

Bolton Clarke

ANMF Members' Meeting

21 August 2024

Summary of matters to be discussed today.

1. Status of bargaining with Bolton Clarke and history
2. Wages proposal
3. Stage 3 aged care work value outcome
4. Allowances
5. Content of proposed agreement
6. Options for ANMF (VB) members at Bolton Clarke
7. Intractable Bargaining
6. Recommendation for today's meeting
7. Questions from members
8. Resolution

Information concerning Bolton Clarke in Victoria

Bolton Clarke operates multiple services in Victoria (almost 5000 employees) who have 3 different EBA's applying to them. Bolton Clarke have the money to pay better wages and allowances!

NAME	CURRENT EBA(s)	NOMINAL EXPIRY DATE	APPROX ANMF MEMBERSHIP (at 21 August 2024)
1. Bolton Clarke—RDNS and RSL EBA (formerly the RDNS but includes HPP, AHS, MCH)	RDNS Ltd Victorian Operations Enterprise Agreement 2016	1 June 2018	1185 (out of approx. 2000 employees)
	RSL Care Enterprise Agreement 2015	21 March 2019	
2. Bolton Clarke – Allity (now includes McKenzie sites)	Bolton Clarke (Allity) Enterprise Agreement 2022	31 March 2024	653 (out of approx. 3000 employees)

Recap on bargaining progress with Bolton Clarke in Victoria

1. Negotiations were commenced after the NED in 2019 for a proposed National Bolton Clarke EBA. ANMF (VB) applied for a Scope Order to limit bargaining to Victorian operations but the FWC rejected that Application.
2. Bolton Clarke put out a proposed EBA in approximately June 2018, but it was rejected by employees.
3. Further negotiations resumed shortly thereafter but were ceased due to the pressures arising from Covid-19 in 2020.
4. An administrative salary increase was provided to a number of Bolton Clarke employees in September 2020 and September 2021.
5. ANMF (VB) and a number of other unions pressed Bolton Clarke to resume negotiations in June-August 2022. Bolton Clarke passed on a further administrative salary increase of a minimum of 2% to all employees in September 2022.
6. Formal negotiations were agreed to resume for a Victorian based EBA in September 2022.
7. EBA negotiation meetings held on at least 20 occasions since the first meeting in November 2022. The meetings are largely held on a fortnightly basis.
8. Because of the imminent termination of the McKenzie EA (and rolling of all McKenzie staff over onto the Allity EA) and the expiry of the Allity EA in March 2024 it was decided to terminate the Stage 1 bargaining. All BC employees under the RDNS and RSL Care Ltd EAs received a 3% administrative increase in January 2024.

2024

1. Stage 1 discussions through 2023 (new EA for employees covered by the expired RSL Care and RDNS EAs) were terminated to move to the next step immediately – negotiating a single EA to cover all 4850+ BC employees in Victoria, including those under the BC (Allity) EA. McKenzie employees were moved onto the Allity EA in January 2024.
2. A new ANMF Log of Claims was served in late January and there have been at least 15 main bargaining meetings between 25 January and now.
3. There has been significant progress, especially in June/July and on 14 August at FWC, when the wage offer became more realistic. The PIA taken from July has really assisted in squeezing an improved offer out of Bolton Clarke.
4. We have had two conciliation sessions in the Commission and further meetings about the “final draft” – with another meeting earlier today. FWC have listed a further conciliation conference for 2.30pm this Thursday 22/08.
5. However, BC have indicated that they will put the **EA out to ballot on Friday or Monday at latest** for the 7-day access period, with a vote likely in the week of 2 September (electronic ballot of no longer than 7 days duration)

The long and winding road

- ❖ It may not feel like it, but you have achieved a lot in the face of great opposition. Congratulations, especially to HCS members who have carried the PIA load and won improvements for all of your colleagues across the organisation!
- ❖ In June we had a ZERO wages offer, In July we had an offer of a 2%, one year deal. On August 14 in the Fair Work Commission and with PIA affecting them they were forced to make a serious offer.
- ❖ But we aren't there yet. The offer and proposed agreement still doesn't meet industry standards for wages and allowances. Too many of our members are losing important entitlements - especially RDNS and McKenzie colleagues. We need one final effort from all 1830 ANMF members.

