



**Catholic Social Services Australia and the
Catholic Commission for Employment Relations
(NSW/ACT)**

**Submission to
Fair Work Australia**

**Application by the ASU & Ors for an equal
remuneration order for award employees in the Social,
Community and Disability Services Sector**

6 August 2010

**FAIR WORK AUSTRALIA
No. C2010/3131**

IN THE MATTER OF:

**APPLICATION BY THE AUSTRALIAN MUNICIPAL, ADMINISTRATIVE,
CLERICAL AND SERVICES UNION AND OTHERS FOR AN EQUAL
REMUNERATION ORDER IN THE SOCIAL AND COMMUNITY SERVICES
INDUSTRY**

RESPONDENTS' OUTLINE OF CONTENTIONS

**Catholic Social Services Australia and the Catholic Commission for Employment
Relations (NSW/ACT)**

Overview

1. On or about 11 March 2010, the Australian Services Union (**ASU**), the Health Services Union (**HSU**), the Australian Workers' Union of Employees, Queensland, the Liquor, Hospitality and Miscellaneous Union and the Australian Education Union lodged an application with Fair Work Australia (**Application**) under the equal remuneration provisions of the *Fair Work Act 2009* (**Act**) in respect of the Social, Community and Disability Services Sector (**SACS Sector**).
2. An equal remuneration order is sought to cover most areas of employment that are covered by the *Social, Community, Home Care and Disability Services Award 2010* (**2010 Award**). Home care is not covered by the Application
3. The Catholic Commission for Employment Relations (**CCER**) and Catholic Social Services Australia (**CSSA**) are respondents to the application.
4. CSSA is the Catholic Church's peak national body for social services and is an agency of the Australia Catholic Bishops Conference. As a result of the referral by the States, except Western Australia, of the majority of their industrial powers to the Commonwealth Government, most Catholic employment in the SACS Sector will be covered by the national system under the Act. CSSA represents 67 member organisations, which employ about 10,000 people, engage over 4,000 volunteers and provide 500 different

services to over a million people each year from sites in metropolitan, regional and rural Australia.¹ They deliver over \$700m worth of services per annum. Refer to Appendix I for an insight into those employer entities responsible for the Church's outreach nationally in the SACS Sector.

5. In addition to Church support, these services draw their income stream primarily from Federal Government, State and Territory Government and Local Government funding and to a much less extent from grants available from philanthropic trusts or foundations. The program being delivered will determine the source of government funding.
6. CCER is an employer body representing Catholic employers, including CSSA members, in New South Wales and the Australian Capital Territory.
7. The CCER and CSSA do not at this point propose to make specific submissions in regard to the Application before Fair Work Australia. CCER and CSSA wish to provide a general submission in relation to the matters relevant to Catholic social service organisations that Fair Work Australia may wish to consider in determining whether the wage and classification structures in the 2010 Award should be replaced in the manner sought in the Application.

Potential outcomes of application for Catholic social services organisations

8. We believe that any fair assessment of the Catholic social services workforce, whether from the perspective of gender equity or relative work value, will find that their pay and conditions do not reflect their full value to the community. We have identified this as a long term threat to the sustainability of the services that we deliver. Unlike other sectors of the workforce, we are largely dependent upon others, mainly governments, to correct this situation.
9. The Application seeks to significantly increase rates of pay for many of these 10,000 workers by 13.5% to 49%. CCER and CSSA understand that these proposed increases are based on similar increases granted to Queensland workers last year through its state

¹ *Annual Wage Review 2009-10, Submission by the Australian Catholic Council for Employment Relations*, March 2010, at p.7

industrial system.² That decision resulted in substantial pay increases for workers in the community services and crisis assistance sector in Queensland.

10. For example, the Application seeks an entry level increase of \$83.74 per week, an increase of \$127.03 per week at pay point 1 of level 3 and \$229.79 at pay point 4 of level 4. In some cases, collective agreements may already provide for some payment above award rates, which will reduce the potential cost impact of proposed increases, but only marginally. Each \$50 per week would represent \$0.5m across the Catholic workforce in the SACS Sector.

CCER and CSSA recognise the position of employees in the SACS Sector

11. That this application relies on the equal remuneration provisions of the Act does not necessarily detract from the broader issue that the award safety net rates that are paid to employees in the SACS Sector, or which underpin limited collective bargaining outcomes in the SACS Sector, are increasingly out of step with those applying to comparable professionals.
12. A range of factors has contributed to the growing disparity between Average Weekly Ordinary Time Earnings for all workers and the award safety net rates which apply to the workers in the SACS Sector, including the awarding of flat monetary increases, instead of percentage based increases in annual wage reviews. Safety net rates are inadequate by reference to the rates generally applying in the industry. The situation has deteriorated over recent years with a reduction in the increases in award safety net rates.
13. Since December 2000, the CPI has increased by 29.1% and Average Weekly Ordinary Time Earnings have increased by 52.3%. Over the same period an award safety net classification that now pays \$835.00 per week has had an increase of only 19.3%; one that pays \$695.00 per week has had an increase of 26.4% and one that pays \$593.00 per week has had an increase of 31.8%. The increase in Average Weekly Ordinary Time Earnings of 52.3% shows these workers are relatively worse off. The increases in

