



# Equal Remuneration Case 2010

## DECENT WAGES FOR COMMUNITY SECTOR WORKERS

### A discussion paper towards a nationally consistent approach to government funding of the equal remuneration order

#### Executive Summary

In a landmark case presently before Fair Work Australia, unions representing social and community sector and disability workers have lodged an Equal Remuneration Order, based on the gendered nature of the work conducted within the community sector and its consequent undervaluing in terms of wages. The application aims to increase the pay of workers covered by the Social, Community, Home Care and Disability Industry Award (formerly SACS award). It is based on a Queensland case which brought increases in the order of 18-42% to award rates of pay.

Community organisations that support the pay claim have recognised that declining capacity to attract and retain staff is undermining the sector's ability to provide effective support services to low income and disadvantaged Australians. At the same time, sector organisations have mounted a campaign raising the implications of higher wage costs on an already-stretched sector and seeking commitments to fund decent, market-based wages from the sector's funding sources. A number of governments around the country have already acknowledged the funding implications of higher wage costs in terms of their contracts and relationships with the sector.

This paper sets out the principles for a national approach ensuring consistency to funding arrangements between governments and the community sector in the event of a decision to increase the award rates of pay. It advocates:

- Recognition that government funding comes from both the Commonwealth and state or territory governments and the implications for services.
- The identification of government funding must incorporate the full range of community sector work supported by governments, including direct services; peak bodies; advocacy, research and policy development; and projects.
- Decisions about funding must be determined and allocated by a transparent formula.
- Additional support should be provided through an industry support package to cover those parts of the sector less-reliant on government funding.
- As community organisations are already negotiating government contracts that will apply during the period when wage costs may increase, a standard clause that acknowledges this should be inserted in all funding contracts between governments and community sector organisations.

#### The pressing need for decent wages

Community sector organisations have long been facing a crisis in their capacity to sustain the vital services they provide because of an inability to attract and retain skilled, experienced staff. The annual Australian Community Sector Survey undertaken by ACOSS has repeatedly revealed these as the single most pressing issues facing services in recent years (ACOSS 2010, 2009). Current levels of funding to the sector mean that many organisations are unable to pay their staff market-based wages, particularly for those engaged in front line service delivery.



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Higher wages are essential for addressing many of the workforce problems in the sector, and therefore the effectiveness of social services in meeting the needs of low income Australians. Organisations will need increased funding to cover higher wage costs. The growing disparity in wages between the (not-for-profit) community sector and government or the private sector has been driven by a number of factors, including those specifically related to funding:

- The sector's work has been undervalued by governments who have sought to cut their own costs by outsourcing social services to the community sector.
- The sector has undercut decent wages for its own workforce as it has responded to competitive tendering practices for government funding.

There is a paucity of reliable data on funding levels and funding sources in the community sector, meaning that all figures carry some qualification. The Productivity Commission reports that government funding is the largest share of income for not-for-profit social services; it has set that level at around 55% of organisations' revenue (2010). ACOSS data supports this finding (ACOSS 2010), but there are also areas of service delivery where the level of government funding is much higher.

At the same time, 80% of respondents in the Australian Community Sector Survey report that government funding does not cover the true cost of delivering contracted services (ACOSS 2010) and the Productivity Commission has found that governments routinely fund only 70% of the cost of service delivery (2010). These data clearly indicate the relationship between government contracting processes and the undervaluing of work in the sector that has led us to the present Case. Both governments and community organisations need to acknowledge these implications of past practices if we are to ensure that the Equal Remuneration Case marks the end of the disproportionate wage disparity in the community sector.

### ***Support for the Case***

ACOSS and the Councils of Social Service across the country (COSS network) have signalled our support for the equal remuneration order. This support is given in recognition of the fact that the sustainability of the services provided by the majority of community organisations depends upon higher wages and the ability to attract an experienced, quality workforce. Undoubtedly, higher wage levels can only be given effect through additional funding. The Equal Remuneration Case is the first and an essential step in this process.

