

19th March 2020

Ms Jennifer Westacott AO
Chief Executive Officer
Business Council of Australia

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reception@bca.com.au

Dear Ms Westacott,

Community Legal Centres NSW is the peak for almost forty community legal centres across the state. Community legal centres are independent, community-based organisations that provide free legal advice and assistance to people and communities when they need it most. Our services are particularly targeted towards people experiencing disadvantage, especially financial disadvantage, and discrimination. Included in our membership are Redfern Legal Centre and Marrickville Legal Centre, centres that provide critical employment law services to members of the community experiencing disadvantage and discrimination in the workplace. These services are part of a consortium conducting a specialist employment service for migrant communities. Our correspondence has been informed by the expertise of these two centres, and contacts for both centres are included at the bottom of this letter.

The COVID-19 crisis is significantly disrupting economic and labour markets and we are concerned that this crisis will have a disproportionate impact on vulnerable employees, including casual workers already living hand-to-mouth. For many of these workers and their families, being dismissed from their jobs will have disastrous consequences.

We are following up on your comments this morning on Radio National and welcome your strong support for interventions that will assist many Australians, particularly those that relate to wage relief and Newstart. You suggested that in responding to the crisis Australia needs to “keep people working” and went on to say that when we get through the COVID-19 crisis, we need to increase the capacity of companies to “rehire very quickly”. We encourage the Business Council of Australia to adopt a policy of retain rather than rehire.

As you would appreciate, once a worker has been terminated they have no certainty of re-employment. Without any prospect of stability, people are unable to plan ways to pay their rent or mortgage, feed their families or keep the lights on. For many workers, it is not simply a case of rehiring: dismissal destroys the trust between workers and employers, built up over, in many cases, years of service. Termination of employment stops 'continuity of service', disorienting workers to hard-won long service leave benefits in the future. For some migrant workers, it triggers a need for a previously sponsored employee to get a job within 60 days - a serious challenge in these uncertain times. We are concerned that impacted workers and their families will become homeless and go hungry. We are looking to the Business Council of Australia for help to mitigate such crises.

Our services have already received multiple requests for urgent legal advice directly relating to job losses because of COVID-19. In order to pre-empt the large number of legal enquiries we expect to follow in the days ahead, we are advocating that the federal Attorney-General provide legislative guidance about the infrequently used 'stand-down' provisions in the Commonwealth *Fair Work Act 2009* and allow stood-down sponsored employees to work, temporarily, at other workplaces.

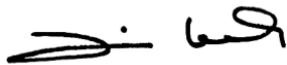
We encourage the Business Council to recommend to that your members that they utilise these stand-down provisions and [direct employees to temporary 'survival' welfare payments](#). We urge you to encourage your members to support their workforce, retain workers, and only terminate employment as a very last resort.

Such recommendations accord with business measures [proposed by the Australian Chamber of Commerce and Industry](#) to support the retention of employees, and global efforts more generally.

Working together on a swift and coordinated response, we hope to limit the direct effects of the COVID-19 crisis for workers.

Thank you for taking the time to consider our position. If you would like to discuss this matter further, please contact Vasili Maroulis, Managing Principal Solicitor of Marrickville Legal Centre, on 0401 272434, or Redfern Legal Centre's Employment Law Practice Solicitor, Sharmilla Bargon, on 0424 397221.

Yours sincerely,



Tim Leach

**Executive Director
Community Legal Centres NSW**