² *QSU v QCCI and Others [2009] QIRComm33.*

the CPI of 29.1% show that employees on a safety net classification over \$645.00 per week have had a real wage cut. The real wage cut is even greater for higher paid and more skilled safety net workers in the SACS Sector.³

14. A detailed analysis of the gap between award safety net wages and the wages generally paid to the rest of the workforce was provided in the Australian Catholic Council for Employment Relations (**ACCER**) submission to the 2010 FWA Annual Wage Review.⁴
15. The connection between the safety net and equal pay issues is summarised in ACCER's submission in reply to the 2010 FWA Annual Wage Review as follows:

“The relativities question is relevant to the equal remuneration issue which has been raised in several submissions. The material referred to, especially Employee Earnings and Hours, Australia, August 2008 (ABS catalogue no. 6306.0) published on 17 June 2009, shows that women are over-represented in award-dependent employment and that award-dependent women are employed in higher paid classifications than award-dependent men. The difference in relative wages is evident from, for example, the earnings of full time permanent non-managerial employees, as set out in Table 20 of the ABS report. The hourly average rate for male employees was \$17.40 (\$661.20 per week) and for female employees it was \$18.90 (\$718.20 per week). As we showed in our principal submission, an employee who was on this average female wage rate in August 2008 (ie before the increases of October 2008) has received a real wage cut since December 2000 (Table 1) and that the safety net wage increase for this worker over that period (23.4%) was less than half the increase of 52.3% in average weekly ordinary time earnings (Table 3).

On this material it appears that a cause of the relative decline in female pay rates over recent years has been the awarding of dollar rather than percentage increases and, in 2006 and 2007, the awarding of lower wage increases to those earning over \$700 per week. The adverse impact of past safety net decisions on the remuneration of women is another reason why percentage increases should be awarded in the current review.

The fact that women have been more disadvantaged by the drift of safety net rates from community wage levels over the past decade is a matter that should be considered in a review of safety net rates.⁵

³ *Op. Cit.* note 1 at pp.29 – 31.

⁴ *Ibid*; Annual Wage Review 2009-10, Submission in Reply by the Australian Catholic Council for Employment Relations, April 2010.

16. This issue is not new. It was raised in *Workplace Relations: A Catholic Perspective*⁶ and in CCER's initial submissions to the Award Modernisation process⁷. ACCER and CCER have asked repeatedly for this systematic disparity to be addressed, not just in the SACS Sector, but across all awards.

17. One reason for the payment of only award safety net rates in the SACS Sector is that government funding for programs delivered by not-for-profit employers is based on award safety net rates, not market rates. Regardless of how the rates have evolved, it is clear that the rates are low relative to the broader community and public sector workers in the SACS Sector.

18. The issue of market rates was referred to in the *Productivity Commission Research Report 2010* released on 11 February this year⁸ about the contribution of the not-for-profit sector. Recommendation 10.2 of that report stated:

*"In order to ensure that not for profits can sustain their workforces, and as wages are a major factor in the successful recruitment and retention of staff, Australian governments purchasing community services need to base funding on relevant market wages for equivalent positions. Costings need to take into account the skill sets required to perform the purchased services and be indexed appropriately to market wage growth within that industry sector."*⁹

19. This was an encouraging recognition of both the disparity in rates of pay and the consequential difficulties that have directly flowed from this situation.

20. In the SACS Sector, it is generally acknowledged that the relevant market comparator is the public sector. It should be recognised that market wages are only one component of the total remuneration package that applies to workers. In a similar way to wages, public

⁵ *Ibid* at pp 5 – 6, paragraphs 17 – 19.

⁶ Australian Catholic Council for Employment Relations, 6 January 2007, at pp. 66 – 67, paragraphs 137-8.

⁷ Catholic Commission for Employment Relations, 1 August 2008.

⁸ *Contribution of the Not-for-Profit Sector*, Productivity Commission Research Report, January 2010, at pp.249 - 275.

⁹ *Ibid* at p.271.

sector conditions (security of tenure, leave arrangements, opportunities for study and professional development, superannuation etc) are significantly better than those applying in the not-for-profit sector.

