



SACS Newsletter September 2010

ASU members at AHAG have a win – in first Victorian case of its kind!

Members at AIDS Housing Action Group (AHAG) had their rights to collectively bargain upheld in a Fair Work Australia hearing on Friday, July 9.

In the first hearing of its kind for the Victorian community sector, the ASU used a part of the Fair Work Act to ensure AHAG met its obligations as an employer to bargain in good faith. Fair Work Australia awarded the Majority Support Order and bargaining for the organisation's first collective agreement has since commenced.

This decision sets a precedent for other community sector employers thinking they may

be able to avoid their obligation to engage in good faith bargaining, and should help other members feel confident to pursue this provision.

The hearing was preceded by the union writing to the organisation formally on a number of occasions. Between September 2009 and June 2010, the ASU made a number of formal approaches to the AHAG Committee of Management on behalf of members to enter into a collective bargaining process. Most of these approaches were ignored. Lastly, AHAG sent a vague response that did not respond to the question of whether they

would meet members' request to bargain.

ASU Assistant Secretary Lisa Darmanin said, "Members at AHAG really just want the opportunity to put their claims to AHAG in a collective fashion and we are pleased Fair Work Australia has granted the Majority Support Order. Industrial relations is a constantly shifting ballgame, with community sector workers potentially losing conditions through changes to the Award, many of our members are keen to protect existing conditions through an enforceable agreement."

AHAG is a state-wide supported accommodation service for people living with HIV who are homeless or at risk of homelessness and employs four staff.

Equal Pay Case Update

Previous industry newsletters have reported to members on the Equal Pay Campaign and the application the ASU has made to Fair Work Australia for the ERO Case (Equal Remuneration Order Application).

The ASU lodged the application with Fair Work Australia on March 11, and filed written submissions and statements of evidence on June 3. Other parties making submissions responding to the ASU application are to be filed with FWA in early September. These other parties will be, for example, employer associations, individual employers, government and social welfare organisations with an interest in the application, etc.

FWA will schedule the matter for a further mention hearing before the tribunal in September after which a timetable for formal hearings and worksite inspections is to be scheduled throughout October and November. The ASU has engaged legal Counsel to appear on behalf of the union at these hearings and the case will be dealt with by a Full Bench of Fair Work Australia.

The ASU 'Outline of Contentions' prepared by the barrister and submitted to FWA details the basis of the claim, including that the work of members in the SACS industry is undervalued, low paid, and is performed by a predominantly female workforce. The ASU's written submission also includes statements from the Branch and from members from different areas across the industry from all states detailing work responsibilities and qualifications.

ASU members in Victoria from a broad range of work areas have made a significant contribution to the submission for the case with Witness Statements which provide supporting evidence. The Witness Statements come from members working in many different areas in the industry, including community



ASU's Linda White and Lisa Darmanin with ASU delegates Lorraine Harkness, Fiona Lorimer and Jo Dejar on the first day of the Equal Pay Case in FWA.

legal centres, community health centres, drug and alcohol support services, transitional housing, youth and family services, domestic violence services and disability support services.

Members wishing to access full details of the ASU written submission, including the 'Outline of Contentions' and Witness Statements can do so by going to the Fair Work Australia website www.fwa.gov.au where a separate Equal Remuneration Case section has been set up in recognition of the high interest level and importance of this case which is the first application under Part 2.7 of the Fair Work Act 2009. The final dates for formal hearings and worksite inspections will also be listed on the FWA website when they have been finalised.

SACS Modern Award

update

The Social, Community, Home Care and Disability Services Industry Award 2010 (the Modern Award), which covers members in the social and community services area, came into effect on January 1, 2010.

Members are aware from earlier ASU newsletters that a number of transitional/phasing-in provisions apply to the operation of the new Award. These transitional provisions now include wages/classifications, and penalties and loadings.

The transitional provisions provide that existing SACS award classifications and rates of pay continue to apply until July 2011. The delay in the implementation of the operative date was granted to permit the ASU equal remuneration/pay equity application to be heard by the Full Bench of Fair Work Australia.

The recent Fair Work Australia Determination under the Annual Wage Reviews

provided for a \$26 increase to be awarded to the wage rates set out in the Modern Award. The Minimum Wage panel also varied the Federal Transitional Awards, which includes the Social & Community Services – Victoria – Award 2000, to provide for the \$26 wage increase.

A recent application to Fair Work Australia seeking that penalties and loadings provisions set out in the Social & Community Services – Victoria – Award 2000 be retained over the transitional period has been successful. This means that the penalties and loadings as listed below **will not change from the “old” Victorian SACS Award provisions until July 1, 2011:**

- Casual and part time loadings;
- Saturday and Sunday penalty rates
- Public Holiday penalty rates
- Evening and other penalty rates; and
- Shift Penalty/Allowance

The rates for overtime penalties are not included in the changed transitional provisions, and the overtime provisions set out in the Modern Award apply from January 1, 2010, as do allowances and all other award terms and conditions other than those specified above.