ACOSS has coordinated signatories to an employer statement in support of the Case. In addition to the more than 3000 members represented through the COSS network, almost 400 peak bodies and service providers across the country have signed this statement expressing their support for the equal remuneration application. This is a strong indication of the support of employers for higher wages across the sector.

The success of the equal remuneration order in addressing pay disparity will require increased funding to cover higher wage costs. It will also require a coordinated, collaborative approach across governments, in order to ensure that vital services are maintained to the hundreds of thousands of Australians who depend upon them. Funding increases to cover higher wage costs must be consistent across all avenues of funding: from all forms of government funding through to non-government sources of funding.

## **Government responses to date**

Since the commencement of the Case a number of governments have recognised its implications for funding. The Commonwealth government signed a Heads of Agreement with the Australian Services Union in 2009 setting out areas of support for the Case and has subsequently gone on record indicating that it supports the Case and recognises the implications for funding (Collins 2010). The governments of the Australian Capital Territory, New South Wales and Victoria have also gone on the public record with their support for the principles and central arguments of the Case, with the Victorian government committing to cover in full anyone delivering services on their behalf.

Yet the approach by governments across Australia suggests a long way to go before there is a uniform, consistent approach to the equal remuneration application and its implications for government funding.

- It is unclear whether all governments have begun to analyse the funding implications in their jurisdictions, and to what extent that work has occurred.
- There is no consistency across governments that have begun this work, in terms of how they estimate current wage costs; the potential for increases to those costs; and what they consider to be within the scope of government funding to the sector.
- Even those governments that have expressed support for the Case have left key questions unanswered, including their understanding of the scope of government funding to the sector; and their preparedness to cover higher wages costs in their support for the sector.
- There has been very little attention to what funding for higher wages costs might look like; and how it might be allocated.

## **Proposals for a nationally consistent approach to government funding of higher wages**

The following proposals are based on two key assumptions. The first is that a significant amount of the work undertaken by the community sector relates to government contracts for social services. Thus the funding relationship is a key driver of the interaction between many community organisations and governments.<sup>1</sup> The second key assumption is that governments have been routinely underfunding the contracts they sign with the community sector, which has been an important element in the growing wage disparity in the sector. The Productivity Commission found that government contracts routinely cover only 70% of the cost of services that they fund the sector to provide (Productivity Commission 2010). This is important because it clarifies the fact that any funding provided by governments specifically to cover higher wage costs will not be sufficient to cover the significant funding shortfalls that exist in the sector already.

- i. Recognition that, where funding for services derives from both the Commonwealth and state or territory governments, the ability of organisations to transition to higher wage costs and incorporate any additional funding for that purpose will require a consistent approach by all governments.

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<sup>1</sup> The funding relationship is a significant distinction between community organisations and the broader not-for-profit sector, which includes other organisations such as sporting and cultural bodies which may have little or no interaction with government funding.

When the Queensland Industrial Relations Commission ordered award increases to the value of 18-42% in 2009, there was no coordination or cooperation between the Queensland government and the Commonwealth in terms of how each approached the implications of the case. As far as the community sector was concerned, neither government consulted the other and each was impervious to the sector's advocacy of a coordinated approach. This caused significant confusion for organisations: higher wages for some workers have been significantly delayed and there have been serious consequences for the continuity of services for clients.

In the national Case, a coordinated approach across all governments is essential. This is a key lesson from the Queensland Case that must be learnt as we prepare for the implications of pay equity nationally. Not only is it important for the continuity of services; it will help ensure that government funding continues to reach clients who most need it and is not hindered by organisations struggling to deal with, for example, a lack of clarity and newfound complications in their funding arrangements.

- ii. The identification of government funding must incorporate the full range of community sector work supported by governments, including:
  - Direct services;
  - Peak bodies;
  - Advocacy, research and policy development; and
  - Projects.

