



ASU Submission

Productivity Commission

Contribution of the Not for Profit Sector

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A. Introduction

1. The Australian Services Union (ASU) is one of Australia's largest Unions, representing approximately 120,000 employees.
2. The ASU was created in 1993. It brought together three large unions – the Federated Clerks Union, the Municipal Officers Association and the Municipal Employees Union, as well as a number of smaller organisations representing social welfare, information technology workers and transport workers.
3. Today, the ASU's members work in a wide variety of industries and occupations and especially in the following industries and occupations:
 - Local government (both blue and white collar employment)
 - Social and community services, including employment services
 - Transport, including passenger air and rail transport, road, rail and air freight transport
 - Clerical and administrative employees in commerce and industry generally
 - Call centres
 - Electricity generation, transmission and distribution
 - Water industry
 - Higher education (Queensland and South Australia)
4. The ASU has members in every State and Territory of Australia, as well as in most regional centres as well.
5. The ASU is the largest union of workers in the social and community services (SACS) sector.

The ASU covers workers in what is commonly termed the "non-government social and community services industry". The term non-government can be misleading as most organisations or services receive funding from the government; however, workers are not employed by the government.

Funding sources are also not confined to the government with additional funds coming from philanthropic sources. Workers are generally employed by community based management committees, boards or collectives.

These employers administer government funds and oversee the management of an organisation or service.

6. Members of the ASU work in services such as: youth refuges, women's refuges, family support services, disability services, community legal centres, employment and training services, employment services like Job Futures, aboriginal organisations, community or neighbourhood centres, family day care centres, community transport services, home and community care services, environmental organisations, aged pensioners and superannuants associating community sector peak bodies, migrant or ethnic services and aid agencies.
7. Large employers in the SACS industry include the Catholic Church (including St Vincent de Paul), Anglicare, The Smith Family, Mission Australia, Uniting Church, Relationships Australia, Max Employment Services, Amnesty International, Oxfam, ACF and Greenpeace.
8. ASU members in the SACS industry work for both not for profit and for profit providers, so we have a unique perspective of the operation of both models of service provision in this sector. That said, the majority of employers are not for profit organisations.
9. As the principal union for clerical and administrative employees in Australia the reach of the ASU into the not for profit sector is even wider when other employer not for profit organisations are considered. ASU members work in unions, clubs, sporting organisations, associations etc. as well.
10. The submission is confined at this stage to our interaction and involvement representing workers in the SACS industry.

B. Enhancing the efficiency and effectiveness of the not for profit sector

11. In 2007, the ASU commissioned a research discussion paper, “Building Social Inclusion in Australia – priorities for the social and community services sector” which is Attachment 1 to this submission. Rather than repeat and rephrase the ASU research it is included in toto in the attachment to form part of our submission as it addresses a range of issues including funding, volunteering, salary packaging, sector efficiency, competitive tendering and other matters that are the subject of this Productivity Commission Review.

12. Our research paper highlighted that the SACS industry has a workforce crisis created by high staff turnover, lack of training, poor wages and conditions. The ASU made a number of recommendations about how the operation of the sector could be improved and the chronic workforce issues could be addressed.¹

13. The ASU followed up our research by conducting an industry wide consultation and survey during 2007 to validate our recommendations and provide an up to date analysis of the extent of the workforce problem and crisis.

Attachment 2 to this submission are the results of our survey contained in “Building Social Inclusion in Australia – priorities for the social and community services sector workforce”.

14. 2188 ASU members and other members of the SACS industry participated in our survey and in consultation forums across the country from June to August

¹ ASU, “Building Social Inclusion in Australia – priorities for the social and community services sector”, April 2007, Chapter 3, p.42-44 (Attachment 1)

2007. The survey, the largest of its kind of the SACS workforce, included managers and workers from all states and territories across a wide range of representative SACS organisations. The basic tenets of our research discussion paper were confirmed by the experiences of workers at the front line of the SACS industry.