Seek advice if you are not sure:

If your employer is seeking to change your penalties and loadings as listed above, or translate your current classifications onto the new “Modern” Award classification structure, please contact the ASU on 1300 855 570.

FEDERAL FUNDING

time to commit



ASU delegates from Queensland, Victoria and South Australia, along with ALP member for Corangamite Darren Cheeseman, hit the halls of Parliament to lobby for a commitment to fund equal pay.

In late June, ASU delegates from across the country hit the halls of Parliament House in Canberra again, lobbying the major parties on their need to commit to funding equal pay. ASU delegates from Victoria, including Matilda Langley (Network West), Pia Cerveri (Aids Housing Action Group) and Joy Stevens (Uniting Care Connections) delivered strong messages from Victorian workplaces about the importance of federal funding.

To follow up this effort, and the election looming, the SACS campaign team is working with members across a range of federal electorates to demand a personal commitment to support full government funding for equal pay. As you read this bulletin, ASU members are organising local activities to identify the position of the major parties on this issue, which will be communicated prior to the election.

It is clear from our activities to date that if Tony Abbott becomes Prime Minister success for our Equal Pay Case is in grave danger. He has not committed to support our case in FWA. Ensure your vote is cast in favour of Equal Pay.

Youth workers newsletter



In June this year, the Australian Services Union introduced a Youth Workers newsletter, which will be published a few times a year in order to keep those in the industry up to date with latest information in the sector.

The ASU represents the industrial interests of youth workers across a range of sectors across Australia. In Victoria, such coverage spans from non-government social and community services agencies to local government. This youth worker specific newsletter has been developed with these members in mind.

If you have feedback on this newsletter, or contributions to make to a future edition, please email gcontessa@asuvic.com. All ideas and feedback will be gratefully received.

Community Health Multi Business Agreement

Finally, after months of fruitless negotiations which led to members to 'upping the ante' by taking industrial action, we can report that the parties have finally reached an 'in principle' agreement for a new deal to cover ASU members at stand alone CHCs.

The new Multi Business Agreement will ensure workers at CHCs get two pay increases between now and mid-2011, totalling eight per cent and also provides improvements to paid maternity leave.

Members were initially seeking much larger pay increases, but resolved to accept these improvements as an interim measure pending the outcome of the ASU Pay Equity case.

Notwithstanding this, the final outcome was significantly better than was originally offered – a fact that is directly related to the strength and the patience shown by ASU members over the long period of these negotiations, especially those that demonstrated their commitment to the cause by taking industrial action.

It is also a credit to the delegates who worked very hard in representing the views of members at their respective centres and also in co-ordinating the industrial action that took place out on the ground.

We are working with VHIA to finalise the details of the new Agreement so that it can go out to a ballot across the 38 separate centres, but in the meantime members across CHCs should have received their pay increases.

Any member at a stand-alone CHC who has not received back pay and/or had their rate of pay increased in line with the new deal should ring the ASU Member Contact Centre on 1300 855 570 so that we can follow this up.

If you have any questions about this, please contact Wil at the ASU at wstracke@asuVIC.com

Moves afoot at the Salvation Army

The Modern Award

The Salvation Army have recently announced to staff that they intend to impose the Modern Award at their workplaces across Victoria. For staff at the Salvation Army, this will mean that some conditions of employment will be reduced, including the rate at which sick leave accrues when compared to the SACS Award. The Modern Award sick leave accrual is a flat 10 days per year, while under the SACS Award SACS workers could accrue up to 21 days per year after their fourth year of employment.

The Modern Award applies across the entire SACS sector, however the ASU are only aware of a handful of SACS organisations that have chosen to reduce the conditions of employment for their staff and implement the Award in full. There is absolutely no legal requirement for the Salvation Army to apply the reduced Modern Award provisions. Indeed, the ASU have written to the Salvation Army and asked them to do what nearly all other SACS organisations have done and continue to apply the benefits of the old SACS Award provisions. To date we have not received a positive response.

Of particular concern to members who have contacted the ASU is that they feel that the conditions of employment at the Salvation Army were already amongst the worst in the sector and the Army have just decided to further reduce conditions. It's about time that the Salvation Army stopped making their staff pay to prop up services.

If you work at the Salvation Army and are interested in speaking with an ASU organiser about how to avoid the imposition of the Modern Award, or any other industrial matter, please call Paula Doody at the ASU on 9342 3400.

An enterprise agreement for the Salvo's?

ASU members employed at the Salvation Army "Westcare" in Sunshine have been trying to get the Salvation Army to agree to enter into an Enterprise Bargaining process for over two years. Despite repeated requests, the Salvation Army have unfortunately informed the ASU that they do not want to bargain for an Enterprise Agreement at Westcare.