21. While these dramatic inequities exist, the not-for-profit sector will continue to face increasing workforce supply constraints. However, this decrease in workforce supply is occurring in concert with an increasing demand for services. The increase begins from a very low base (as evidence demonstrates that services are already oversubscribed) and the increased demand is projected to continue for years to come as the population ages.
22. The Productivity Commission appears to have directly identified both the problem, and in part, the solution (i.e. Recommendation 10.2 above).
23. In summary, award safety net rates are inadequate by reference to the market rates generally applying in industry. This situation has worsened over recent years as a result of the reduction in the limited increases in award safety net rates. This trend has had a major impact on the SACS Sector and has disproportionately disadvantaged women in the SACS Sector who are over- represented relative to men and in particular, over-represented relative to men in higher paid award classifications.

CCER and CSSA summary of position

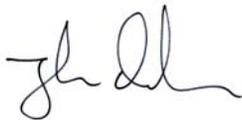
24. Catholic employers along with other not-for-profit employers in the SACS Sector (and indeed many employees of our employers) are placed in a difficult position of recognising the need for increased rates of pay while at the same time not having the means to fund the proposed increases. Most Catholic employment in the SACS Sector is funded by State, Territory or Commonwealth Governments under service delivery agreements. Importantly, however, as stated, the remainder of Church employment in this Sector is via programs funded philanthropically through donations and bequests. Non government sources of funding are variable and cannot be guaranteed.
25. Because government funded programs are based on award rates of pay, Catholic employers must use their own resources if they are to meet market rates and attract and

retain skilled staff. Higher wages funded from limited non-government funds reduces the services that can be provided by Catholic employers in the SACS Sector outside government funded programs. The mix of funding sources will vary considerably from agency to agency and from program to program and any analysis of the impact of proposed increases will need to take these variations into consideration.

26. Catholic employers acknowledge the intrinsic benefits that flow from improving pay and conditions of workers, for the workers, the organisations that employ them and the clients they serve, while at the same time being acutely aware of the financial pressure such increases will place on many Catholic organisations and their funders.
27. In this regard, if Fair Work Australia determines to increase rates of pay, it would be essential that State, Territory and Commonwealth Governments fully adjust funding to provide for such increases in a timely way. It would also be essential for government to fund transition packages or adjustment funds to allow existing services funded from other sources to move to the new arrangements without requiring an immediate and dramatic reduction in services.
28. Failure to fund this transition would force many not-for-profit social services organisations to reduce their level of service, to reduce the number of employees and/or to withdraw entirely from some areas of service provision.
29. Adjustment of government funds to not-for-profit organisations for any increases awarded by Fair Work Australia would not cover non government sources of funding. These sources of funding are unlikely to change, which highlights the ongoing pressures facing not-for-profit organisations in the SACS Sector.
30. CCER and CSSA ask that if there is a decision to increase rates, that those rates be phased-in in such a way as to reflect changes in funding and minimise the adverse impact on the provision of services and the rate of employment in the SACS Sector.
31. At this point, CCER and CSSA do not take an express position on the quantum of the claim, save that we recognise that the loss suffered by employees in the SACS Sector has been substantial and requires correction, while at the same time emphasising that

the proposed increases in pay would be significant and beyond the means of Catholic social services organisations in the absence of government funding and phasing-in of pay increases.

32. On 17 July 2010, the Prime Minister requested approval from the Governor-General to dissolve the House of Representatives on 19 July 2010, pending the outcome of the general election to be held on 21 August 2010. On 26 July 2010, the Deputy Secretary of the Department of Education, Employment and Workplace Relations, Mr John Kovacic wrote to Fair Work Australia requesting that the Government be granted an extension of the time for filing its Outline of Contentions and evidence until 23 September 2010, to allow sufficient time for an incoming Government to be briefed.
33. If the pay increases sought in the Application are granted, CCER and CSSA submit that the future provision of services and employment rates across the SACS Sector will be dependent upon increased government funding, CCER and CSSA reserve the right to make further submissions based upon the position taken by the incoming Federal Government in its response to the Application.
34. CCER and CSSA recognise that the devaluation of award safety net rates over recent years has impacted more on women than on men in female-dominated sectors such as the SACS Sector. However, CCER and CSSA do not intend to make further specific submissions concerning the application of the equal remuneration provisions of the Act to this issue.
35. CCER and CSSA propose to monitor proceedings and be available to assist Fair Work Australia where required. We reserve the right to make further specific submissions if matters arise that warrant that course of action.



