GACS, or by any of its servants or agents; and/or
 - c. compliance by GACS with any term of this Undertaking.

Executed as an undertaking

EXECUTED by an authorised person of Goodwin Aged Care Service Limited

STEPHEN HOLMES - CHIEF EXECUTIVE OFFICER

(Name and position of authorised signatory)

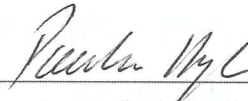


(Signature of authorised signatory)

in the presence of:

Pauline Hugler

(Name of witness)



(Signature of witness)

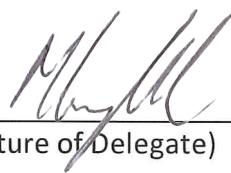
17/09/2026

(Date)

ACCEPTED by the Fair Work Ombudsman pursuant to section 715(2) of the *Fair Work Act 2009* on:

Michael Campbell, Group Manager Operations

(Name and role of Delegate)



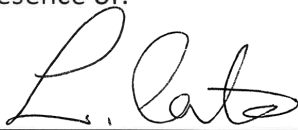
(Signature of Delegate)

18 September 2026

(Date)

Delegate for the Fair Work Ombudsman

in the presence of:



(Signature of witness)

Louise Cato

(Name of Witness)

Attachment A: Notification to Employees and Intranet Notice of Enforceable Undertaking

DD/MM/2026

Dear Employees,

Update – Finalisation of Historical Payroll Review and Fair Work Ombudsman Enforceable Undertaking

Further to our previous communication dated 1 August 2025 regarding the review of historical payroll matters associated with Individual Flexibility Arrangements (IFAs), we are writing to provide an important update.

Goodwin Aged Care Services (**Goodwin**) has now formally finalised this matter with the Fair Work Ombudsman (**FWO**) through an Enforceable Undertaking.

In 2024, Goodwin undertook a review of its payroll systems and processes and became aware of historical errors relating to the underpayment of some employee entitlements under the *Goodwin Aged Care Services Enterprise Agreement 2016–2020 (EA)*. The underpayments related to:

- the incorrect payment of overtime which resulted from Individual Flexibility Arrangements that did not meet the Better Off Overall Test requirements; and
- the incorrect payment of afternoon shift penalties for some residential care employees.

Goodwin has admitted to the FWO that it:

1. Failed to ensure that employees were better off overall in relation to IFAs that had been entered into under clause 6 of the EA. Consequently, some employees did not receive the correct overtime payments required under clause 17.2 of the EA.
2. Failed to correctly pay afternoon shift penalties to some residential care facility employees in accordance with the section 190 undertaking [AG2016/3786] dated 31 August 2016 as Appendix 1 to the EA.

Since identifying these issues, Goodwin has undertaken an extensive remediation process to identify affected current and former employees and ensure all outstanding entitlements were repaid, including applicable interest and superannuation. We are pleased to confirm that this remediation process has been completed for all affected current employees and all identifiable former employees who could be contacted.

Goodwin voluntarily self-reported this matter to the FWO and has cooperated fully throughout the process. The Enforceable Undertaking outlines the historical contraventions identified, the remediation completed, and the measures implemented to strengthen payroll governance, systems and oversight processes to reduce the risk of similar issues occurring in the future.

Importantly, this is not a new matter and there are no additional findings beyond those previously communicated to employees.

As part of the finalisation process, the FWO may issue a public statement regarding the matter in the coming days.

Goodwin sincerely regrets that these payroll errors occurred and apologises to all affected

employees. We acknowledge the seriousness of this matter and remain committed to ensuring compliant payroll practices and continuous improvement across our systems and processes. Thank you for your continued professionalism and support

Sincerely

Pauline Hugler
Executive Manager, Development People and Culture
Goodwin Aged Care Services

Schedule A –

Details of Affected Employees paid by Goodwin (as per Clause 13 for amount, and employees impacted Clause 5 and Clause 7).

Affected Employee Name	

Details of Affected Employees paid by Goodwin to FWO on 05 November 2025 as Unclaimed Funds. (as per Clause 13 for amount, and employees impacted Clause 5 and Clause 7).

Affected Employee Name	
Total Employee: 13	
Total Amount: \$1,980.19	

Total	335	\$1,395,359.73
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