

Social and Community Services Equal Remuneration Case

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Summary

- Context
- How we got to Fair Work Australia (FWA) case
- The case process
- What it all means

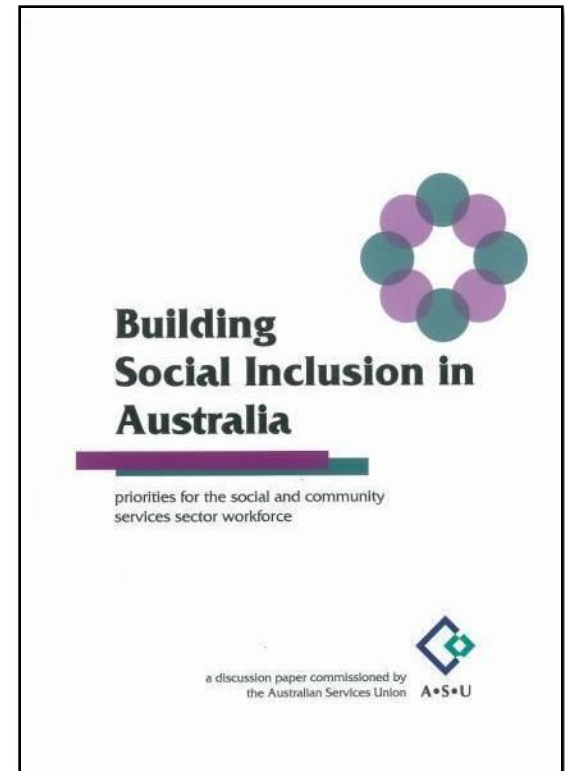
Context

- History of battles for industrial legislation – 1983 – CYSS case went to High Court for award and industrial coverage
- 1983 – graduate rate = independent school teacher – now gap \$20k - \$25k
- Highly feminised
 - 80%+ female



Context

- 2007 – launched discussion paper, recommendations
- No workforce strategies, skill shortages / atrophy, lack of work and career development, recruitment problems
- 2007 – ASU survey of 2188 workers including managers
- 52% workers not committed to staying in industry beyond 5yrs
- Industry expanding – 2.8% per year – faster than health

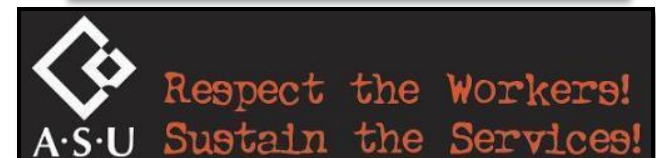
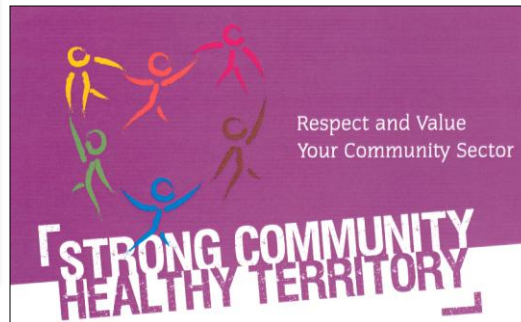


Industry at crossroads



How we got to FWA case

- Since 2007, 20+ inquiries & reports on issues – State, Federal, Productivity Commission - NFP
- Same issues all states, workforce, governments funding, lack of bargaining
- Wage gap profound and hard to make up and through existing mechanisms
- Ongoing campaign and focus by ASU



How we got to FWA case

- New IR system – Fair Work Act presented some challenges and opportunities
- Corporations Power – SACS – many non trading corporations and issue of split sector between Federal and State systems
- Award modernisation process – 37 industry State and Federal awards into one award



How we got to FWA case

- April 2008 – Qld Branch created new State Award to apply to non trading corporations and those who Award free in 2011
- November 2008 – Stage 2 – After Award made started process to adjust rates for pay equity
- Argued Qld pay equity principles to establish that the work in Award undervalued because of gender