Now that the Salvation Army have finally formally rejected the appeals by their own staff to enter into good faith bargaining, the ASU will be making an application to Fair Work Australia (FWA) for a "Majority Support Order". A Majority Support Order is an Order made by FWA that states that the union has been able to demonstrate that a majority of staff at a particular workplace want the union to bargain on their behalf.

What makes the fact that we have to make this application so frustrating is that the Salvation Army were provided with a copy of a petition that clearly demonstrates that a majority of staff want a union EB process and yet the Army are still making their own staff go through the formal, time consuming process.

At the time of print we are awaiting the Majority Support Order application to be heard at Fair Work Australia.

Community Legal Centre *update*

Bargaining for a Multi Business Agreement (MBA) for workers in Community Legal Centres (CLCs) continues. The ASU and the CLC management representatives group have been working on not only tidying up the previous MBA, but accessing funding through Victorian Legal Aid and the Federal Government.

It would appear at this stage that the preferred option is to bargain for an MBA that expires at the end of June, 2011, so that workers at CLCs

can bargain next year once the outcome of the Equal Pay Case is known. The outcome of the Equal Pay case will also have an impact on the way that centres are funded.

At the time of going to print, the bargaining group has plans to meet with VLA and hope that we are able to reach an in principle agreement soon afterwards.

If you have any questions about this, please contact Leon at the ASU at lwiegard@asuVIC.com

ASU Delegate found to be unfairly dismissed from Community Connections BUT THE FIGHT CONTINUES

As many ASU members will be aware, the ASU has for some time been raising serious concerns about allegations of workplace bullying and harassment at the Warrnambool based SACS employer Community Connections (CCVL). The ASU have alleged in various actions before Fair Work Australia that this harassment has included discriminating against ASU members based upon their union activity.

In November last year, ASU delegate at CCVL Gary Lucas was sacked for what was alleged to be a threat to run over members of the CCVL executive with a bus and supposed defamatory comments made about the CEO of CCVL.

Following a four-day unfair dismissal hearing held in Warrnambool earlier this year, Commissioner Blair from FWA said in his decision that;

- The Tribunal has determined in this matter there was no valid reason for the termination of the Applicant by the Respondent.
- The Tribunal has come to the conclusion that the alleged death threats and the alleged defaming of the CEO did not occur and therefore there was no valid reason for the termination of the Applicant.

In an extraordinary move, Commissioner Blair decided to suppress the rest of his decision, meaning that only the legal representatives of the ASU and CCVL are permitted to see the decision.

Not even Gary, the person who was sacked, can see the full decision.

The ASU, through Maurice Blackburn lawyers decided to appeal the move to suppress the full decision to a full bench of FWA. To add insult to injury, the full bench decided to uphold the decision to suppress the full decision. This means that CCVL have made comments about Gary's behaviour in a case that was widely publicised in the media and yet he cannot fully clear his name when it is found that those comments were untrue. It is a decision that strikes at the very heart of natural justice and a fair trial.

The ASU are seeking legal advice on appealing to the Federal Court.

SISTER 2 SISTER PROGRAM

A mentoring program has been designed to develop the knowledge and skills of our less experienced or new female unionists, who will receive mentoring from some of our more experienced female union members. The idea of the sister to sister mentoring program is to encourage leadership of women in the union movement by:

- matching experienced female union members and delegates with those less experienced in the same or across workplaces;
- mentors to be available to talk with mentees about situations they are in at work as delegates/members, help them brainstorm strategies in a context of understanding/having similar experience;
- matching female mentors and mentees in the field enhances grassroots perspective of the union movement as members and delegates build their ties to each other, thus strengthening the understanding members have of their role and power within the movement;
- experienced female union member/delegate mentors to provide role modelling to less experienced women delegates/members to try and encourage genuine leadership within the union movement, not just through the allocated affirmative action strategies

FORTHCOMING TRAINING DATES ARE 5TH MAY & 15TH SEPTEMBERS.

If you wish to participate in this program, either as a 'Sister Mentor' or 'Sister Mentee', please contact Maria Kaplanis on (03) 9342 3410 or via email mkaplanis@asuvic.com

Neighbourhood Houses Multi Business Agreement

'In principle' agreement has also been reached between the ASU and other unions and the employer representatives on the proposed new Neighbourhood House and Learning Centres Multi Business Agreement.

The new Agreement will ensure workers at over 250 Houses receive pay increases totalling five per cent between July 1, 2010 and July 1, 2011. It also provides for an increase to the paid maternity leave component.

The Agreement is an interim measure pending the outcome of the ASU Pay Equity case and the implementation of the new Award classification structure on July 1, 2011.

We are working with Jobs Australia and the other unions involved on finalising the document. However, the final approval process may take some time.

In the meantime, ANHLC, the peak body for Neighbourhood Houses recently distributed pay tables setting out the pay rates that will apply to workers under the new Agreement as of July 1, 2010 and has suggested that they begin to apply the new pay rates to avoid the complication of having to calculate back pay.

If you have any questions about this, please contact Wil at the ASU at wstracke@asuvic.com