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The Hon Justice Geoffrey Giudice
President
Fair Work Australia
GPO Box 1994
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Dear President

Application for Equal Remuneration Order – Social, Community & Disability Services Industry (SACS) (C2010/3131)

The ACT Government welcomes the Full Bench's decision of 16 May 2011 and has accepted the invitation to provide a further written submission to the Tribunal.

The Government does not accept a situation in which gender can form the basis for decisions about remuneration. Employees subject to the SACS Award in the ACT comprise approximately 1.9% of the workforce in the ACT and make a vital contribution towards Canberra as a place where all people can reach their potential, make a contribution and share the benefits of an inclusive community.

The Government is aware of the likely financial and non-financial impact of this case upon both employers in the ACT and upon the Government and will make a responsible decision regarding support for the sector at the appropriate time.

The ACT will continue to participate constructively in conciliation proceedings currently before Fair Work Australia.

Yours sincerely

Katy Gallagher MLA
28 July 2011

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28 July 2011

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FAIR WORK AUSTRALIA

No. C2010/3131

**IN THE MATTER OF: APPLICATION BY THE AUSTRALIAN MUNICIPAL,
ADMINISTRATIVE, CLERICAL AND SERVICES UNION AND OTHERS FOR
AN EQUAL REMUNERATION ORDER**

Further written submissions of the Minister for Community Services and of the
Minister for Industrial Relations for the Australian Capital Territory

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1. Preface

Introduction

- 1.1 These submissions are filed by the Minister for Community Services and by the Minister for Industrial Relations for the Australian Capital Territory. The submissions respond to the decision by the Full Bench of Fair Work Australia of 16 May 2011 and to the request in that decision for submissions that provide the views of the parties on a number of matters.
- 1.2 It is proposed in these submissions to address the following matters:
 - a. The impact of an equal remuneration order upon Social and Community Sector (Sector) employers in the ACT and upon funding agencies in the ACT. Both the non-financial and the financial impact are considered, with the financial impact assessed against three notional salary outcomes.
 - b. The extent to which wage rates in the Sector are lower than they would otherwise be because of gender considerations,
 - c. The phasing-in of any equal remuneration order and the effect of such phasing on the transitional provisions in the modern award.
 - d. The form of any equal remuneration order, including whether it should specify the particular wage rates that are to apply to the classifications in the modern award, or a monetary or percentage addition to the wage rates for the classifications in the modern award and whether it should provide for salary packaging and absorption of any over award payments.
 - e. Whether the quantum in any equal remuneration order could or should be included in the modern award having regard, amongst other things, to the operation of the better off overall test.

Census of the salary arrangements of ACT Community Sector employers

- 1.3 These submissions are supported by data collected through a census of salary arrangements in the SACS Industry in the ACT conducted between December 2010 and February 2011. The data collected was analysed between March and April 2011. A report on the findings of the census is at **Appendix A** to these submissions. Section A3 of Appendix A outlines the census methodology, assumptions and describes the response.

Relationship between the salary census and the HBA Report of 2010

- 1.4 There are a number of apparent differences between the results obtained from the salary census that forms the basis of this submission, and the results of a survey by HBA Consulting that formed an attachment to the ACT Government submission of August 2010.
- 1.5 There are a number of reasons for these differences. Primarily, the two documents were designed for different purposes and should not be treated as versions of the same thing. The group of employers HBA surveyed was broader than that which responded to the salary census and included a significant number of employers who employ workers who are not subject to the award. From this broader group, a sample was surveyed by the HBA project, with a response rate of 56%.

- 1.6 The HBA survey did not seek to determine the rates of pay for employees in the Sector. Employers who responded to the HBA survey were able to select more than one answer to a number of questions, leading to percentages that totalled more than 100%. This, allied with ambiguity in some questions, made determination of, for example, the number of employers using enterprise agreements, very difficult, particularly where enterprise agreements were originally derived from an award and their terms and conditions remain very similar.
- 1.7 The salary census of 2011 was specifically designed to determine the cost impact of an equal remuneration order to employers in the ACT and to the ACT Government. It had a response rate of over 95% and sought, among other things, to determine the rates of pay for each employer, and the overall cost of employment for each employer, including for overtime, penalties and allowances, workers' compensation.

