



## **GUIDANCE FOR COMMUNITY SERVICE EMPLOYERS**

### **Funding Increases and Wages Considerations**

On 19 May 2011, the Western Australian Government announced considerable funding increases to the WA community sector. The Government has detailed funding for the not for profit community sector of \$604 million over the next four years. For community organisations this means an upfront, across the board increase for eligible service agreements of 15% from 1 July 2011. The Government will also be increasing funding by an average of 10% as service agreements are reviewed from the 2013-2014 financial year.

Additionally the Government has recognised the ongoing growth in costs for the not-for-profit sector and confirmed the application of the Indexation Policy as part of the funding reforms.

The funding increase to service agreements with the not-for-profit sector will result in an average 25% increase to contracts over the next three years to 2014-15 – a welcome and long overdue improvement.

The State Budget announcements are a significant first step in building a sustainable funding base for the sector. This funding goes some way to helping the sector provide better wages and conditions for our employees and more sustainable services for the community.

As most people in the sector have known for years employees in the social and community sector have for too long been underpaid and undervalued. This was recently confirmed by the landmark decision by Fair Work Australia that the community sector pay equity case has merit, although the final decision on the extent of the increase needed to deliver equity is still to come.

This additional State Government funding will enable organisations with eligible contracts to provide well deserved wage increases to their workforce without job losses or cuts to services. However, given the complexity of the funding and organisational arrangements within the sector, we know that this will not be a straightforward task for many employers.

The purpose of this article is to provide information to community organisations on how these funding increases can be used to provide better wages for your staff and to ensure you are meeting your employment obligations.

This article has been prepared by Employer Assist and WACOSS to provide some initial guidance to employers about how to respond to the announcements. It does not constitute industrial advice particular to any organisation, and individual employers should not rely solely on the information contained within this article to determine their legal and contractual obligations.

## Complying with your Employment Obligations

The funding increase announced in the State Budget provides a great opportunity for your organisation to better reward employees for their hard work and service to the community. It also provides a great opportunity to ensure your organisation is meeting its workplace obligations now and into the future.

WACOSS recommends all organisations undertake the following actions:

1. Wait until you receive direct advice from your funding provider about the eligibility of your service to determine your eligibility and the value of your funding increase;
2. Use an appropriate apportionment of the budget increase to increase staff wages;
3. Identify and meet your existing employment obligations;
4. Prepare for future increases in wages; and
5. Remain informed and ask for assistance.

### **1. Advice about eligibility**

Organisations should receive advice directly from their State Government funding provider about the funding increase that they are eligible for. If you have not received this advice by 1 July 2011 we recommend you contact your funding contract manager. You can also read the fact sheets that have been prepared by the Department of Premier and Cabinet which describe the scope of eligibility of different state funding contracts for the increased funding.

### **2. Use the additional funding to increase staff wages**

The historical lack of funding for the sector has significantly contributed to lower wages in the community services sector. This Budget announcement is intended to help to rectify the undervaluation of employees in our sector.

The Government states in its Budget Fact Sheet that this funding will:

*“Assist not-for-profit organisations to increase salaries to attract and retain quality people who provide valuable care and assistance to the vulnerable and disadvantaged in Western Australia.”*

It is intended that this funding be predominantly used to pass on to employees through wage increases. This funding will not completely resolve the issue of wages in our sector, as workers in our sector are funded through multiple complex funding streams, but it is a welcome start.

## *Increasing Employee Wages*

Determining the amount to increase employee wages can be a difficult task. While it is important to pass on this funding increase to employees, it is also important that the organisation ensures it can afford the wage increase. An employee's wages extends beyond merely the employee's rate of pay. Increasing an employee's rate of pay will also increase other aspects of the employee's wage such as:

- Superannuation;
- Penalty rates, such as weekend, public holidays, and overtime rates;
- Shift Allowances; and
- Casual loadings.

### **Example**

Bill works 20 hours per week at an ordinary rate of \$20.00 per hour. Bill works some hours on a Sunday and is paid at double time. If Bill's ordinary rate of pay is increased by \$2.00 per hour:

Bill's ordinary hourly rate of pay increases by \$2.00 to \$22.00;

Bill's weekend hourly rate of pay increases by \$4.00 to \$44.00; and

Bill's superannuation increases by \$3.60 per week.

An employee's wage can also be made up of allowances that will not automatically increase in line with an increase in the ordinary rate of pay. For some employees, allowances can make up a significant part of an employee's income.

Organisations should be aware that merely increasing the rate of pay without increasing allowances may disadvantage some employees.