The imminent ballot of the EA

- ❖ 4850 employees approximately. All have a vote except casuals not rostered in the ballot period.
- ❖ We understand the access period will be from this Friday or at latest Monday. Bolton Clarke must circulate the draft EA and a summary of the provisions and their meaning (as well as the dates and method of the vote) at the start of the access period.
- ❖ The vote will be in the week of 2/9 and conclude either on Friday 6/9 or early the next week.
- ❖ The vote will be electronic (likely by Corpvote, an independent ballot agent). The vote will be confidential.

The Classification Structure

Nursing Stream		Care Stream	
EN	5 Pay Points, progression by year of service	Level 1	Unqualified PCW
EN Advanced	By application, must meet advanced competencies, no cap on numbers appointed	Level 2	Cert III Qualified PCW (first 4 years)
RN Level 1	8 Pay Points, progression by year of service (PP1 is Graduate Year)	Level 3	Cert III Senior (after 4 years of experience at Level 2)
RN Advanced	District Nurse Advanced/Clinical Nurse Specialist. By application, must meet advanced competencies, no cap on numbers appointed	Level 4A	Cert IV automatic entry (if you have or obtain a Certificate IV)
RN Level 2	3 Pay Points, progression by year of service – level for DN Specialised/LAT Care Managers, Orientation Leads	Level 4B	Cert IV Specialised (only if required by employer and appointed to specialist role)
RN level 3A	3 Pay Points, progression by year of service – level for <u>HCS</u> HPP RNs, DN Liaison, <u>RAC</u> Care Coordinator or After-Hours Supervisor <60 bed facility	Level 5	PCW Team Leader
RN Level 3B	2 Pay Points, progression by year of service – level for <u>HCS</u> CTM, DN Liaison Team leader, NCS Advice Line TL, CNC A/B		
RN Level 3C	2 Pay Points, progression by year of service – level for <u>HCS</u> Senior Clinical Nurse Advisor, CNC C, CNC MCH, Senior RN Educator; <u>RAC</u> Care Coordinator or After-Hours Supervisor in facility of 60 beds or more		
RN Level 4	3 Grades, progression by year of experience – <u>HCS</u> HPP Program Manager, Operations Quality Manager CNC MCH Team leader; <u>RAC</u> Care Manager, Care Manager >90 beds or sole Care manager is Grade 3.		

Wages – what is on offer?

The wages offered are below industry standards for large groups of our members!

The providers listed represent 200 facilities or 33% of the private aged care sector in Vic.	Bolton Clarke 2024 proposed rate when EA is approved	Aust. Unity	Baptcare	Blue Cross	Calvary	Bupa	Estia	Mercy Aged Care	Opal	Uniting Agewell	Vasey RSL	Wint'ham
L2 PCW Cert III top rate	1222.84	1263.12	1270.85	1248.47	1263.12	1242.04	1234.33	1249.88	1244.57	1255.78	1274.64	1277.31.
L3 PCW Cert III Senior	1264.26	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
L4A PCW Cert IV top rate	1308.34	1352.80	1318.43	1295.43	1310.24	1287.66	1280.29	1296.12	1290.53	1303.27	1323.33	1370.93
EN top rate (PP5) with AEN \$7.60 above	1469.46	1494.54.	1508.17 inc. 4% med allowance	1513.99	1518.48	1489.67	1483.99	1507.01 inc. 4% med allowance	1499.73 inc. 4% med allowance)	1531.65	1494.74	1538.31
RN Level 1 / Grade 2 top rate	1820.96	2045.16	1901.13	1907.69	1907.22	1872.85	1863.76	1865.21	1877.21	1903.90	1873.78	1943.00
RN Level 2/ Grade 3A Yrs 1, 2 & 3	1890.88 1953.96 2017.04	2123.82	1943.92 1973.37	1953.36 1983.22	1953.58 1983.22	n/a	1908.94 1937.76	n/a	1946.28 1975.83	1949.11 1978.91	1959.01 1989.09	1998.72 2030.48
RN Level3C /Grade 5 top rate	2254.54	2370.44	2321.55	2331.31	2323.32	2280.30	2289.09	2290.55	2280.84	2336.96	2338.91	2396.80

