



**SUBMISSION FROM THE
HEALTH SERVICES UNION**

to the

**PRODUCTIVITY COMMISSION
DRAFT RESEARCH REPORT
CONTRIBUTION OF THE
NOT-FOR-PROFIT SECTOR**

24 November 2009

OVERVIEW

The Health Services Union (NSW and ACT Branch) is an industrial organisation of employees, with some 38,000 members in the public and private sectors of the health, aged care and disability services industry in NSW. HSU members in the Not-for-Profit Sector include a wide variety of clinical, managerial and supporting roles. In the ACT the HSU coverage extends to nursing roles.

The Health Services Union and its members ('the HSU') welcome the opportunity of providing feedback to the Productivity Commission on the important role undertaken by the Not-for-Profit Sector in Australia. The activities of the sector are especially important (from the perspective of HSU members) in the provision of hospital services, as well as the role played in aged care. Feedback received by the HSU from members noted the complementary role played by the Not-for-Profit private hospital sector with the public health system. It also noted its critical place in the aged care landscape.

Without doubt, the Productivity Commission also identifies this overall importance, either by way of its contribution to Australia's GDP through to the number of workers provided employment. The number of volunteers, although declining in the community services sector, nonetheless remains substantial. The Report also notes the lack of any consistent regulatory or legislative regime across the nation, leaving inconsistencies and perceived conflicts. In the absence of any nationally agreed measurement and evaluation regime members felt that definitive conclusions are difficult to make, especially those that may have a considerable impact on this sector and others.

Similar to the HSU NSW Branch submission provided on the Discussion Draft entitled Public-Private Hospitals, members were anxious and concerned regarding any conclusions or comparisons based on salary packaging and FBT arrangements in the Not-for-Profit Sector.

The following comments and feedback concern only those aspects on which HSU received feedback from members. Any enquiries regarding the document should be directed in the first instance to Mr Dennis Ravlich, HSU Director of Operations, (t: 9229 4923; e: dennis.ravlich@hsu.asn.au).

Response or commentary provided by HSU members

General Comments received

HSU members in general recognise the significant contribution made by the Not-for-Profit Sector ('NFP sector') to the Australian economy (whether via its contribution to GDP or employment) or to the community via services and funding provided. It also was not disputed by HSU members that as the Productivity Commission notes, the current regulatory framework is inconsistent across the nation and is not predicated on a national set of principles, definitions or reporting arrangements. This does not then auger well when attempting to examine and provide definitive comparisons and conclusions regarding the NFP sector.

Certainly the Productivity Commission has contributed via its Draft Research Report to raising the importance of the NFP sector and its reach into the community. Certainly the number of volunteers that choose to participate and contribute via this sector, although falling in Community Services, is a strong testimony to the high regard held by many in the community toward the NFP sector and its work.

However, as the Productivity Commission correctly notes and recommends in the view of members, it is essential that government funded services delivered through the NFP sector must be fully funded, and based on a comprehensive assessment of the full costs associated with the service, including labour.

Funding from government must accurately reflect the market rates for wages, so as to ensure that the NFP sector can adequately compete and retain health and aged care workers with the required and necessary skills. It must be sufficient to reduce turnover and provide any necessary training required.

Members felt strongly that a proper funding regime that dealt with actual costs was most desirable.

Further, feedback received stated that it was of little relevance to raise issues of competitive neutrality if government funded services do not reflect costs based on the market reality. To do otherwise distorts the market and has a deleterious impact on the NFP sector and its labour force.

These views extended to a greater transparency in relation to what was or wasn't to be funded as part of any funding arrangement with government. Any tender process should be based on an explicit understanding as to whether any service would be fully funded or otherwise.

Specific Comments

Salary Packaging and FBT concessions

(The following is largely similar to views and concerns expressed by HSU members that formed a core component of the HSU NSW submission to the Productivity Commission's Discussion Draft entitled 'Public-Private Hospitals'. They remain entirely relevant to the issue raised in this Draft Research Report.)

Members working in the public hospital and the NFP sectors expressed some considerable concern as to what conclusions, if any, the Productivity Commission may make in any final considerations. A number of members (employees) in these two sectors have access to benefits that arise from salary packaging and FBT exemptions ('benefits'). Some have been reflected in the industrial instrument (award or agreement) governing conditions of employment¹.

Variation in 'uptake'

Anecdotal evidence suggests that there is wide variation in the uptake of benefits between different facilities and between professions/award classifications. This variability casts some doubt on any assumption that the use of any capped exemption is the same across the public and NFP sector. Equally it could not be assumed there would be a 'standard' uptake if applied to the for-profit sector.

