



**The National, State and Territory
Councils of Social Service (COSS)
Submission to the Industrial Relations Commission**

July 2009

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Scope

The Council of Social Service (COSS) network is an association of peak bodies for the community and welfare sector in each state and territory of Australia. Collectively, within this submission, it represents the national voice for the community and welfare sector. We have worked together on this submission because of the direct implications of award modernisation for the community sector, and our key role in sector development issues across Australia. We note that in some jurisdictions the industrial parties are still considering their position regarding transference of powers to the federal system. This submission does not cover these issues however we believe that the principles and recommendations would apply to any instrument that seeks to cover the community and welfare sector regardless of the jurisdiction.

This submission has been informed by targeted consultations with members and stakeholders, as well as many years of experience in dealing with sector employment issues and organisational sustainability. Members work closely with individuals, families, and communities affected by poverty and disadvantage, and their role is vital to the health and wellbeing of the Australian community.

The COSS network welcomes the opportunity to provide a submission to the Industrial Relations Commission, regarding the award modernisation process. In its role as a network of peak bodies for community and welfare services in Australia it covers a broad range of policy areas including the impacts of disadvantage on those most vulnerable.

Executive Summary

The COSS network contends that the community sector's economic and social contribution is consistently undervalued. It is therefore vital that the work performed by its employees is properly recognised and rewarded throughout every stage of the award modernisation process.

Further, pay equity issues have particular relevance for the community sector for two reasons: (1) the majority of workers in the sector are female and therefore face significant inequity in terms of pay, conditions and career advancement, and (2) community sector workers face a significant undervaluing of their work, often on the basis of gender. We submit that these concerns should be taken into account when modernising awards.

While the aim and intentions of the award modernisation process are laudable, the community services sector will face significant difficulties adapting to any changes in wages and conditions this process may cause. This is due largely to the characteristics of the community services sector, particularly the reliance on voluntary support for aspects of governance and management, and the significant number of organisations who are small and community driven. Most specifically, adaptation difficulties will arise from the unrealistic timeframe set in place for the process of adaptation: from the final decision regarding Stage 4 modern awards (the stage covering the community services sector) scheduled for 4 December 2009, to the nominated implementation deadline of 1 January 2010 (AIRC, 2009a). In other words, once community sector organisations have found out exactly what the new awards system entails, they will have only 27 days before they must implement any changes to their business structure and operations. Therefore we recommend that the Commission allow a six-month period for community sector organisations to adapt and reorient their business to incorporate any additional requirements.

Recommendation 1

That the community services sector's economic, social and political contribution to the community is recognised throughout every stage of the award modernisation process.

Recommendation 2

That the Australian Industrial Relations Commission recognise the historical undervaluing of community service sector employees and their work, and takes steps to rectify this through the modern awards.

Recommendation 3

That the Australian Industrial Relations Commission accept that an implementation deadline of 1 January 2010 is unrealistic and unfair for community sector organisations, many of which lack the infrastructure and funding to reorient their employment model and operations with such speed.

Recommendation 4

That the Australian Industrial Relations Commission take steps to ensure the community sector faces no financial or organisational disadvantages resulting from the implementation of the modern awards, for a period of six months from the official commencement date of 1 January 2010.

Recommendation 5

That the Australian Industrial Relations Commission hold the concept of "equal remuneration for equal work" to be of paramount importance when setting the modern awards.

1. Characteristics of the community services sector

The community services sector is a vital part of the Australian way of life – it gives citizens access to services that allow them to live more whole and productive lives, it provides an identity and a voice for the marginalised, vulnerable and disadvantaged, and strengthens our political system by analysing, commenting on and lobbying for inclusive and just social policy (Cannon, 2009).

The community services sector is also valuable to Australia in an economic sense. In the 2006/07 financial year alone, not-for-profit organisations employed 995,000 people and contributed \$34 billion to the Australian economy – 8.6% of all Australians in employment and 3.4% of Australia's GDP, respectively. In fact, with an income of \$74.5 billion in 2006/07, the community services sector made an economic contribution equivalent to that of the government administration and defence industry, and one and a half times the size of the economic contribution of the agriculture industry (ABS, 2008, cited in Lyons, 2009).