Notes on Wages offer

1. The Cert III Level 2 PCW is low by industry standards - \$1222.84. It is \$20-\$45 a week behind most other providers. **They say there are 1629 Cert III PCWs (1237 in residential and 392 in home-care).**
2. Bolton Clarke have agreed to the Cert III Senior rate from commencement of the Agreement. So, while the Cert III rate is low, from year 5 PCWs will automatically move to the Cert III Senior rate which is comparable to better paying providers for the Cert III PCW. **BC say there will be 313 PCWs at this L3 PCW rate on commencement.**
3. Bolton Clarke have agreed that anyone who obtains or holds a Certificate IV will be appointed to, or progress to, the Level 4A PCW (Cert IV) at \$1264.26. **BC haven't said how many PCWs hold a Cert IV and will move to this Level, but we estimate around 300 (it is usually about 15% of the PCW group).**
4. The EN rates are \$15-\$30 per week below the better paying providers - \$1469.46 compared to \$1485-\$1510. However, the public sector EN Diploma 5 routes rate from July 2024 is \$1436.40. **They say there are 338 ENs at PP5 (276 in HCS and 62 in residential) and 436 ENs altogether.**
5. BC agreed to an Advanced EN (in HCS only) but have made a mockery of it with only a \$7.60 gap between PP5 and AEN (\$1469.46 and \$1477.06). On the positive side, no other provider in aged care has an AEN classification and we can build on this in the future.
6. The RN Level 1 rates are low compared to industry standard: \$1820.96 at L1 Year 8 compared to most providers at \$1850-\$1910. We have forced them up from their July offer of \$1747.62 but it is still low (public sector at \$1925.90 from July). **This is a large group – with 389 District Nurses at L1 PP8 & thereafter and 123 in residential – a total of 512. BC say there are 872 RNs at L1 altogether.**
7. The Level 2 and Level 3A and B rates are respectable, but the Level 3C is \$50-\$70 below best-paying providers (\$2254.54 at L 3C PP2 compared to industry rates of around \$2290-\$2330 for with Baptcare, Calvary, Blue Cross and Uniting Agewell at \$2320+). There is compression – very little gap between the hourly rates at Level 3B, Level 3C and Level 4.

Notes on Wages

1. We have retained the DN Advanced and Clinical Nurse Specialist (CNS) classification but the offer of \$1876.06 is quite low compared to public sector at \$2004.10 and \$2007.90 for District Nurse L2. **BC say there are 46 DN Advanced (all in HCS).**
2. The proposed RN Level 2 rates (LAT Care Managers, Orientation Lead) are \$1890.88 at Year 1 through to \$2017.04 at Year 3. The starting rate is only marginally above the DN Advanced rate. Progression is by year of experience. This is equivalent to our usual Grade 3A in Victoria **BC say there are also 221 Level 2 RNs (all in HCS).** Bolton Clarke refused to put a classification in Level 2 for a residential RN in charge of a unit/section as opposed to a facility (which is Level 3 After-Hours Supervisor). While the rate is low compared to Grade 3A at Year 1 in most other aged care facilities, the Year 3 rate is higher than Blue Cross/Calvary/Baptcare which are around \$1985 at Gr 3A Yr 2 (but lower than the Grade 3B rate of around \$2060).
3. The RN Level 3A rates (equivalent to our usual RN Grade 4A) range from \$2137.12 at Year 1 to \$2238.58 at Year 3. Progression is by year of experience. **BC say there are also 81 Level 3A RNs (60 in residential as AH Supervisors and 21 in HCS).** These rates compare favourably to Blue Cross/Calvary/Baptcare which are around \$2180 at Gr 4A Yr 2. However, we would say that most A-H Supervisors should be in the L3B or 3C and in most aged care EBAs they would be classified at Grade 5.
4. The RN Level 3B rates (equivalent to our usual RN Grade 4B) range from \$2238.56 at Year 1 to \$2246.18 at Year 2. Progression is by year of experience. **BC say there are also 52 Level 3B RNs (all in HCS), mainly as CTMs.** These rates are slightly below Blue Cross/Calvary/Baptcare which are around \$2285 at Gr 4B Yr 2.