Accordingly, there is marked variance in the utilisation of the benefits by employees. Therefore any conclusion or assumption or modelling that, for example, all employees do actually access these benefits would be incorrect. As such, modelling or assumptions as illustrated in box 8.5 must be approached with some care and caution.

HSU members would clearly agree with comments by the Productivity Commission that any changes - if actually recommended - would need very careful transitional or phasing arrangements to reduce sudden shock or impacts, which would inevitably be borne by health and aged care workers.

NSW public health retains 50% of the benefit

Any modelling must also be mindful that its analysis and attribution of the value of the benefits need to take into account a number of pertinent factors. One of these is that in NSW, the public health system 'retains' 50% of the tax saved from salary packaging. Further, as it would appear that the employee also pays the administration fee for salary packaging, it can be argued that the majority benefit from salary packaging by employees is actually returned to the employer ie the NSW public health system.

¹ See for example clause 45 in the *Health Employees' Conditions of Employment (State) Award*, one of the applicable industrial instruments in the NSW public health system.

Without dwelling on the history of the introduction of salary packaging being made available to employees within NSW public hospitals, it would be sufficient to say that the approach of the then NSW Health Administration Corporation was that it would only permit access by employees to salary packaging if it 'shared' the resultant savings.

Whilst the majority of members subsequently accepted this proposition and facilitated its inclusion in relevant awards from 1 January 2002, it certainly has impacted upon the total savings accrued by employees and probably on the number of employees who have taken up access to the benefits.

Does it offer or actually lead to a competitive advantage?

Members pointed to various submissions or reports that tended to contradict the view that these benefits create a competitive disadvantage for the for-profit private hospital sector and impacts upon their ability to attract and retain health professionals. Some clearly identified that *"[t]he attraction of better financial rewards and conditions in the private sector has resulted in surgeons and other proceduralists moving increasingly or exclusively to the private sector."*

"In the 'comparable' group, the costs of allied health services are not in fact comparable across the sectors. They are all included in the public hospitals, but in the private hospitals they are provided by private professionals who bill the patients directly, in the same way that doctors do. Some of those costs (usually about half) are reimbursed by the private health insurance funds under their 'general' or ancillary benefits, but there is no way to identify the in-hospital component of those benefits with current data."

Certainly, such benefits may be one important component in assisting public hospitals to attract and retain qualified health professionals at regional and rural health facilities. Vacancies in such areas and increasing demands for a variety of clinical skills have been traditionally difficult to fill. Any changes to these benefits may have an unintended consequence of diminishing the obligations on public hospitals to ensure that key services are provided - regardless of geographical location.

As one member indicated:

".... The ability to offer a salary packaging and entertainment cards to benefit recruitment, particularly to rural and remote areas are minimal in the overall scheme of what is available as tempters (salaries and untaxed benefits) in many other competing industries."

Investing in the training of future professionals

Further, investment by the public hospital system in providing the clinical training and mentoring environment for future health professionals and practitioners was continually raised by members as an important element (and cost). It provides the proper workplace framework that permits clinical progression and subsequent utilisation of superior skills via initial development years or via the continuing training framework lasting many years for medical officers. This is a cost 'built into' the public hospital system, which however is absolutely essential.

Finances planned

Many members who currently have opted to access these *benefits*, which from time to time may include contractual commitments such as decisions regarding the salary packaging of a car lease, were anxious that no change would be undertaken that would impact on these contractual arrangements or impact in a negative way on the wages received on a net basis. Such changes for many members - whether working in public hospitals or NFP private hospitals - would have a significant impact that may disturb the labour market in unintended ways.

Decentralised IR system

As a consequence of changes to industrial relations legislation, especially since 2006 with the introduction of a more overt national system, the once heavy reliance in NSW of a handful of 'common rule' awards³ applying across the private health and aged care industries has waned and been to a great extent replaced by agreements with individual employers (providers) in these industries.

Accordingly, the wages and employment conditions outcomes can at times vary markedly across the sector for some health and aged care workers based on a whole variety of reasons. Accordingly, in an already 'fragmented' labour and industrial marketplace, any changes to existing salary packaging and FBT arrangements must be cautiously approached.

Henry Tax Review

HSU members agreed that no change should be contemplated in relation to salary packaging and FBT arrangements for the NFP sector until the Taxation Review chaired by Treasury Secretary Dr Ken Henry is released, fully digested and discussed, and the federal government ultimately determines a national approach.

3

The NSW Office of Industrial Relations defines common rule awards as follows: "NSW awards are common rule awards, which means they bind all employers in an industry or occupation whether or not they were involved in the making of the award. The Area, Incidence and Duration clause in an award sets out the work, occupations, enterprises and industries covered by the particular award."