



Office of Senator Chris Evans
Leader of the Government in the Senate
Minister for Tertiary Education, Skills, Jobs
and Workplace Relations

Mr Paul Slape
National Secretary
Australian Services Union
Ground Floor, 116 Queensberry Street,
Carlton South VIC 3053

Attention: Ms Linda White

Dear Mr Slape *Paul and Linda,*

ASU Claim for an Equal Remuneration Order in the Social & Community Services Sector

Thank you for providing information on the concerns your organisation has regarding the Government's submission to Fair Work Australia (FWA) on the ASU Claim for an Equal Remuneration Order in the social and community services (SACS) sector.

The Gillard Government is committed to pay equity in Australia. It was this Government that removed the historical barriers to pay equity claims in the federal jurisdiction by removing the requirement for applicants to prove discrimination as a prerequisite to an equal remuneration claim.

Other features of the Fair Work Act designed to address pay equity include new criteria to guide minimum wage increases, the new low pay paid bargaining stream and new opportunities for collective bargaining.

The Government is keen to make clear that we believe our submission complies with the provisions of the Heads of Agreement (HOA) signed with the ASU.

The ASU has sought clarification in relation to aspects of the Government submission and the information is set out below.

Commonwealth Budget

The Government submission informs FWA of the Government's current fiscal strategy and budget parameters. The submission does not assert that FWA Australia should not award or discount equal remuneration because of the potential impact on the Commonwealth.

The submission alerts FWA to the impact on the Commonwealth budget should a substantial pay increase be awarded. This is entirely consistent with the HOA. The ASU has previously acknowledged this; it was the reason for agreeing to provide for the phasing in of any significant increase awarded in the HOA.

The Government submission also reaffirms our commitment to working through the funding implications of any increase awarded by FWA with the SACS sector, the unions and state and territory governments.

Discounting comparator rates of pay, Cartwright SDP Decision and salary sacrifice

The Government submission does not seek to prevent FWA from conducting a proper examination of historic undervaluation of the rates of pay in the SACS award. The Government does not believe that FWA are limited or constrained from setting new wages if it is satisfied that gender based undervaluation exists in the SACS industry.

The Government submission acknowledges that comparator pay rates can include consideration of bargained outcomes and not just minimum rates. The submission does not seek to prevent public sector comparators.

The Government submission does contend that FWA should discount comparator rates of pay for non-gender based factors. By this we mean non-cash conditions traded in for higher wages or where an hourly, weekly or annual salary rates includes "cashed up" allowances or regular overtime or shift penalties or an attraction or retention bonus.

The Government acknowledge that while a reasonable proportion of SACs employees are accessing salary sacrifice arrangements (approximately one third of employees in the sector), employees in receipt of higher incomes will generally gain a greater benefit than those on lower marginal tax rates.

Collective Bargaining and Productivity

The Government submission does not argue that collective bargaining and productivity improvements are the solution to low wages.

We recognise that collective bargaining is not always a means to rectifying entrenched pay equity differentials. In this regard, the Government submission acknowledges that despite the bargaining that has occurred in the industry, wage

outcomes are low.

Finally, the Government remains committed to the HOA including progressing the development of an agreed statement of facts before final submissions in April 2011.

I trust this letter has clarified aspects of the Government submission. I am happy to meet the ASU if there are further issues the union wish to discuss.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Chris Evans', with a stylized flourish at the end.

CHRIS EVANS

15th December 2010