Notes on Wages

1. The RN Level 3C rates (equivalent to our usual RN Grade 5 51-200 beds) range from \$2249.98 at Year 1 to \$2254.54 at Year 2. Progression is by year of experience. **BC say there are 113 Level 3C RNs (72 in HCS and 41 in residential), mainly as RAC AH Supervisors, RAC Care Coordinators, CNCs, MCH nurses, etc).** These rates are considerably below Blue Cross/Calvary/Baptcare which are around \$2320 at Gr 5 51-200 beds.
2. The annual increases offered are 3% in 2024 (but on a designated expired EA rate) from “approval of the agreement”, then 2.5% on 1st anniversary of approval (2025) and 2.5% on 2nd anniversary (2026). The percentage increases are too low to keep up with other aged care providers, even with Stage 3 increases in January and October 2025.
3. There is a Stage 3 Aged Care Work Value clause [5.1] that commits them to pay any Stage 3 increases recommended by the Commonwealth Wages Guidance in addition to all prescribed agreement increases and in chronological order. This is important as they absorbed the scheduled 1% Allity EA increases in October 2023 against the Commonwealth Stage 2 increases. **However, they do not intend to apply the Stage 3 increases to allowances. This will exacerbate the shortfall in shift, on-call and other wage-related allowances.**
4. They have committed that for staff will receive the higher of the prescribed agreement rate or the wage increases (3%, 2.5%, 2.5%) and Stage 3 increases applied to their current personal rate over the life of the agreement. This is clearly to buy the vote of existing employees with higher rates, especially RNs, as new employees then enter on the lower agreement rates. **For example, the weekly rate with 3% for DN Year 10 RDNS EA-covered employees will be \$48.41 ph or \$1839.58 compared to the RN L1 Year 8 agreement rate of \$47.92 ph or \$1820.96 pw.**

Wages – what about Stage 3 work value

1. The Stage 3 Aged Care Work Value decision (15 March) decided that aged care nurses must receive further significant wage increases because of work value in addition to that identified in the interim Stage 2 decision as well as gender undervaluation in the Award classification structure compared to other Awards.
2. The Expert Panel set benchmark rates - \$1470.80 (now \$1526) for a new entry Graduate RN and \$1370 (now \$1421.40) for an EN with supervisory responsibility. However, the Expert panel delayed finalising the aged care nurse classification structure and rates until after other parties like the private hospitals had been given an opportunity to be heard. They have now set 17-19 September as the hearing dates to finalise the aged care nurses' structure and rates for the Nurses Award.
3. We expect a decision in October. It is likely that the Commission will set the same operative dates in the Award for aged care nurse increases as other aged care workers – 50% on 1/1/25 and 50% on 1/10/25.
4. We expect a decision on funding that Award increase for all aged care nurses from the Commonwealth and IHACPA via increased AN ACC and CHSP funding by late November.
5. The decision is expected (but no guarantees!) to deliver significant increases in Award rates e.g. an increase in the RN Level 1 Year 8 rate of around \$279.80 (difference between the current \$1554.50 to \$1834.30 (20.2% above the Grad rate of \$1526). If, as promised the Commonwealth fund these increases, this would mean an uplift of 50% (\$139.90) on 1/1/25 and 50% (\$139.90) on 1/10/25. Each classification and year level or pay point would have a different \$ amount applied.