How we got to FWA case

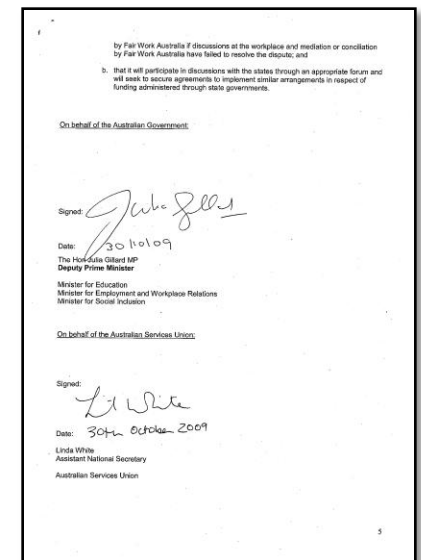
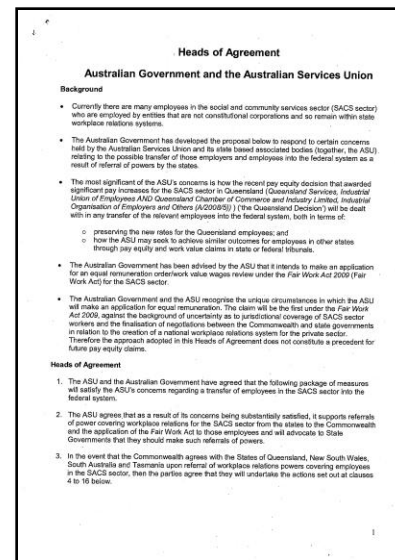
- Key points
 - Gender based because care work – seen as extension of women’s role in home and not valued
 - Lack of EBAs and bargaining – Award actual rates
 - Compared to same jobs in public sector and local government – was undervalued

How we got to FWA case

- May 2009 – Success – Increases range from 18% to 37% depending on classification
- Implemented over 3 year period and State wage case decisions also apply
- Qld government - \$414m to pay the increases
- Massive victory – 2 fronts
- Some issues remain – Fed and Qld funding

How we got to FWA case

- SACS rates and jobs same in all States
- Need flow on of Qld case
- Choice – State by State and Federally because mixture of coverage
- ASU Heads of Agreement with the Commonwealth struck 30/10/09



How we got to FWA case

- Heads of Agreement
 - Support for case
 - Qld principles – NSW jurisprudence
 - Resourcing and research
 - Qld protected
 - Phase in – 4 ½ years – 6 months stay before commencement
 - No agreement on rates or funding

The case process

- Fair Work Australia has powers to make an order to ensure that:

“there will be equal remuneration for work of equal or comparable value (for men and women Workers)” (s.302)

The case process

- The ASU setting out to show:
 1. The SACS industry is female dominated
 2. The work in the SACS industry is undervalued, and
 3. The undervaluation is due to the industry being female dominated

Secondly, seeking a remedy for the undervaluation to ensure workers receive equal remuneration for work of equal or comparable value

The case process

- Need to establish the types of factors to be addressed in assessing value of work performed by women – look at Award histories, occupation segregation and demographics
- Industry comparators, male dominated, evidence
- Worker statements and evidence (40+)

The case process

Expert witnesses:

- Professor Gabrielle Meagher, University of NSW (*SACS workforce, industrial regulation, compliance costs facing CSOs*)
- Assoc Prof Siobhan Austen, Curtin University of Technology, WA (*economic consequences of undervaluing women's work*)
- Meg Smith, University of Western Sydney (*gender pay equity in Australian labour law*)

The case process

- Claim same as in Queensland re: rates – no discount for salary packaging
- Close as possible to Qld classification structure – integration of disability classifications
- Looked at remuneration issues – extra claim for improved sleepover provisions based on NSW case for similar work

The case process

- Signing Heads of Agreement was the easy part
- Bigger than Ben Hur
- Involves ACTU, HSU, LHMU, AWU, AEU
- New application – no cases for 13+ years Federally
- All 16 cases previously under Federal law – none successful



The case process

- Ambitious – not just occupation but class of work
- Cannot underestimate opposition
- Its about women and equal pay
- On average Australian women are paid 18% less than men (up on 17% in 2009, ABS)
- Women must work 66 days more than men on average for same income

The case process

- Timetable
 - Unions file materials – 3/6/10
 - Other parties file materials – 6/8/10
 - Possible mention – what law means? – 13/8/10
 - Inspections and hearings – Sept/Oct 2010
 - Decision – end of 2010?

