

Submission on the Interim Report of the
Ministerial Review of the State Industrial Relations System

30 April 2018

The Western Australian Council of Social Service Inc. (WACOSS) welcomes the opportunity to make a submission to on the interim report of the Ministerial Review of the State industrial relations system.

WACOSS is the peak body of community service organisations and individuals in Western Australia. WACOSS stands for an inclusive, just and equitable society. We advocate for social and economic change to improve the wellbeing of Western Australians and to strengthen the community services sector that supports them. WACOSS is part of a national network consisting of ACOSS and the State and Territory Councils of Social Service, who assist people on low incomes and experiencing disadvantage Australia wide.

Equal Remuneration Provision

As stated in our first submission to the Review, WACOSS strongly supports the inclusion of an equal remuneration provision in the Industrial Relations Act with the objective of facilitating the conduct of equal remuneration cases and other initiatives.

As a point of clarification, we note that s730 of the interim report states:

The Western Australian Government provided funding to the not-for-profit sector as part of the 2011-12 State Budget of \$600 million over four years which was able to be used by SACS sector organisations to meet increases in pay rates resulting from SACS sector pay increases.

While not-for-profit organisations may have found it necessary to use that money to cover pay increases, the stated purpose of that funding was “to ensure a sustainable not-for-profit sector and to address a shortfall in the amount paid to NFP organisations for the services they provide”.¹ That is, it was a once-off investment to address the pre-existing historic funding shortfall in sector funding that pre-dated the Fair Work Australia and WAIRC decisions concerning equal remuneration, identified as on average 30% by the Economic Audit Committee inquiry. The 2011-12 funding did not fully address this existing disparity, let alone provide for future award increases under the ERO.

Unlike the Federal Government, the WA Government has never committed funding for its share of the wage increases that resulted from the WAIRC decision.

WACOSS supports using the Queensland model for drafting an equal remuneration provision to be included in Western Australia’s the 2018 IR Act.

¹ 2011-12 State Budget Fact Sheet *Sustainable Funding and Contracting with the Not-for Profit Sector*
www.ourstatebudget.wa.gov.au

Definition of Employee

WACOSS supports the proposed expanded coverage of the IR Act to include employees whose place of work is the private home of another person; those who are remunerated wholly by commission or percentage rate, or wholly at piece rates; those who receive a disability support pension and those whose employment is supported by “supported employment services”. The current exclusion of these people is not desirable and leaves them at significant risk of experiencing negative and unsafe working conditions.

It is the position of WACOSS that it is essential that all workers in the gig economy are able to access the same protections and conditions as other workers. We recognise the difficulties of legislating on this issue at a state-level as outlined in the interim report. We support the establishment of an arrangement within DMIRS to monitor the situation of the possible regulation of the participants in the gig economy and the working conditions of workers within the gig economy, as proposed by the Review. Should this monitoring arrangement discover negative conditions being experienced by gig economy workers, we trust that DMIRS and the State Government will take the necessary actions to address them and ensure they do not reoccur.

Volunteers

WACOSS supports the proposal that the 2018 IR Act should continue the exclusion of volunteers from the definition of an employee.

Importantly, volunteers are under no obligation to attend workplaces, perform work, and there is no expectation to be paid for their work. The nature of being a volunteer is that they give their “time willingly”.

As they are not receiving remuneration it is crucial that they are not coerced into performing duties beyond what is time-willingly given, nor should they be exploited or be used to replace paid employees. While we do not believe including volunteers under the definition of employee is the means by which to do so, there is a need for additional mechanisms to protect volunteers that should be addressed.

On the advice of Volunteering WA, we recommend the inclusion of wording in the definition of volunteering in the proposed 2018 IR Act similar to: ‘Volunteering is time willingly given for the common good and without financial gain.’

Sex Workers

WACOSS supports the proposal that the IR Act, MCE Act or, if included in the 2018 IR Act, the State Employment Standards, ought to apply to people who are employed as sex workers. This would be an important and crucial step in better protecting the rights of sex workers *as workers*, and particularly ensuring protections are in place regarding their health, safety and well-being.

We are concerned that the continued criminalisation of sex-work related activities, which has been noted by researchers to cause a reluctance in sex workers to go to the police as victims of crime for instance,² may result in a similar reluctance or impediment for sex workers who would otherwise

² Selvey L, Hallett J, Lobo R, McCausland K, Bates J & Donovan B (2017) *Western Australian Law and Sex Worker Health (LASH) Study. A summary report to the Western Australian Department of Health*, School of Public Health, Curtin University

access the industrial relations system. We recognise, however, that the case for the decriminalising sex work falls outside the scope of this review.

If you would like to discuss this submission further, please feel free to contact the WACOSS Research and Policy Development Leader Chris Twomey at chris@wacoss.org.au or 9420 7222.

Yours sincerely,

A handwritten signature in black ink that reads "L. Giolitto". The signature is written in a cursive, flowing style.

Louise Giolitto
Chief Executive Officer
WACOSS