Summary

Support for equal remuneration

- 1.8 The ACT Government supports the application of equal remuneration principles to the employees of the SACS Industry. Employees subject to the SACS Award in the ACT comprise approximately 1.9% of the workforce in the ACT and make a vital contribution towards Canberra as a place where all people can reach their potential, make a contribution and share the benefits of an inclusive community.
- 1.9 The ACT Government does not accept a situation in which gender can form the basis for decisions about remuneration.
- 1.10 The Ministers note that their submission relates to the elimination of inequality of remuneration due to gender.. There may be issues of work value for employees in the Sector that are not addressed through this equal remuneration process or in this submission.
- 1.11 The ACT Government has not yet made a decision on how to frame a response to the impact on Sector employers of an equal remuneration order. This is in part due to uncertainty over the potential cost that cannot be resolved until an order is made and partly due to uncertainty over the timing of any equal remuneration order and over the commencement date for any increased salaries and how this timing relates to the impact in any particular financial year.

The ACT Submission

- 1.12 The Ministers submit that:
 - a. Ahead of a decision by Fair Work Australia (FWA), the potential impact of an equal remuneration order on Sector employers in the ACT and on funding agencies in the ACT can only be estimated against notional scenarios. The three scenarios chosen are 100% of the salary increase sought in the original ASU application, 85% of the salary increase sought in the original ASU application and 66.6% of the original ASU application; while not reflecting the ACT Government's position with regard to the amount of unequal remuneration, these scenarios may assist FWA in its considerations.
 - b. The census of salary arrangements undertaken in the ACT shows that salaries for employees in the Sector are primarily driven by market forces and that relatively few Sector employees in the ACT rely on the Award to determine

their wages. Consequently, unequal remuneration due to gender is reduced in the ACT, and if present, is of limited extent;

- c. An equal remuneration order should be outside the modern Award and specify a percentage to be applied to the classifications in the modern award and be sufficient to eliminate any unequal remuneration determined to exist;
- d. An equal remuneration order should not take account of salary packaging;
- e. An equal remuneration order should provide for the absorption of any over award payments;
- f. The quantum of any equal remuneration order should not be included in the modern award until after the phasing in has been completed;
- g. The phasing in of an equal remuneration order should be over a period of five years, including a delay of at least six months and of no more than nine months before the first salary payments are made. Ideally, but not necessarily, the commencement would align with that of a financial year;
- h. The phasing in arrangements that apply to the ACT in an equal remuneration order should incorporate transitional provisions for workers in the ACT in the modern award;

2. Impact of an equal remuneration order in the ACT

Introduction

- 2.1 This section summarises the estimated impact of an equal remuneration order on employers in the ACT Community Sector and on the funded programs delivered by ACT Community Sector employers to the full extent of the order.

Assessing the impact against alternative scenarios

- 2.2 Until an equal remuneration order is made, it is not possible to know precisely what the impact on employers and on funding agencies will be.
- 2.3 This submission estimates the possible impact against three scenarios. These scenarios represent a credible range of alternative outcomes from the equal remuneration process and have been chosen only to represent the potential cost at notional Award rates and to show the sensitivity of the impact. A lower scenario was not used as it would have fallen below the median salary that applies in the ACT and would have had only a marginal impact on the Sector in cost terms.
- 2.4 These scenarios are labelled throughout this document as:
- a. **Scenario One**, which represents an equal remuneration order that is equal to 66.6% of the increase in the modern award sought by the Applicants. The increase has been applied evenly to all classifications in the Award likely to be subject to an equal remuneration order;
 - b. **Scenario Two**, which represents an equal remuneration order that is equal to 85% of the increase in the modern award sought by the Applicants. As in the scenario above, the increase has been applied evenly to all classifications in the Award likely to be subject to an equal remuneration order; and
 - c. **Scenario Three**, which represents the increase in salaries sought in the Application.
- 2.5 The table below shows the relationship between current (June 2011) modern Award salaries and the current ACT median and ACT average salaries, and provides a comparison between these salaries and the salary sought in the Application, along with a comparison with salaries that represent 85% of the salary increase sought by the Applicants and 66.6% of the salary increase sought by the Applicants.

SACS Classification Level	Current SACS Award - Excluding 2011 NAWR	Average ACT salary for classification, excluding 2011 Indexation	Median ACT Salary for Classification excluding 2011 Indexation	ASU and Others Application to FWA	85% of Application	66.6% of Application
SACS Level 8	\$57,705	\$78,193	\$70,000	\$80,913	\$77,432	\$73,161
SACS Level 7	\$54,441	\$65,064	\$63,622	\$74,777	\$71,727	\$67,985
SACS Level 6	\$51,176	\$59,339	\$58,461	\$68,635	\$66,016	\$62,804
SACS Level 5	\$47,911	\$54,660	\$54,972	\$63,871	\$61,477	\$58,541
SACS Level 4	\$44,751	\$49,429	\$49,352	\$57,729	\$55,782	\$53,394
SACS Level 3	\$40,502	\$45,818	\$44,561	\$49,972	\$48,551	\$46,809
SACS Level 2	\$37,780	\$40,575	\$40,660	\$45,350	\$44,215	\$42,822
SACS Level 1	\$34,619	\$38,494	\$38,173	\$40,743	\$39,824	\$38,698

1. Comparison between SACS Award, ACT Average and Median Salaries and versions of the equal remuneration application

2.6 The table below shows similar information to table 1 above only expressed as the percentage difference between these salaries.