If the Bolton Clarke starting rate remains \$1820.96, the combination of (say) 3.25% in each year 2025, 2026 and 2027, in combination with the two Stage 3 uplifts (\$139.90 each) would see the 2027 RN Level 1 Year 8 rate boosted to \$2307.50 per week (about 2% behind the November 2027 public sector rate of \$2355 at Grade 2 Year 8). Our job is now to get the BC agreement starting rates and the 2025 and 2026 increases lifted so we can get to near that public sector rate in 2027!

Allowances

1. The PM shift allowances are \$3-\$7 per shift below other providers.
2. The night shift allowances are \$4-\$7 per shift less for ENs and \$9-\$13 per shift for RNs and carers below other providers. This would mean around \$1500-\$2200 less per year for a regular night shift nurse or carer.
3. The on-call allowance is more than 50% less than at most other providers.

	Bolton Clarke 2024 proposed rate when EA is approved	Arcare	Baptcare	Blue Cross	Calvary	Estia	Mercy Aged Care	Opal	TLC	Uniting Agewell	Vasey RSL	Villa Maria Catholic Homes
PM RN	29.65	34.16	37.24	34.70	35.23	34.40	34.43	34.64	37.30	34.16	33.64	36.25
PM EN	29.65	31.71	32.02	32.19	32.38	31.93	32.34	32.15	31.86	31.22	30.78	32.86
PM PCW	25.65	29.99	30.96	30.21	30.88	29.91	29.98	30.16	28.94	28.82	30.08	29.45
Night shift RN	59.33	68.32	74.47	69.41	70.47	68.80	68.87	69.28	74.60	68.33	67.36	72.50
Night Shift EN	59.33	63.41	64.05	64.38	64.68	63.86	64.68	64.29	63.72	63.37	60.80	65.71
Night Shift PCW	51.28	59.98	61.92	61.58	61.54	59.83	59.95	60.33	57.88	57.64	60.14	58.89
On Call RN	\$31.94 Mon-Fri and \$41.20 on weekends and Public holidays	68.32	74.47	69.41	67.15	68.80	51.79	74.41	74.60	36.59	67.36	72.50

What is agreed/offered and not agreed?

Agreed/Offered	Not Agreed/Offered
<p>Scope [1.3] : EA covers all employees, except GMs and Assistant GMs in RACFs, Sales Manager, Manager and Ass Manager of Retirement Villages, Operations Manager in HCS, employees in the Research Institute and “all employees who work principally within corporate services”.</p>	<p>Scope: We sought for corporate services employees to be included where those roles <i>are principally nurses engaged in quality, clinical advice, education, research or policy functions that require a nursing qualification</i>). This was rejected.</p>
<p>Disciplinary Procedure [1.11]: Modest clause stating principles around procedural fairness and natural justice offered</p>	<p>Didn't agree to a comprehensive investigations and disciplinary procedure with prescribed number of verbal and written warnings.</p>
<p>Personal Leave [6.1]: 10, 12, 12, 12 then 16 days in 5th and subsequent years, plus access to serious injury personal leave pool [6.16] of 10,000 hours. The pooled fund is accessible for a maximum of 8 weeks when personal leave is exhausted and illness/injury requires absence of more than 10 working days.[Note: we need to ensure it remains available to all staff who apply regardless of time of year or hours remaining in the pool]. Includes a “sick during annual leave” provision enabling re-crediting when ill during annual leave. Absences of up to 2 days on 3 occasions in each year do not need to be supported by evidence which is an improvement for some employees.</p>	<p>Personal leave: Preservation of RDNS 19 days per year and McKenzie Aged Care up to 21 days. Grandfathering of 3 days was offered for all RDNS/McKenzie residual employees, but BC reneged on this after making the 2% wage offer in July.</p> <p>Our claims for 5 days Infectious Diseases Leave, an increase in days without a certificate and an increase to occasions on which a Stat Dec can be used were also rejected.</p>
<p>Personal Leave [6.1]: a chronic illness statement from a treating specialist can be lodged each 6 or 12 months and the employee is not required to lodge medical certificates for up to 5 days' absence in that year.</p>	
<p>Annual leave: all ENs will receive base 5 weeks annual and 6 weeks as shift workers. This is a gain for Allity ENs.</p>	<p>Existing RDNS Community Care Aides will keep their 5/6 weeks [6.3 d)] but new PCWs in HCS will only be entitled to 4/5 weeks.</p>
<p>Annual leave [6.3 f): inclusion of a single definition of shift worker for purposes of the additional week of annual leave which is fairer to all staff: <i>work regularly on weekends and/or work regularly outside the hours of a day worker.</i></p>	