15. Attachment 2 contains a range of survey results – some of the key results include:

- 52% of workers are not committed to staying in the industry beyond the next five years;
- 40% of workers who intended to leave the industry gave better pay elsewhere as the reason – this was the single biggest reason identified;
- 77% of managers surveyed nominated low wages as the main barrier to attracting and retaining staff;
- 75% of managers said low wages was the main reason staff gave for leaving their service;
- 17% of managers said they expected a staff turnover of over 50% in the next two years and 43% expected turnover of 20-49%;
- Rural/remote and regional managers identified that the two biggest barriers to attracting and retaining staff were lower wages compared to city jobs and limited training opportunities available;
- Paid parental leave, portability of long service leave, a less stressful work environment, additional staff to cover workload would all contribute to retaining the SACS workforce; and
- 56% of managers who are trying to attract and retain indigenous workers have difficulty doing so.

16. As we observed in our report, consistent themes emerge from many studies of the non government SACS workforce over the 5 years before our research which were reinforced by our survey. In brief these themes are:

- A skilled SACS workforce is essential if we are to build a society which is socially inclusive;
- The SACS workforce demand is growing at a rate which is outstripping workforce supply;
- Turnover of staff in the industry is unacceptably high with losses to the public and private sectors;
- Wages and conditions are not competitive or comparable with those offered in the public sector or in other industries;
- Career development opportunities appear limited for those who work in the industry;
- Greater investment in education and training by both governments and employers is required to support a future skilled workforce;
- There are inadequate numbers of indigenous workers to work with indigenous communities and rural and remote communities also have specific needs that require attention.²

17. Since our research and survey, the Federal and State Governments have all embarked on projects, inquiries, research and other mechanisms to look at workforce development issues. Without trying too hard we can name 16 taskforces, inquiries and reports that have been conducted or are proposed to be conducted over the last 2 years. Most say the same things and traverse or propose to traverse the same ground. Our list (at Attachment 3) does not include work that has been undertaken by skills councils, unions and individuals.³

18. What the research tells us is that there is a crisis in the SACS industry. Prior to 2007 there were studies that said this and since 2007 there have been more studies to confirm this. The ASU believes that the problem is well defined – now is the time for some action.

² ASU, “Building Social Inclusion in Australia – priorities for the social and community services workforce”, October 2007, p.6 (Attachment 2)

³ Linda White, “All the jigsaw pieces but no picture”, May 2009, Care Professional, p.20 – List at Attachment 3

C. The ASU Recommendations

19. We believe our 2007 recommendations still stand today, and since 2007 we have developed a National Workforce Plan which we believe, if implemented, would significantly address the issues and ensure the efficiency and effectiveness of the not for profit sector in the SACS industry. The following is a summary of the ASU recommendations and the reasoning and arguments detailed in the attachments:

Funding

a. Increased funding for improved wages and conditions in order to attract and retain a future quality and skilled workforce while ensuring no less than all existing wages and conditions continue for the immediate future

Low wages are a barrier to attracting and retaining a high quality, skilled workforce. Improved wages and conditions which close the gap between non-government SACS and public sector jobs of similar work value would ensure the retention of a future non-government SACS workforce. Federal and State/Territory governments should ensure funding levels are sufficient to support pay levels to attract and retain a quality skilled workforce by closing this gap.

The Federal Government should promote portable long service leave (LSL) schemes for the non-government SACS industry. Specifically, the Federal Government, in conjunction with State and Territory governments, should fund a feasibility study into LSL portability.

b. Revision of competitive tendering model of funding

The use of competitive tendering in the provision of social and community services is fundamentally inimical to the provision of services of the highest quality for the most disadvantaged and marginalised in our community. Competitive tendering is based on an

assumption that the lowest cost base for the delivery of services is best for government. Such models of funding do not adequately reflect an appreciation and recognition of the needs of those who are to receive the services delivered.

Social and community services should be funded on “cost basis” models such as those used to fund health and education. Competitive tendering undermines the role that the SACS industry plays in supporting social inclusion. It should be reviewed with a view to phasing out its use in the SACS industry.

c. Review of funding contracts and lengthening of funding rounds in order to provide more workforce stability

The short term nature of funding contracts acts as a disincentive to workers seeking greater job security. In addition, employers have less incentive to provide training to workers who are more temporary, thereby adding to worker disincentive to stay in the industry. Funding contracts should be reviewed with a view to lengthening funding rounds in order to provide greater workforce stability.

d. Adequate funding for current service provision and projected industry growth

The provision of social and community services through the non-government sector continues to grow. It is essential that governments make adequate funding provision (including funding for wages, staff training, occupational health and safety (OH&S) obligations and relief staff) to support this growth in order to ensure quality service provision.