However outstanding this contribution may be, it is sobering to realise that it could be much more were the sector's significant handicaps removed or ameliorated. The very characteristics that make the sector so important to Australia and Australians could also be considered crucial weaknesses, as the Australian Services Union makes clear in its statement below:

As is the case globally...the sector faces increased responsibilities and regulation with less funding, competition for scarce resources and a predominantly female workforce strongly motivated by values and commitment to their work but impacted by heavy workloads, long hours and low pay. (ASU, 2009, p. 2)

The COSS network contends that the community sector in Australia is consistently undervalued, and strongly recommends that the sector's economic, social and political contribution to the community is recognised and rewarded throughout every stage of the award modernisation process.

2. Award modernisation

In her request to the Australian Industrial Relations Commission (AIRC), Minister for Employment and Workplace Relations Julia Gillard stipulates that the Commission has a deadline of 31 December 2009 to complete the award modernisation process (Gillard, 2008). In its April 2009 decision, the Commission makes clear that the updated awards will come into effect on January 1 2010, and highlights the fact that the majority of modern awards will involve changes in minimum terms and conditions for many employees, as well as an increase in cost for employers (AIRC, 2009b).

However, the COSS network notes that the AIRC will not be delivering its final decision regarding Stage 4 modern awards – the stage covering the community services sector – until December 4 2009. (AIRC, 2009a) to put it another way, once the new awards system is known, community sector organisations will have only 27 days before they must implement any changes to their business structure and operations.

These changes will require community sector organisations to invest a significant amount of knowledge, time and funding to implement the modernised awards properly. Therefore, the timeframe set by the Commission is clearly unrealistic and

unfair, given that many community sector organisations lack the infrastructure and funding to change their business model and operations with any speed.

The Commission has indicated it is aware of the difficulties faced by various industries and organisations in meeting the deadlines in the award modernisation process (AIRC, 2009b). As such, the COSS network expects the Commission to ensure the community sector faces no financial or organisational disadvantages resulting from the implementation of the modern awards, for a period of six months from the official commencement date of 1 January 2010.

The Commission has the power to effect such a delay by virtue of s.154(2) of the *Fair Work Act 2009*, which allows the Commission to include State-based differentials in a modern award for up to five years. This clause would allow the Commission to preserve the current classification structures and pay levels that apply under existing awards in each State, with a unified classification structure and revised pay rates to take effect from 1 July 2009. Phasing out State-based differentials is within the Commission's power, and the Commission has adopted this approach for other industries (such as hospitality) where the lack of a phase-in would prove difficult.

A commencement date of 1 July 2010 provides community sector organisations with a more appropriate timeframe to develop the knowledge and undertake the consultation required for implementation. In addition, it will enable the community sector to campaign for the funding required to cover and financial implications of the awards modernisation process. If the Commission does not take this into account when delivering their final decision on Stage 4 modern awards, there will be significant negative implications for both community sector organisations and the important services they provide to Australians in need.

3. Implications for organisations

Currently, the community sector is ill-prepared to meet the potential financial and organisational impact of the modernised awards, especially with regard to wage increases. This is largely because of the way in which community sector organisations are funded by governments. Carson, Maher and King (2007, p.2) explain this issue best:

"...the funding regimes that have shaped the community services sector over the last two decades have been predicated on a competitive tendering model. This has been accompanied by an emphasis on efficiency and productivity, and increasing regulation of outputs through the accountability/efficiency/governance requirements common elsewhere in the outsourcing of Government services."

In other words, community sector organisations have had to devote more and more time to two areas – competing against other organisations to secure funding and, if their tender is successful, coping with an “additional emphasis on operational efficiency, efficacy and fiscal control with ever-increasing burdens of paperwork and reporting on outcomes as a primary requirement” (Carson, Maher & King, 2007, p.2). Rarely is this additional burden taken into account when funding is allocated. Furthermore, Australian social policy in recent years – particularly government preference for short-term contract funding and competitive funding environments – has rewarded minimal spending on operational costs and infrastructure for community sector organisations.

Essentially, the vast majority of community sector organisations share the following characteristics: significant amounts of time and effort invested in competitive tendering processes, and the administrative reporting tasks associated with being awarded tenders; low levels of spending on operational costs and internal infrastructure; challenges in planning for the growth and development of staff; and employees on lower wages than other comparable sectors (Carson, Maher & King, 2007). In addition, community organisations are heavily reliant on voluntary support for their governance structures. *Every one* of these issues will be severely exacerbated by the constraints and pressures put on the community services sector by the award modernisation process. If organisations are not given the opportunity to lobby governments and campaign for an increase in contract funding corresponding to the additional staffing and organisational costs imposed through the modernised awards, many will have to shed staff, and many will be faced with closure.