What is agreed/offered and not agreed?

Agreed/Offered	Not Agreed/Offered
<p>Long Service Leave [6.4]: Vic standard quantum of 26 weeks after 15 years (1.7333 weeks per year of service), but accessible at 7 years at state LSL Act quantum of 0.8666 weeks per year of service. LSL also paid out on termination or death between 7-10 years but only at 0.8666 weeks per year of service. LSL Act Vic governs the operation of the LSL which means recognition of unpaid leave, including parental leave, up to 12 months on each occasion.</p>	<p>Transition to retirement clause but they have agreed to develop a set of principles in the first 6 months of the Agreement.</p>
<p>Union delegate clause [6.13]. EA includes 3 days per year per delegate and standard Award union delegate clause (some limitations on number at any one time who can be on leave from facility or hub).</p>	
<p>Ceremonial leave [6.9]: 10 days unpaid leave for purposes of ceremonial leave.</p>	<p>BC ejected our claim for four paid days of First Nations Ceremonial Leave.</p>
<p>Religious and Cultural Leave [6.10]: 10 days unpaid leave to follow and practise the requirements of cultural, spiritual or religious beliefs</p>	
<p>Community Service Leave [6.6]: 3 days paid emergency services leave per year. Standard jury service leave clause</p>	<p>BC would not agree to retain blood donor leave from the Allity EA.</p>
<p>Shift and other allowances [5.6]: BC have included flat amounts (rather than the Award calculation of a % of the individual's hourly base rate), but these flat amounts are not linked to specific wage benchmarks. They are indexed by the wage increases of 4%, 2.5% and 2.5% The rates, especially for night shift and on-call allowance, are very low compared to industry standard.</p>	<p>BC rejected ANMF claim to calculate allowances (other than expense related allowances) as percentages of a specified weekly allowance rates. This method leads to flat amounts per shift or on-call period that increase as the wage rates go up. BC refused to grandfather the frozen \$72 on-call rate received by RDNS-covered employees</p>

What is agreed/offered and not agreed?

Agreed/Offered	Not Agreed/Offered
<p>Professional Development Leave [6.11]: 3 days CPD leave pro rata, no minimum hours to be worked to access the leave. Exam leave: 3 days leave per year non-cumulative, pro rata part-time, extended to cover PCWs and ENs undertaking nursing studies.</p>	<p>BC would not improve number of days CPD Leave. The public sector is 5 days professional Development leave and most aged care EBAs have 4 or 5 days.</p>
<p>Public Holidays [6.12]: standard clause with Easter Sunday and Grand Final Eve added. Permanent rate for working on a PH is 250% and 312.5% for a casual. Entitlement to extra pay (100% for RNs and 150% for ENs/ACEs) when rostered-off on PH is included [but see note opposite].</p>	<p>BC have rejected the RDNS PH Rostered-Off provision [2.27 of RDNS EA] that gives <u>all</u> RDNS-covered part-time employees a payment equal to their EFT fraction for any PH they are not working. 300+ RDNS employees will lose 5-9 day's pay. (BC have inserted the Opal provision which only gives those who regularly work that day the rostered-off payment).</p>
<p>Overtime 4.6]: BC insist that part-time employees can elect to work additional hours up to 10 hours at ordinary rates on a shift (under clause 2.2 d).</p>	<p>BC rejected the ANMF formulation that employees only be able to work up to standard full-time shift length at ordinary rates and then all hours would be overtime thereafter and/or all additional hours requested and worked on a day an employee is rostered will be overtime (regardless of whether they would have agreed to work them at ordinary rates or not).</p>
<p>Staffing and Skills Mix [1.14]: all that has been achieved is that in residential homes there must be one EFT of Care Manager appointed and in their absence an RN will be appointed as After-Hours Supervisor and paid at Level 3. On the rare occasion an RN is not available (whether BC employee or agency) an EN must be appointed in-charge and be paid the EN in charge of facility allowance.</p>	<p>All claims related to transparency of rosters and skill mix (especially for HCS) were rejected.</p>

