

Victorian Portable Long Service Leave scheme: Achieving a sustainable model

You may be aware that the Victorian Government has made a commitment to establish a Portable Long Service Leave (PLSL) scheme which will cover the vast majority of community sector organisations (CSOs) in Victoria.

VCOSS is writing to provide some background about the development of this scheme, to outline concerns that community sector organisations (CSOs) have regarding the model proposed by the Victorian Government and to highlight the attributes of a sustainable model.

While there is considerable in-principle support for the portability of long service leave, there is significant opposition to the current model proposed by the Victorian Government. There is also concern regarding the timeframe, with the Government indicating that it wants to introduce legislation in the spring session of Parliament. This timeframe does not allow for adequate consultation with the sector. As such, any PLSL legislation introduced in this timeframe will not be supported by the sector.

Background

The community sector faces long-term pressures on attracting and retaining a skilled workforce, and a wide variety of strategies are required to deliver an experienced workforce into the 2020s and beyond. The introduction of a PLSL scheme is potentially one of those strategies.

PLSL would enable community sector workers to work for more than one employer in the community sector without losing entitlements to long service leave. Workers would qualify for long service leave based on their service to the community sector rather than the one employer. The aim is to retain skilled staff within the sector.

VCOSS, and many other sector peak organisations and agencies, support the principle of portable long service leave for community workers.

Over the past year, the community sector has been in discussions with the Department of Human Services (DHS) about the development of an appropriate PLSL model. The sector has provided consistent feedback about the need for a scheme that is viable and sustainable for the community sector from a financial and administrative perspective, as well as improving employee entitlements and improving employee retention.

The proposed model

The PLSL model proposed by the Government is the Central Fund Model where:

- A central authority or fund manager would be established;
- An employee's long service leave funds and entitlements would be managed by the authority rather than the employer;
- Employers would register their employees and pay a quarterly levy payment to the authority;
- Employers would retain responsibility for managing any award entitlements that are more generous than the *Long Service Leave Act 1992*.

The Victorian Government has also reiterated that it will introduce legislation for a PLSL scheme in the spring session of Parliament. Decisions about commencement of the scheme are dependent on the outcomes of discussions with the Commonwealth Government in relation to the *Fair Work Act 2009*.

Community sector response

In July this year, around 100 sector representatives attended a VCOSS forum to discuss PLSL and the model proposed by the Government. The model was again discussed at the VCOSS Peaks and Statewide Networks Forum in August. This meeting resolved that:

There is significant opposition to the proposed model and the combined Victorian Peaks and Statewide Networks Forum does not support the model as it is currently proposed.

However, given the in-principle support for PLSL, agencies expressed a desire to continue to work with the Government to develop a sustainable model.

The following section outlines the sector's key concerns and suggested strategies to overcome these issues to ensure that a sustainable model is developed. These points do not cover all the issues raised by agencies and sub-sector peaks but provide an overview of the consolidated Peaks and Statewide Networks Forum position.

Key concerns and strategies to achieve a sustainable PLSL model

Cost:

The overall cost of long service leave (LSL) will rise as a result of increased administrative complexity and the transfer of funds from organisations' balance sheets to the central fund. Most CSOs cannot pass on these additional costs to consumers, unlike employers in other industries, such as the building and construction industry.

Currently, the Victorian Government has ruled out any financial support to reflect the net cost impact.

Many agencies that are funded by the Victorian Government do receive funds to cover entitlements under the *Long Service Leave Act 1992*. However, this funding does not cover the full cost of long service leave where an Award or an organisation's EBA provides more generous entitlements, as is the case for the majority of CSOs. In addition, organisations that receive no state government funding

are also included in the scope of the proposed scheme and yet receive no state government funds to cover LSL entitlements.

The proposed scheme also includes workers that are predominantly funded by the Commonwealth. There has been no indication of how the state will work with the Commonwealth to ensure the cost of PLSL is included in relevant Commonwealth programs.

Where employees are funded by government, the price set within these programs should cover the cost of LSL, including any extra cost of portability. This is already the case for all government employees and for a number of other schemes, for example health.

There is a clear precedent for the Victorian Government to financially support organisations to implement the scheme. The exceptional events clause in the NGO Price Index, for example, has been used to fund legally binding costs imposed on the sector, such as minimum wage safety net determinations and bargaining negotiations, where the increased cost of service cannot be passed on to consumers.

Administrative complexity:

The proposed model requires 'doubling up' of record keeping by the employer and the new authority/fund manager as organisations will have to account for any LSL entitlements over and above the *Long Service Leave Act 1992*. This is a major limitation of the current proposal, particularly for small organisations with limited financial management and accounting resources. This will increase red tape for CSOs and divert valuable time and resources from actual service delivery.

The model should be set up to enable organisations to 'outsource' all LSL responsibilities to the central fund. Other PLSL schemes (such as the building and construction industry scheme) have been set up to enable organisations to do this.

Timelines:

The community sector does not support the legislative timelines proposed by the Victorian Government given that there has been no formal consultation period where the sector has had access to the business impact assessment of the proposed model.

The global financial downturn has meant sector investment revenues are, anecdotally, down by 30-60 per cent. The timing of creating a central fund in 2010 is unpalatable as balance sheet impacts would be commencing less than two years after the biggest capital losses in living memory.

The current timetable for implementation needs to be delayed. This would allow for more effective consultation with the sector and for implementation of the scheme to commence as the economic recovery develops.

Scope

The current proposal raises concern about who is 'in' and who is 'out'. For example, some sectors have expressed concern about segmenting employees where organisations provide a mix of not-for-profit and for-profit services (such as aged care).

There needs to be clear criteria and a clear mechanism for determining who is 'in' and who is 'out'. There is also a need for flexibility about who can join to allow for the changing nature of CSOs into the future. For example, the model should allow for 'full members' and 'opt-in members' as with other existing schemes.

What you can do

Community sector organisations have already begun contacting their local MPs to voice concerns about the proposed model. The sector is increasingly frustrated about the lack of progress in negotiating a more sustainable model and appropriate timeline with the Government.

We reiterate that VCOSS and many community peaks and agencies want to continue working with the Victorian Government to develop a sustainable model that promotes worker retention and organisational viability.

We urge you to advocate for a delay of the proposed timelines to allow for greater consultation between the Government and the community sector to ensure that a financially sustainable and effective PLSL model is developed.

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