Community organisations need time, knowledge and resources to reorient their business structures and phase in the modernised award system. If the 1 January 2010 commencement date is rigidly adhered to, the community sector will have none of these things, and the rest of the community will suffer for it.

4. Implications for Service Delivery

It is generally accepted that most community service organisations receive some level of funding from the government, and indeed, some organisations are entirely dependent on this source of funding. For example, the 2008 Australian Community Sector Survey found that in the 2006/07 financial year, 42.3% of the total funding provided to the community sector in Australia came from the Commonwealth government, 32% from state and territory governments. In other words, three-quarters of all the funding available to community sector organisations was provided by the government (ACOSS, 2008, p17).

The community sector is already facing significant challenges in meeting government demands, with 85% of respondents to the 2008 Community Sector Survey disagreeing with the statement that “Government funding covers the true cost of delivering contracted services” (ACOSS, 2008, p.18). Research has also shown that insufficient government funding leads to a social cost, as community service organisations cease to exist or are unable to adequately provide services to clients (*Strong Community, Healthy State*, n.d, p.2).

It is clear that community service organisations already suffer from a lack of funding, while seeing no decrease in the number of clients they are required to assist (*Strong Community, Healthy State*, n.d, p.2). Therefore, unless they are given the time and opportunity to identify and secure funding to cover the extra expenditure necessitated by the modern awards implementation process, already struggling community sector organisations will find the cost prohibitive to continue to deliver services.

5. Pay Equity

In her award modernisation request, Education and Workplace Relations Minister Julia Gillard instructs the AIRC to consider “the need to help prevent and eliminate discrimination...and to promote the principle of equal remuneration for equal work” (Gillard, 2008, p.2) – pay equity. Although the term can have several meanings, in the context of this submission the COSS network agrees with the definition used by the New South Wales Office of Industrial Relations: “that men and women should be paid equally for work that is of either equal or comparable value” (NSW Office of Industrial Relations, n.d.).

This principle is a vital part of the award modernisation process, as currently a significant gap exists between the pay rates of men and women:

“...the difference between averaged men’s and women’s pay is between 11% and 17% depending on whether ordinary time weekly earnings, total weekly earnings or hourly rates are compared. The Inquiry notes enterprise bargaining has not appeared to close this gap.”

Worth Valuing: Report of the Queensland Pay Equity Inquiry (2001)

“Despite the introduction of the principle of equal pay for work of equal value over 30 years ago, undervaluation and wage discrimination remain. All of the areas and occupations examined in the Inquiry raised significant issues about the undervaluation of female occupations and industries.”

Pay Equity Inquiry, NSW Department of Industrial Relations (1998)

“While legislation in the 1960s and 1970s did make progress in closing the gender pay gap, progress has stalled since the early 1980s...The long-term effects of the gender remuneration gap are particularly significant...Pay inequity is a consistent in all professions and at all levels.”

Pay Equity and Associated Issues Related to Increasing Female Participation in the Workforce, Government of South Australia (2008)

These pay equity issues have particular relevance for the community sector for two reasons: (1) the majority of workers in the sector are female and therefore face significant inequity in terms of pay, conditions and career advancement, and (2) community sector workers face a significant undervaluing of their work, often on the basis of gender. These assertions are supported by the findings of the Queensland Industrial Relations Commission, in relation to the Queensland Services, Industrial Union of Employees (QSU) application for the making of a new award applying to the community services sector in Queensland (QIRC, 2008).

The Queensland Council of Social Service was also heavily involved in campaigning for the creation of a new award. One of QCOSSE’s major concerns, as outlined in a submission to the 2007 Pay Equity Inquiry conducted by the QIRC, is that “the pay inequity that is present in [the community services sector] as a result of undervaluation of work is exacerbated by the absence of enterprise bargaining in this sector. This means that the wages paid to employees in this sector are substantially less than their counterparts employed in the public sector” (QIRC, 2007, p.6).

Therefore, as is the case across Australia, Queensland community sector workers are facing lower rates of pay and poorer conditions due to the characteristics of the sector they are employed in. It is clear that there is an ongoing need for pay equity cases such as the one brought before the QIRC in 2008. However, while the COSS network supports the work and position of the Queensland Council of Social Service in relation to this case, it is also firmly of the opinion that community sector organisations require time, funding and expertise to implement *any* changes – particularly higher wages – that arise from cases such as this. This includes changes arising from the award modernisation process.