What is agreed/offered and not agreed?

Agreed/Offered	Not Agreed/Offered
Family and Domestic Violence Leave [6.8]: 15 days FDV leave on same terms as the National Employment Standards	20 days claimed but not agreed. Public sector and many aged care agreements have 20 paid days
Qualifications Allowances [5.5 f)] – the standard clause has been inserted for ENs (4% or 7.5%) and RNs for Grad Certificate (4%), Grad Diploma (6.5%), Masters (7.5%) and PhD (8.5%). Gain for RSL Care – covered nurses.	
Accident Make-Up Pay [6.15] – the definition of weekly payments has been improved. Payments are now based on the difference between weekly workers compensation payments and regular payments including shift and weekend penalties (as calculated as PIAWE).	
Parental Leave [6.5]: 10 weeks paid primary carer parental leave and one week for secondary carer, with super to be paid on paid leave. The full paid leave entitlements to apply to stillbirth from 20 weeks or neo-natal death. Definition of ‘week of pay’ included that means those returning to work on reduced and temporary hours, will have a subsequent parental leave period paid on their substantive contract hours not the temporary hours. There is leave for pre-natal appointments. Adoption is defined as including permanent placement of a child by a court as well as formal legal adoption.	We didn’t achieve 14 weeks (public sector standard). Super is not paid on unpaid leave (it is in the public sector and some private acute/aged care).
Compassionate Leave [6.2]: 2 days per occasion as per the NES, including for stillbirth and miscarriage.	BC rejected claim for 3 days for compassionate leave and 5 days where interstate and overseas travel is required.

What is agreed/offered and not agreed?

Agreed/Offered	Not Agreed/Offered
Occupational Violence and Aggression [1.12]: Escalation clause included as per ANMF request.	
Workload Management [1.10]: Standard clause which highlights the importance of balanced workload and enables staff to raise issue and escalate the matter if unresolved.	
Weekend work [2.7]: 150% on Saturday and 175% on Sunday <u>plus</u> shift allowances (which is better than the Nurses Award and Aged Care Award where shift allowances are not paid on weekends). For casuals, the penalty is compounded so the Sunday rate for all residential care and nursing staff is 218.75% on Sundays (casual rate of 1.25 x Sunday rate of 1.75).	
Meal breaks [4.2]: Improved clause that provides for payment of overtime where meal break not taken because of interruption.	
Vehicle allowance [5.6]: standard 0.99 cents per km. A clause that says they will use best endeavours to find a pool care where a personal vehicle is off the road and/or allow short-term office-based work or training (maximum of 5 days).	BC wouldn't agree to split per km rates for small/large vehicles. They offered to grandfather existing \$1.11 rate for larger vehicles for 35 HCS employees but then reneged. BC rejected claims for hiring of cars when personal cars are off the road and also to pay 50% contribution to roadside assistance subscription costs.
Redundancy Pay [7.2]: Standard NES provisions, except 16 weeks' pay after 9 years (doesn't drop back to 12 weeks at 10 years' service).	BC rejected retention of better RDNS EA provisions around redeployment and salary maintenance for redundancy.

