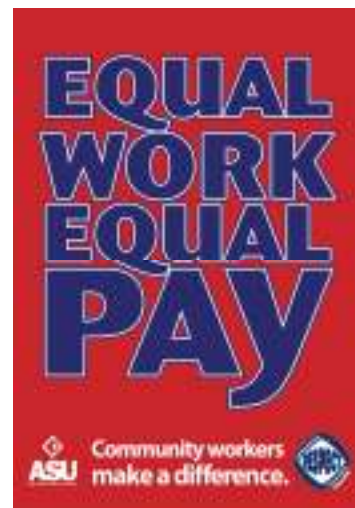


Australian Services Union Victorian Authorities & Services Branch

ASU National Pay Equity Case SACS Sector

Social, Community, Health Care and Disability Services Industry Award 2010

February 2009



Purpose

This is a briefing note to ASU members & delegates about the agreement reached between the ASU and the Federal Government and the ensuing pay equity case.

Background

For many years the ASU has campaigned about the funding, workforce capacity and workforce development issues that have been predominant in the Social and Community Services sector in Australia. In 2007, our national publication "Building Social Inclusion in Australia – Priorities for the social and community services sector workforce", highlighted the union's concerns about these key sector issues. We made a number of recommendations in that and the subsequent report, particularly highlighting the relationship between inadequate pay & funding structures and the workforce shortages & capacity constraints that characterise the sector. We drew the conclusion that left unresolved these issues would hinder a government with a social inclusion agenda, as well as continuing to disadvantage workers, SACS agencies and ultimately the quality of service provided to the community.

The ASU has continued to lobby the State and Federal Governments about these issues and believe we have achieved recognition of the need to comprehensively address the problems highlighted.

The ASU has also actively utilised the available industrial mechanisms to improve award rates of pay. The result has been the landmark Equal Remuneration case in Queensland in May 2009 which increased our Social & Community Services (SACS) and Crisis & Supported Housing (CASH) state award rates by between 18% - 37 %.

Industrial Relations Framework

The election of the Rudd Labor government has also seen a major overhaul of the industrial system in Australia, to a system based on the regulation of trading corporations in one federal system. The Fair Work Australia system also has at its core the "modernisation" of industry / occupational awards (a process that was completed by 31 December 2009, and operative 1 January 2010) and the promotion of enterprise bargaining.

The new Fair Work scheme poses a number of challenges to the SACS sector, firstly, a division by trading and non-trading corporations would see a spilt in the regulation of the sector been the State and Federal jurisdiction in each state when previously the regulation was either in the State or the Federal system not both.

Secondly, Award modernisation in SACS has seen the harmonising of 47 SACS industry awards into one, the *Social, Community, Health Care and Disability Services Industry Award 2010*, with the same wages and conditions. With the National Pay Equity Case impending, the ASU has been successful at gaining agreement during the Award Modernisation process to preserve the *SACS Award* Victorian classification structure & pay rates until July 2011. Award Modernisation as a process, is of particular significance for SACS workers, as the sector has very little experience enterprise bargaining and funding has historically been benchmarked against Award rates of pay in each state. But with challenge comes opportunity.

Realising the Opportunity

Faced with the considerable challenges of a divided sector, a Modern Award and the need to replicate the Queensland equal remuneration success across Australia, the ASU commenced discussions with the Federal and State governments with a view to establishing the circumstances under which the SACS sector could operate wholly in the Federal Fair Work Australia

System. The negotiations centred around how we can replicate the Queensland Equal Remuneration Order in the Fair Work Australia system and so flow it on to **all** SACS workers across Australia.

Working in collaboration with ASU branches across the country, ASU National Office, ACTU & the Federal Government, in late 2009 we finalised an agreement which will firstly, see the whole of the SACS sector in the Fair Work Australia system and secondly, the SACS Award as the first Equal Remuneration test case in the new Federal system. The agreement also sees this process happening with the support and cooperation of the Federal Government.

There is an extensive heads of agreement it generally includes:

- the SACS sector operating in one national industrial system;
- agreement that in the event of significant pay rises from the case, that payment will be phased in – first instalment no earlier than 6 months after decision made & remainder over at least a 4.5 year period;
- the Federal Government agreeing to coordinate discussions with the states about the funding implications of any decision in the case;
- agreement that pay rates from the SACS Modern Award will not be implemented until the equal remuneration case is decided so avoiding unnecessary disruption for the sector*;
- agreement that Julia Gillard will direct Fair Work Australia to apply the same legal principles utilised in the successful Queensland case;
- preservation of existing Victorian SACS Award classification & pay rates until July 2011;
- assistance of government departments in the case in the presentation of research & evidence ; and
- Government to request the Fair Work Ombudsman to work with ASU to develop of Best Practice Guide on Unfair Dismissals.

We also have the support of the other unions with members in the SACS sector and the ACTU.

What this means?

The Agreement does not mean that the Queensland rates are automatically replicated in the Fair Work Australia system – the ASU and others will still have to run the case before the Fair Work Australia tribunal but there is recognition because of the Queensland case that there will be an outcome. The Queensland experience has also shown the importance of organising workers in preparation and along the way, particularly if more pressure is required on the State Government to fund what results from the case, or in the instance that the Government tried to use this as an opportunity to force a different agenda.

A case of this kind requires considerable resources, preparation and evidence – the Federal Government and its agencies will provide some in kind assistance, but there is no getting away from the fact that this is a significant legal and industrial undertaking for the ASU – we estimate the legal costs will be around \$200,000. As we learned in Queensland, we will also need the cooperation and assistance of other stakeholder organisations.

In Queensland, QCOSS and a number of employers provided invaluable assistance for the case and they also provided funding. The ASU will need this again from peaks, employers and employer organisations. We have briefed employer and peak body stakeholders with more detail to maximise understanding, input and support.

The case will commence in early 2010, work is being done nationally to prepare witness statements and collate evidence, with the application to be lodged by late February.

What can Victorian ASU SACS Members do to support the Pay Equity Case?

- Where appropriate, organise meetings in your workplace so that members and non-members can be briefed on the case and ask for their support
- Ask others to join the union – the more united the sector is, the stronger we are
- Attend activities supporting the case – rallies or other events
- Ask your employer how they are supporting the case
- Participate in lobbying activities – whatever Fair Work Australia hands down as a decision, money will need to come out of State and Federal Government coffers!

* The classification structure in the Modern Award is different to the now defunct *Victorian SACS Award*. Analysis by ASU Vic Branch being carried out at time of writing to assess monetary implications of this. Given the impending PE case, the ASU lobbied for preservation of Victorian structure and rates to continue to apply until the case has been heard. To avoid confusion of classification & pay rates changing twice and members being potentially disadvantaged in the interim. This was successful with structure & rates preserved until July 2011.