Frank Quinlan
Executive Director
Catholic Social Services Australia



Anthony Farley
Executive Director
Catholic Commission for Employment
Relations

Exhibit 1



Catholic Social Services Australia

Member Organisations

As at 06/08/10 (67 Member Organisations)

Member Organisation	
NSW/ACT	
Boys' Town Engadine	Salesians of Don Bosco
Catholic Care (incorp. Centacare Newcastle)	Diocese of Maitland/Newcastle
CatholicCare Sydney	Archdiocese of Sydney
CatholicCare Wollongong	Diocese of Wollongong
CatholicCare Canberra & Goulburn	Archdiocese of Canberra/Goulburn
Catholic Community Services	Public Juridic Person
Centacare Ballina (St Francis Xavier's Parish)	Diocese of Lismore
Centacare Casino (St Mary's Parish)	Diocese of Lismore
Centacare Catholic Family Services Broken Bay	Diocese of Broken Bay
Centacare Catholic Family Services Wagga Wagga	Diocese of Wagga Wagga
Centacare Catholic Social Services Parramatta	Diocese of Parramatta
Centacare Coffs Harbour	Diocese of Lismore
Centacare Family and Community Services Bathurst	Diocese of Bathurst
Centacare New England North West	Diocese of Armidale
Centacare Port Macquarie	Diocese of Lismore
Centacare Wilcannia Forbes	Diocese of Wilcannia-Forbes
Conference of Leaders of Religious Institutes in NSW	CLRI (NSW)
Daughters of Charity of St Vincent de Paul	Trustees of the Daughters of Charity
Good Grief	Sisters of St Joseph of the Sacred Heart
Rosemount Good Shepherd Youth & Family Services	Good Shepherd Sisters
Marist Youth Care	Marist Brothers – Sydney Province

Maronite Community and Social Services	Maronite Eparchy of Australia
Marymead Child and Family Centre	Archdiocese of Canberra/Goulburn
Sisters of Charity in Australia	Congregation of the Religious Sisters of Charity
Sisters of Mercy Grafton	Sisters of Mercy - Grafton Congregation
Trustees of the Sisters of Mercy Parramatta (including St Michael's Family Centre Ltd and Mamre Plains Ltd)	Sisters of Mercy - Parramatta Congregation
Sisters of Saint Joseph of the Sacred Heart NSW CLT	Sisters of St Joseph of the Sacred Heart
St Anthony's Family Care, Croyden	Sisters of St Joseph of the Sacred Heart
St Francis Social Services	Franciscan Friars – Order of Friars Minor
St Joseph's Cowper	Sisters of Mercy - Grafton Congregation
St John of God Casa Venegas	St John of God Brothers
Trustees of the Presentation Sisters (Wagga)	Presentation Sisters
CENTRAL	
Catherine House Inc.	Sisters of Mercy, Adelaide
Centacare Family Services Adelaide	Archdiocese of Adelaide
CatholicCare NT	Diocese of Darwin
Centacare Port Pirie Diocese (Whyalla)	Diocese of Port Pirie
South Australia Province of the Sisters of St Joseph, (including St Joseph's Family Care Centre and 'Ain Karim')	SA Province of the Sisters of St Joseph of the Sacred Heart
SOUTHERN	
Catholic Society for Marriage Education	Archdiocese of Melbourne
Centacare Catholic Diocese of Ballarat Inc	Diocese of Ballarat
Centacare Catholic Family Services Melbourne	Archdiocese of Melbourne
Centacare Gippsland (Sale)	Diocese of Sale
Centacare Sandhurst (Bendigo)	Diocese of Sandhurst
Centacare Tasmania	Archdiocese of Hobart
Jesuit Social Services	Jesuits Society of Jesus
MacKillop Family Services	Sisters of Mercy, Christian Brothers and Sisters of St Joseph
Marriage Education Program (Inc.)	Lay Association
Sacred Heart Mission (St. Kilda)	Archdiocese of Melbourne
Sts Peter and Paul Centacare, Nth Melbourne	Ukrainian Catholic Eparchy,
WESTERN	
Catholic Marriage Education Services (Perth)	Archdiocese of Perth
Centacare Employment and Training Perth	Archdiocese of Perth
Centacare Geraldton	Diocese of Geraldton

Centacare Kimberley	Diocese of Broome
Centrecare Inc. Perth	Archdiocese of Perth
MercyCare	Sisters of Mercy - Perth Congregation
Personal Advocacy Service	Archdiocese of Perth
St John of God Healthcare – Social Outreach and Advocacy	Sisters of St John of God
St Patrick’s Community Support Centre (Fremantle)	Archdiocese of Perth
QUEENSLAND	
Bridgeworks Employment and Training	Sisters of Mercy – Brisbane Congregation
BoysTown	De La Salle Brothers
Centacare Brisbane	Archdiocese of Brisbane
Centacare Cairns	Diocese of Cairns
Centacare Rockhampton	Diocese of Rockhampton
Centacare Toowoomba	Diocese of Toowoomba
Centacare Catholic Family Services Townsville	Diocese of Townsville
Mercy Family Services (Qld)	Sisters of Mercy – Brisbane Congregation
North West Qld Indigenous Catholic Social Services (NWQICSS)	Diocese of Townsville
Sisters of Mercy Brisbane Congregation Leadership Team	Sisters of Mercy - Brisbane Congregation