The case process

- From 3 June – try and get agreed statement of facts
- Agreement on what law means and what need to prove
- Must establish what remuneration for work of equal or comparable value means



What it all means

- Valuing the work

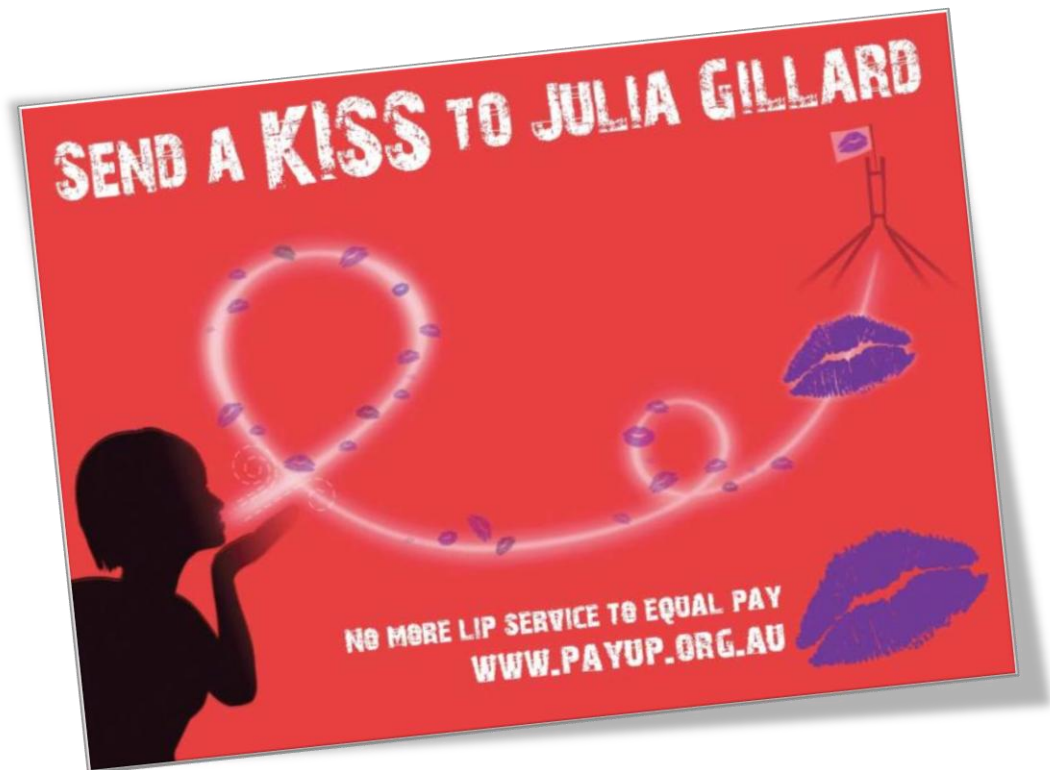


10.2 In order to ensure that not-for-profits can sustain their workforces, and as wages are a major factor in the successful recruitment and retention of staff, Australian governments purchasing community services need to base funding on relevant market wages for equivalent positions. Costings need to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

Contribution of the Not-for-Profit Sector, Productivity Commission Report –
January 2010

What it all means

- Funding is key issue – employer and union concern
- ASU Campaign
Minister Neville:
the sector is well
funded (10/6/10)



What it all means

- If successful – may be ‘flow-on’s – more cases
- Effect on funding and structure of SACS sector and relationship to Productivity Commission recommendations
- Will be one off – must move to bargaining
- Career structure, accreditation
- Growing sector delivering on social inclusion

Contacts and action

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“Pay Up - No More Lip Service to Equal Pay”



TIME TO
COMMIT

Social and community services workers deserve equal pay.

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No more lip service to equal pay

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