### **Example**

Mary mainly does sleepover work at her workplace. The \$30.00 sleepover allowance makes up a significant proportion of Mary's take home pay. Because of the funding increase, Mary's rate of pay went up. However, because the sleepover allowance is not linked to her hourly rate of pay, Mary's allowance has stayed at \$30.00. Mary believes that because she works sleepovers, she was disadvantaged. Employers are not required to increase these types of allowances, but may elect to do so in the interests of workplace harmony.

The last component of a permanent employee's wage is their leave accruals. Some organisations keep track of the amount of leave their employees have accrued so they know how much leave the organisation may have to pay.

Generally, an employee's rate of pay when on holidays is the same as their rate of pay if they were at work. When an employee's rate of pay increases, so do the payments when an employee takes leave regardless of what the rate of pay was when the leave was accrued.

### Example

Joe has accrued 8 weeks annual leave and is entitled to cash out a part of his annual leave. Joe's employer sets aside funds for Joe's annual leave based on his current rate of pay. Before 1 July 2011, Joe had an hourly rate of \$20.00. After the funding increase, Joe's hourly rate increased to \$22.00. At the end of the year, Joe wants to cash out four weeks' of his annual leave.

Even though Joe accrued half of his entitlement when he was being paid \$20.00/hour, Joe is entitled to be paid out his entire four weeks at his current hourly rate of \$22.00.

*Note: the modern SACS award does not allow for cashing out of annual leave, but other awards do.*

This additional funding will allow employees to benefit from better wages. However, it is very important for organisations to understand that an employee's wage is not just their rate of pay.

Increasing an employee's rate of pay will have flow-on affects that should be accounted for. Increasing hourly rates of pay will also increase penalty rates, loadings and leave accruals. However, by only increasing rates of pay, an organisation may be disadvantaging employees who rely on set allowances.

### **3. Meeting Current Employment Obligations**

While the increase in funding enables organisations to provide better wages for their employees, it is essential that organisations ensure they are meeting their current employment obligations in all areas.

The Fair Work Ombudsman investigates any non-compliance issues. Even if you are paying your employees well above the award rate of pay, you can still be found to be non-compliant if you are incorrectly applying penalty rates and allowances.

Employment obligations can be derived from a number of sources. It is important that organisations identify where their employment obligations stem from and whether they are meeting all requirements.

Your employment obligations may come from awards, enterprise agreements, funding agreements or legislated minimum conditions of employment.

#### *Awards*

An award establishes the absolute minimum wage for employees working in a particular industry.

In the national system, the **Social, Community, Home Care and Disability Services Industry Award 2010** (commonly referred to as the **Modern SACS Award**) covers employers in the community sector and their employees.

In the state system, the **Crisis Assistance and Support Housing Interim Award 2011** and the **Social and Community Services Interim Award 2011** establish wages and conditions

Rates of pay within awards change after a decision by Fair Work Australia or the WA Industrial Relations Commission. The most well recognised decision is the minimum wage decision. It is

common for award rates of pay to increase once every year due to a minimum wage decision. However, it is important to be mindful that other decisions can affect modern award rates also.

### *Enterprise Agreements*

Enterprise agreements are negotiated between employers and their employees to ensure the wages and conditions best suit the needs of the organisation.

Enterprise agreements will often include clauses identifying when wages increase. There are often annual percentage increases each year.

Enterprise agreements (especially in the not-for-profit sector) can also require increases in wages to take effect in line with funding increases. It is important that all organisations covered by an agreement identify whether such clauses exist in their agreement, and whether the agreement requires a wage increase equal to or commensurate with this latest increase in funding.

### *Funding Agreements*

Some funding agreements contain requirements regarding how employees must be paid. Funding agreements may include rates of pay, the award to be used, and when increases must be passed on.

It is important to determine whether your funding agreements require your organisation to pass on wage increases in line with this funding increase.

### *Minimum Wage and Conditions*

Any employee not covered by an award or enterprise agreement derives their minimum entitlements from legislation and minimum wage decisions.

In the national system, Fair Work Australia establishes the national minimum wage to take effect on 1 July every year. Minimum conditions are derived from the National Employment Standards in the *Fair Work Act 2009*.

In the state system, the WA Industrial Relations Commission establishes the state system minimum wage to take effect on 1 July every year. Minimum conditions for state system employees are derived from the *Minimum Conditions of Employment Act 1993*.

### *State System versus National System*

Over the past few years, Australia's industrial relations system has undergone significant change. Many WA not-for-profit organisations remain confused as to which industrial relations system they are in, and what pay and conditions apply to their employees. Unfortunately, only the Federal Court is able to determine which industrial relations system an organisation is in.