Federal and State/Territory governments must recognise that the costs of running a service increase each year and that indexation of funding contracts should accurately reflect these cost increases.

The Federal Government funds its share of all wage increases delivered by the various SACS industry awards over the last 11 years.

Workforce development

e. Development of a national workforce attraction and retention strategy

The Federal Government and each State/Territory government support and fund the development of strategies for addressing SACS industry workforce and skills shortages as a matter of urgency.

That Federal and State/Territory governments fund a promotional and advertising strategy aimed at encouraging both young people and older workers to enter the non-government SACS workforce.

f. Promote the development of a highly skilled workforce through greater investment in education and training

The Federal Government must invest in education and training in the Vocational Education and Training (VET) system (in TAFE and in community providers), and must encourage a similar investment by State governments, in order to expedite skill development of new workers in the non-government SACS industry as well as that of experienced workers via Recognition of Prior Learning and other programs.

g. Development of career paths that recognise skills and experience and career structures which allow mobility of workers throughout the industry

Workers in the SACS industry experience limited career paths and this is often cited as a reason for leaving the industry. Workers' career advancement would be better served if qualifications were more clearly linked to common sets of job titles and classification systems. The Federal and State/Territory governments should support this work in workforce planning at all levels.

h. Strategies to address the shortage of indigenous workers to work with indigenous people

The Federal Government support and fund the development of strategies to attract and retain indigenous SACS workers. Indigenous communities, indigenous educational and employment providers and industry representatives be included in the development of these strategies and that they include local initiatives for recruiting, training, mentoring and providing on-the-job support.

i. Strategies to address the shortage of rural/remote/regional workers

The Federal Government support and fund the development of strategies to attract and retain rural and remote SACS workers. Training and career development strategies such as enhanced training and education opportunities, a system for subsidising working in rural/remote communities and a scheme for 'bonded' education bursaries be investigated.

Industrial relations

j. Eliminate the confusion created by WorkChoices by ensuring that awards that cover workers in the industry are dealt with (at the State/Territory level) within a single industrial relations jurisdiction

Federal and State/Territory governments should co-operate to ensure that SACS service organisations within each State and Territory that are covered by awards in the SACS industry have the conditions of employment of staff dealt with in a single jurisdiction. That the determination of which jurisdiction (State or Federal) be based on consultation with the industrial parties.

Advocacy

k. Recognition of the role of advocacy in the work of the non-government SACS industry legislation, administrative instruments and funding contracts.

Over the last 11 years the Federal Government has sought to restrict the role of non-government organisations in their advocacy roles. This has resulted in restrictions in funding contracts by government departments as well as interpretations of law by the Australian Taxation Office (ATO) to remove the Charitable and Public Benevolent Institution status of organisations critical of government policy.

Federal and State/Territory governments must ensure that all funding contracts explicitly recognise the role of non-government organisations in advocacy. In addition the law should be clarified to ensure that advocacy can be considered as a legitimate activity for all non-government organisations seeking to have Charitable and Public Benevolent Institution status for tax purposes.

D. The Workforce Development Plan

20. Since our 2007 reports the ASU has worked on a more detailed set of strategies to address the workforce development crisis. The ASU proposes 8 strategies in “A National Plan to Address the Workforce Crisis in the Social, Community and Disability Services Industry 2009” (Attachment 4).
21. These 8 strategies can be summarised as:
 1. New career structures that deliver significantly improved wages which will align with these education pathways and provide an incentive to ongoing learning and skill development.
 2. New education pathways that ensure the development of a highly skilled workforce.
 3. Increased levels of funding to support quality service provision and an end to competitive tendering and short term funding cycles.
 4. The establishment of an industry certification and accreditation body that brings us into line with other professions and that comprises representatives of employers, employees, educators and clients.

5. The accreditation of all services as part of a long term commitment to quality service delivery, better quality assurance and a lesser regulatory burden.
6. The certification and registration of all staff.
7. Improved conditions of employment at the workplace level that bring our industry into line with other professions.
8. New staffing arrangements that introduce staff client ratios which ensure safe staffing levels.

E. Pay Equity and Workforce Value

22. The ASU's observations, work and recommendations have received additional credibility and impetus following a recent decision of the Queensland Industrial Relations Commission (QIRC) which ruled on 6th May 2009 that the work of social and community services workers in Queensland had been undervalued and that a wage adjustment to the State Award – the Queensland Community Services and Crisis Assistance State Award, was needed to remedy the situation.