Options

- Vote YES and that is the end of the matter. The EA will be filed with FWC for approval.
- Vote NO and encourage staff to protest at the mediocre wages and allowances. This may get BC back to the negotiation table.
- If we win a NO vote:
 1. Seek to recommence negotiations; and
 2. Re-commence PIA; or
 3. Seek an Intractable Bargaining Order which would lead to an Intractable Bargaining Determination (an FWC arbitration of outstanding matters), but this has no guarantees and some risks.

What is an Intractable Bargaining Order (IBO) & Determination (IBD)?

1. An IBO can only be made 9 months after the employer agrees to bargain or 9 months after the last expiry of a relevant EA.
2. The bargaining must be at an impasse. The Commission will specify an amount of time that the parties must try and reach agreement (before they will arbitrate or determine the matter). We have already had s240 bargaining dispute conciliation which is a prerequisite to an Order.
3. They will hear the issues still in dispute and issue a Determination - which acts effectively as an enterprise agreement.
4. There are some risks – neither we, nor the employer, would win everything in such a process. However, it is unlikely BC would want to unscramble the agreement and open up agreed items.
5. As part of the IBD the FW Act says that workers can't go backwards, from entitlements they had in expired agreements.

Recommendation

You have done a fantastic job with PIA, dragging the proposed EA from poor to reasonably okay. However, there is more to do on the wages and allowances front! We recommend that Bolton Clarke ANMF members resolve to:

1. reject the wages and allowances offer and VOTE NO to reject the proposed EA at ballot.
2. suspend PIA Stage 2 stop works and rallies for the duration of the proposed ballot from end of PM shift on Friday 23 August, but that Stage 1 PIA remain in place, including administrative bans.
3. If the NO vote is successful then ANMF will seek to re-engage Bolton Clarke in negotiations to resolve outstanding issues (mainly the wages and allowances issues but also PD leave, overtime and preservation of personal leave) and will reserve the right to re-commence Stage 2 PIA from Thursday 12 September (or two days after the declaration of the EBA Ballot vote whichever is the later).
4. Authorise ANMF to initiate an application for an Intractable Bargaining Order and Determination at the earliest opportunity allowed by law (mid-September).

Questions?

Please ask about anything you are unsure of:

- the current wages offer
- the current conditions offer
- Proposed suspension of stage 2 PIA
- Intractable Bargaining Order and Determination

Resolution (passed unanimously at the meeting, other than a significant minority of members present wanting to continue Stage 2 action indefinitely)

This meeting of Bolton Clarke members, having heard the report on the progress of enterprise bargaining discussions and the decision of Bolton Clarke to unilaterally put a proposed EA to ballot resolves to:

- 1. Condemn the Bolton Clarke Executive Leadership Team for submitting a proposed EBA to ballot that is not agreed, noting that with modest increases to starting rates, the annual increases and allowances we would likely reach an agreed position.**
- 2. Urges all ANMF members to vote NO when the proposed enterprise agreement is put out to ballot without agreement in the next week, because this Agreement does not meet industry standards on wages and allowances.**
- 3. Talk to our co-workers, especially other ANMF members, about the importance of voting NO in the EBA ballot as the only way to preserve an opportunity to improve the agreement and the mediocre wages and allowances in particular.**
- 4. Agrees to authorise the ANMF to notify the employer that we are suspending all Stage 2 stop work and rally PIA activity from end of PM shift on Friday 23 August.**
- 5. Continue with all Stage 1 bans during the ballot period (unless otherwise advised by ANMF).**
- 6. Authorise the ANMF, should the NO vote be successful, to:**
 - a) Seek to recommence negotiations; and/or**
 - b) Re-commence PIA; and/or**
 - c) Initiate an Intractable Bargaining Order application which would lead to an Intractable Bargaining Determination (to seek arbitration of wages, allowances and key outstanding matters only).**