However, with the funding announcement, the WA Government also released the '*Delivering Community Services in Partnership (DCSP) Policy*'. This policy forms a part of the reforms that seek to reduce the administrative burden on community organisations that stem from the funding process. These reforms will reduce reporting requirements, standardise funding contracts and enable organisations to be more responsive and flexible in the way they deliver community services on behalf of the government.

The impact this policy will have on your employment obligations will need to be determined case by case, but it is likely that an organisation's funded activities are considered 'trading', in which case

not-for-profit organisations with service funding agreements would be likely to be covered in the national workplace relations system.

For more information you can view the *DCSP Policy* by [following this link](#).

#### **4. Prepare for Future Wage Increases**

Ensuring compliance with your employment obligations is not a one-off activity. Rather, rates of pay are consistently changing and need to be reviewed regularly to ensure you are remaining compliant.

There is nothing preventing you from providing wages greater than the minimum. In fact, this funding increase can assist organisation to do this. It is important to ensure in all circumstances that you remain above the minimum rate of pay.

Over the next 12 months, there will be some significant decisions and changes that could require you to increase employee wages further to ensure you continue to comply with your employment obligations.

##### *1 July 2011 – Minimum Wage increases*

From the first pay period after 1 July 2011, minimum rates of pay will increase.

Regardless of whether you are in the national or state industrial relations system, or whether your employees are covered by an award, award-free or covered by an enterprise agreement, these decisions should be noted, since any increases may need to be passed on to employees.

While the decisions will not be known until late June 2011, it is expected that federal minimum rates of pay will be increased between \$10.00 and \$25.00 per week.

##### *Early 2012 – Pay Equity Case decision*

On 16 May 2011, Fair Work Australia decided that employees in the social and community sector have been historically underpaid when compared to government employees performing similar roles. Fair Work Australia is now preparing to make an order increasing the wages of community sector employees in the national system.

While it is not yet known what this increase is likely to be, the Australian Services Union is seeking an increase of up to 38%.

Any wage increases resulting from this decision will likely commence early in 2012.

The wage increases resulting from this decision will go some way to rectifying the traditional undervaluation of employees in our sector. The increased funding provided in the State Budget should be used to ensure your organisation complies with the intent of this decision.

##### *February 2012 – Commencement of Transitional Arrangements*

Transitional arrangements contained in the modern SACS award provide for the phasing in of many wage differences between the old awards and the modern award. This phasing in applies to rates of pay, penalty rates, shift loadings, and casual loadings. For the modern SACS award, this phasing in commences on 1 February 2012.

While these provisions allow the phasing in of any increases, it should be remembered that this increase in funding was provided, in part, to enable organisations to increase the wages of their employees to improve services and support. WACOSS strongly advises organisations to use a significant portion of this funding to ensure their employees are being properly remunerated. As a sector, we need to pay our workforce adequately so we can retain talented staff and be able to better respond to increase need for our services.

As long as employees are not worse off, organisations can move to the full modern award rates of pay without using the transitional arrangements. If you would like more information on the transitional arrangements and how they can be used to phase in wage increases, contact a professional Industrial Relations consultant for assistance. Employer Assist is available to support WACOSS members with this advice.

## **5. Remain Informed and Ask for Assistance**

Minimum wages often only become news when they increase. Organisations can be caught unaware by significant increases. WACOSS and Employer Assist will continue to provide information and updates to member organisations in relation to changes in their employment obligations.

Employer Assist has helped many WACOSS members ensure they are complying with their employment obligations by undertaking a Fair Work Act Compliance Audit. [Click here](#) to request the latest Special Offer to undertake a Compliance Audit on your organisation. The audit can be applied to both state and federal system employers.

Organisations must ensure they are complying with their employment obligations. However organisations should not be limited by minimum standards. Employees are always entitled to receive at least the minimum wage. It is also best practise however to provide employees with better than minimum entitlements when organisations can afford to do so.

The State Budget funding increases were designed to enable organisations to provide better pay and conditions for staff and thereby improve the sustainability of services for the community.

If you have any questions regarding how to pass on these increases to your staff, your employment obligations, minimum wage rates or the importance of workplace compliance, contact Employer Assist on **1300 153 154**.

Irina Cattalini  
**Chief Executive Officer**  
**WACOSS**

Gwen McIlroy  
**Managing Director**  
**Indigo Field *Not-for-Profit* Sector Industrial Relations**