The decision provides for wage increases of between 18% and 37% phased in over a three year period.⁴

23. The decision follows an application by the Queensland Services Union (a state union equivalent of the ASU) to the Queensland Industrial Relations Commission for a determination under the State's Equal Remuneration Principles for an upward adjustment to the Award rates to satisfy the principle of equal remuneration for work of equal or comparable value.
24. In determining that a pattern emerges that gender is at the core of the present value of community services sector, the Commission noted:

⁴ Matter No. A/2008/5 – QSU and QCCI & others – Queensland Community Services and Crisis Assistance Award – State 2008 – Commissioner Fisher Decision – 6th May 2009

*"the overriding public interest consideration in this matter is to ensure that employees in this sector are remunerated commensurate with their work value and in a way that is affordable to the funding bodies. This will ensure that qualified, competent employees are attracted and retained in the sector to provide quality services, that services users receive appropriately funded quality services so as to properly assist them to increase their capacity ... and finally that the services can be provided at a cost reasonable to the taxpayer."*⁵

25. The QIRC decision addresses a number of matters of relevance to the Productivity Commission's Review that characterise not for profit SACS organisations and we would argue reduce their efficiency and effectiveness.

The issues include:

- The casualisation / part time nature of the workforce
- Barriers to enterprise bargaining
- Workplace conditions
- The funding models – including short term contracts, project funding etc.

F. Job Services Australia Tender – A Case Study and Observations

26. This year the Government made a number of significant changes to the construction, funding and aims of the Employment Services sector. This resulted in a change of providers of these services across the country. Employment services providers are both not for profit and for profit providers. The Senate held a recent inquiry into the Job Services Australia tender process and the ASU made a number of observations about the issues that arise from such tender processes. The observations we made in the

⁵ Ibid

submission are not unique to this particular process but are extracted here to enliven our earlier comments on tendering and funding processes.

27. The following is from our submission to the Senate:

- a. *The ASU does not take issue with the underpinning policy position for employment services that is the basis for the new Job Services Australia (JSA) system that is soon to commence.*
- b. *We believe there is room for improvement in how new policies can be implemented in particular when providers who are outside the government in the not for profit and for profit sector are involved and when there is a changeover in the providers of the services. The concern of the ASU is for the staff of the providers who lose contracts. We believe these staff must be given preference of employment with new providers and they should not lose continuity of service or entitlements if a new provider takes over their old employer's business.*
- c. *We also note that a number of not for profit providers cross subsidised other community services programs and we note that there is an unintended knock-on effect to these services as a result of the loss of JSA contracts, which sees employees outside the employment services adversely effected by the JSA decisions.*
- d. *Effective and quality employment services depend on skilled staff. In any change of providers a primary aim must be to retain as many staff as possible at the new providers.*

- e. *The ASU believes that in any future tender process this could be achieved in a number of ways, including providing in the new service providers' contracts Key Performance Indicators around the recruitment of staff from unsuccessful existing providers. Such a measure would be an incentive to new providers to ensure displaced staff are unaffected by a change of provider.*

- f. *The ASU is attracted to the Executive Order of US President Barack Obama of 30th January 2009⁶ which details that administration's view overtly expressed that "The Federal Government's procurement interests in economy and efficiency are served when the successor contractor hires the predecessor's employees". The Executive Order details how this can be affected in service contracts with new providers. While much of the Order deals with the US circumstance and there are some exclusions we would not support (e.g. managerial and supervisory positions), the tenor of the principle of "first refusal" for employees has some attraction, particularly when coupled with the other issues raised later in this submission. We urge the Government to consider such measures for future contracts.*

- g. *The efficiency of ensuring existing staff carry on their employment from both the service provision standpoint and from an employee's position is self evident. Clients suffer little disruption and continuity of employment continues as does pay conditions and recognition of service.*

- h. *Under the current system displaced Job Network employees have received redundancy pay. Eliminating redundancy pay must save the government money.*

⁶ Executive Order, *Non Displacement of Qualified Workers under Service Contracts*, 30th January 2009 – Barack Obama