Any identification of government funding to cover higher wage costs must cover the full range of support provided by government to the community sector. This includes the work undertaken by the community sector in a range of areas that inform and improve government-funded services, program and policies; and which improve the capacity and the effectiveness of local communities.

- iii. Decisions about funding must be determined and allocated by a transparent formula.

While there is widespread consensus that a successful application will lead to higher wage costs, actual costs will be determined by a range of elements that have a different impact across the country. In identifying the implications of higher wages costs, organisations will need to ensure parity *within* their workforce as well as in comparison to other colleagues in the sector. For instance, the implications for basic rates of pay, loadings and penalty rates will vary depending on the presence of enterprise agreements or reliance on the (modern) award.

In the Queensland experience, a lack of transparency around how the Queensland Government had identified funding levels to cover higher wages made it extremely difficult for organisations to determine how to pass that additional funding on to their staff.

The allocation of any funding to cover higher wages in the sector must involve transparent processes that allow organisations to know the amount of funding in question and how it was arrived at. A methodology agreed between governments and the sector as to how they will approach award increases in terms of sector funding would achieve this.



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- iv. Additional support should be provided through an industry support package to cover those parts of the sector less-reliant on government funding.

A cornerstone of the importance of this Case is the value of a well-resourced and adequately funded community sector, extending from specific policy to our social fabric. Governments receive multiple benefits from the myriad range of activities of the community sector. For example, policy development and advocacy at both individual and systemic levels improve processes and outcomes from the upper echelons of government to the wellbeing of people and communities. Those benefits are derived irrespective of how the sector's activities are funded. In other words, they are values of the sector that exist even where government does not fund them, so long as we maintain a thriving and vibrant community sector over all.

Any approach to funding must take account of this. The data shortages signalled earlier make it difficult to quantify the extent to which parts of the sector do and do not rely on government funding. If we set it at a rough estimate of 20%, that still accounts for a significant proportion of the sector's activities in social service and community support. This part of the sector must not be left behind because of funding arrangements between governments and other parts of the sector.

In the event that the Equal Remuneration Case is successful, an industry support package for the community sector would provide support for the parts of the sector or its work that do not currently attract government funding, but that are as vital to the overall health of the sector as any other part of it.

- v. All contracts underway between community organisations and governments should acknowledge the potential for higher wage costs during the life of the contract, paving the way for contractual renegotiation when and if it is required in response to the Case.

As community organisations are already negotiating government contracts that will apply during the period when wage costs may increase, a standard clause that acknowledges this should be inserted in all funding contracts between governments and community sector organisations. The following clause has been devised by community sector organisations and is suggested as an appropriate form of words to address this concern.

Wage costings in this submission are based on current Award rates. During the period of this contract, as the result of an equal remuneration application for social and community sector and disability workers, it is possible that Fair Work Australia may order an increase to Award rates. Should this occur, *ORGANISATION NAME* will seek immediate wage supplementation from the funding body in order to continue to meet the specifications of the contract.

### Conclusion

The consequences of not funding higher wages in the sector will be disastrous. The economic contribution of the community sector is significant, in the range of 6-8% of GDP. It is a major employer across the country, providing jobs in regional and rural communities as well as urban centres. Most importantly, it provides services that hundreds of thousands of Australians depend upon every year. All of that contribution of the community sector is at risk if we cannot provide the wages that will attract and retain an experienced and effective workforce.



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Just as there will be different implications of the Case depending on the industrial landscape, so too there will be differences across states, territories and the Commonwealth in terms of how funding is delivered. The objective of a nationally consistent approach is not to ensure an equal outcome in terms of funding arrangements across the country. It is to prevent confusion, disparity and inequity in how governments respond to the Case and the impacts of those responses upon the community sector. A nationally consistent approach will ensure accountability and transparency to those processes. Most importantly, it will be key to the success of equal remuneration in the community sector.

## References

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