6. Recommendations

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References

ABS (2008), *Non-profit Organisations 2006-07*, Cat No 8106.0 ABS, Canberra, cited in Lyons, M (2009), *The Non-Profit Sector in Australia – a Fact Sheet*. Viewed 2 July 2009 at: <http://thirdsector.ursulastephens.com/Editor/assets/NonprofitFactsheet09.pdf>

ACOSS (2008), *Australian Community Sector Survey Vol. 1 –National*, Australian Council of Social Service, NSW. Viewed 27 July 2009 at: http://www.acoss.org.au/upload/publications/papers/5961_CSS%20National%20final.pdf

AIRC (2009a), AIRCFB 641 *Statement: s.576e – Procedure for carrying out award modernisation process (Request from the Minister for Employment and Workplace Relations 28 March 2008)*, Australian Industrial Relations Commission. Viewed 3 July 2009 at: <http://www.airc.gov.au/awardmod/databases/general/decisions/2009aircfb641.htm>

AIRC (2009b), AIRCFB 345 *Statement: s.576e – Procedure for carrying out award modernisation process (Request from the Minister for Employment and Workplace Relations 28 March 2008)*, Australian Industrial Relations Commission. Viewed 3 July 2009 at: <http://www.airc.gov.au/awardmod/databases/general/decisions/2009aircfb345.htm>

ASU (2009), *Recommendations For Building A Safe And Healthy Community Sector Into The Future*, Australian Services Union SA + NT Branch, Adelaide, SA. Viewed 2 July 2009 at: http://www.asu-sant.asn.au/news/OHSW%20Recommendations_web.pdf

Carson, E, Maher, C, King, P (2007), *Careers At The Coal-Face? Community Services In South Australia: Workforce Development*, University of South Australia, Adelaide, SA. Viewed 10 July 2009 at: <http://www.publications.health.sa.gov.au/wplan/3/>

Gillard, J (2008), *Request Under Section 576C(1) – Award Modernisation (consolidated version)*, Australian Government, Canberra. Viewed 3 July 2009 at: <http://www.workplace.gov.au/NR/rdonlyres/862F8165-E549-463E-B235-6581C3AA78A2/0/NESAttachmentBConsolidatedAMrequest.pdf>

QIRC (2001), *Worth Valuing: A Report of the Pay Equity Inquiry*, Queensland Industrial Relations Commission, Queensland. Viewed 13 July 2009 at: <http://www.deir.qld.gov.au/industrial/publications/submissions/reports/worthvaluing/index.htm>

QIRC (2007), *Pay Equity – Time To Act*, Queensland Industrial Relations Commission, Queensland. Viewed 13 July 2009 at: http://www.qirc.qld.gov.au/inquiry/pay_equity/final/final_report.htm

QIRC (2009), *Queensland Community Services And Crisis Assistance Award – State 2008: Decision*, Queensland Industrial Relations Commission, Queensland. Viewed 13 July 2009 at: http://www.qcoss.org.au/upload/5875_QIRC%20Decision%20-%20SACS%20Award%20_2_%2006-05-09.pdf

NSWDIR (1998), *Pay Equity Inquiry: Summary of Findings and Recommendations*, New South Wales Department of Industrial Relations, NSW. Viewed 13 July 2009 at: <http://www.industrialrelations.nsw.gov.au/pdfs/payequity.pdf>

NSWOIR (2009), *A History of Pay Equity*, New South Wales Office of Industrial Relations, NSW. Viewed 13 July 2009 at: http://www.industrialrelations.nsw.gov.au/About_OIR/Issues_and_policy/Archive/Pay_equity_inquiry/A_history_of_pay_equity.html

SA Government (2008), *Submission to the House Standing Committee on Employment and Workplace Relations' Inquiry into Pay Equity and Associated Issues Related to Increasing Female Participation in the Workforce*, Government of South Australia, Adelaide. Viewed 13 July 2009 at:

http://www.officeforwomen.sa.gov.au/siteFiles/OFW/SA_Govt_Sub_mission_on_Pay_Equity.pdf

Strong Community, Healthy State (n.d.), *Strong Community, Healthy State...The Evidence*, online document. Viewed 13 July 2009 at:

http://www.sacoss.org.au/strongcommunity/online_docs/03_Evidence.pdf