- i. *In the current transition to JSA a number of ASU members have complained about their employers trying to avoid their responsibilities for the payment of redundancy pay by trying to get employees to resign rather than paying redundancy pay. This has occurred in circumstances in particular where providers have not been able to absorb displaced staff in their own organisation and they seek to hinder displaced staff from commencing employment with new providers. There are losing providers who despite losing all their contracts in a State still refuse to give staff notice of impending redundancy. This has occurred for no other reason than to force resignations and avoid redundancy payments. A more streamlined transition of employees to new providers could eliminate this problem.*
- j. *A number of our members too have reported significant cuts in salary from their old employer to their new employer. Drops in salary of up to \$5,000 per annum are not uncommon and are justified by new employers on the basis that a new employee has to start at the bottom again. This is unfair for experienced staff who but for the loss of a tender by their former employer would have not had to suffer such a loss. In some cases we believe some new employers are exploiting the situation that displaced employment services workers find themselves in. Such practices are not conducive to the retention of skilled and experienced staff in employment services and could be avoided if preference to previous staff was implemented and existing contracts of employment honoured.*
- k. *It is also worth noting that the current processes mean that staff start at the beginning again for the accrual of long service leave entitlements. The ASU has long been calling for a portable long service leave scheme for workers in the social and community and employment services industry as the competitive tendering features of much of the government community services work means that while workers can have many years of experience in the industry the vagaries of the*

contracts and the changes in their employers can mean they never qualify for long service leave. We believe the Federal Government should implement a portable long service leave scheme for all employment services employees.

G. Private Philanthropy & SACS

28. The Productivity Commission has asked about the role of private philanthropy. While there is no doubt this source of funding for not for profit organisations has increased, there are significant policy and transparency questions that need to be addressed.

29. The ASU recently made a submission in response to the Treasury's Improving the integrity of Prescribed Private Funds (PPFs) Discussion Paper. In that submission the ASU made the following points which encapsulate the ASU's view of this issue:
 - a. The Rudd government was elected on a platform of prioritising social inclusion and quality evidence based social policy. SACS organisations are a key part of the fulfilment of these commitments. SACS organisations are currently delivering on government policy areas from closing the gap between indigenous and non indigenous communities to reducing homelessness. SACS workers translate policy into action and support and enhance the lives of our societies most vulnerable.*

 - b. Private philanthropy is a significant contributor of funds to the activities of SACS that further the governments social policy aims and social inclusion. As such they need to be considered and accounted for when determining social policy and how government funding is allocated.*

 - c. The largest category of donations to Deductible Gift Recipients from 2002 was the welfare category, receiving \$96.47 million, or 49.4% of all donations.³ This is a significant level of private funding in an area once considered to be solely the governments funding domain.*

d. If we are equitably funding services there needs to be a level of transparency on exactly where funding from PPFs are going. Within the charitable sector there are inequities in the extent to which individual charities are able to attract private funds. However government funding takes no account of this as it has no capacity to monitor which charities PPFs are donating to, and therefore which charities are not receiving funds and might need greater public funding.

e. Large established charities with strong public profile that have a marketable cause or operate in areas of public sympathy are more likely to receive private donations than charities operating in contentious but equally needy areas. The reality is that funds sponsored by companies are more likely to fund marketable causes that improve their image as a socially responsible business rather make a decision on funding by examining what organisation has the greatest need.

f. A lack of transparency to funding within the charitable sector also creates greater inequities across the wider SACS sector. Many organisations within the SACS sector are not registered as deductible gift recipients or as charities. These organisations rely on public funds for their total funding. The fact that PPFs do not report on where their funds are distributed distorts the funding decisions within the sector. All SACS organisations (registered charities or not) compete in the same pool for public funds yet some SACS organisations registered as charities also have access to philanthropic funds. The government and the public needs to be aware of these other funding sources when making decisions on where to allocate funds in across the SACS sector.

g. Currently government is making funding decisions in the SACS sector without the full funding picture. It is likely that government and the private sector are doubling up in some areas and neglecting others. In the midst of a workforce crisis where valuable skills are being lost as workers are forced to

leave sector due to its poor wages and conditions funding decisions need to be based on information that is as accurate as possible. Transparency would ensure that both private and government funds directed to this sector are used most effectively and areas of greatest need.

h. If the government is to make evidence based policy decisions in the areas of social policy such as funding of the arts, international aid, universities and more, we need a greater level of transparency from PPFs in order to assess the whole funding picture and accurately identify areas of need.

H. Conclusion

30. The ASU welcomes the opportunity to meet with the Productivity Commission to discuss our submission or provide further information to supplement our written materials.