SACS Classification Level	ACT Current Award (Modern Award) as % of ACT Median Salary	ACT Median Salary as % of Application	ACT Median Salary as % of 85% of Increase Sought in Application	ACT Median Salary as % of 66.6% of Increase Sought in Application
SACS Level 8	82.44%	86.51%	90.40%	95.68%
SACS Level 7	85.57%	85.08%	88.70%	93.58%
SACS Level 6	87.54%	85.18%	88.56%	93.09%
SACS Level 5	87.16%	86.07%	89.42%	93.90%
SACS Level 4	90.68%	85.49%	88.47%	92.43%
SACS Level 3	90.89%	89.17%	91.78%	95.20%
SACS Level 2	92.92%	89.66%	91.96%	94.95%
SACS Level 1	90.69%	93.69%	95.85%	98.64%

2. Percentage comparison between SACS Award, ACT Median Salaries and versions of the equal remuneration application

2.7 Together, these tables show that the current median ACT Community Sector salary for each classification is significantly above the current Award, with all salaries falling in a band between 92.43% and 98.64% of the figure represented by 66.6%, or two thirds, of the salary increase sought in the Application.

2.8 The different scenarios considered in this Submission for an increase to the Award can also be represented as percentage increases in relation to the Award.

SACS Classification Level	ACT Award (Modern Award)	66.6% of Application as a % increase in the Award	85% of Application as a % increase in the Award	100% of Application as a % increase in the Award
SACS Level 8	\$57,705	126.79%	134.19%	140.22%
SACS Level 7	\$54,441	124.88%	131.75%	137.36%
SACS Level 6	\$51,176	122.72%	129.00%	134.12%
SACS Level 5	\$47,911	122.18%	128.31%	133.31%
SACS Level 4	\$44,751	119.31%	124.65%	129.00%
SACS Level 3	\$40,502	115.57%	119.88%	123.38%
SACS Level 2	\$37,780	113.34%	117.03%	120.04%
SACS Level 1	\$34,619	111.78%	115.04%	117.69%

3. Percentage comparison between SACS Award and different scenarios for the increase in that Award

Impact on the Whole of the Community Sector in the ACT

- 2.9 The following key findings from the salary census relate to the whole of the Community Sector in the ACT, including on those elements of the Sector not funded by, or through, the ACT Government and are an estimate based on the response to the salary census where there was sufficient information to draw whole of Sector conclusions, and on validation data supplied by the Portable Long Service Leave Authority.
- 2.10 In December 2010 there were approximately 3,800 employees in the ACT who were subject to the SACS award or to enterprise agreements in the social, community, home care and disability services industry, whose employers will, or may be, be responsible for paying new Award salaries in the event of an equal remuneration order. Approximately 3,270 of these employees, or about 86.7%, are employed in organisations funded by, or through, the ACT Government.
- 2.11 A little over 3% of the total number of Sector employees are estimated to work for employers that are not funded by the ACT Government, leaving a little over 10% of the total number of employees working for employers funded by the ACT Government, but in programs that are funded by sources other than by, or through, the ACT Government.
- 2.12 The extent of direct Australian Government funding of ACT Community Sector employers is not known.
- 2.13 The total estimated salary cost for employers for 2009-10 for the whole Sector in the ACT, including provisions for, overtime, allowances and penalties, workers' compensation, and portable long service leave was \$95.59m. This estimate excludes salaries paid to child care and aged care workers and to other workers who were not subject to the Award.
- 2.14 With the same exclusions, total spending in all areas (including wages, administrative costs and other, non-salary, program costs) by all employers who employ workers subject to the Award is estimated to be \$160.3m. Of which \$146.3 is spent by employers who are funded by, or through the ACT Government. In total for the 2009-2010 year, funding through the ACT Government was approximately \$130m, or 81.3% of the total expended by the Sector.

Impact on ACT Community Sector employers total salary cost

2.15 The table below shows the alternatives for growth in the total salary bill for the whole sector in the ACT under a low, medium and high outcome¹ from the equal remuneration case, compounded by estimates for regular National Annual Wage Review (NAWR) decisions.

Total ACT Sector Salary Bill under selected alternative FWA outcomes	Current 2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Scenario One – 66.6% of Application	\$95.59m	\$101.48m	\$107.59m	\$114.07m	\$121.10m	\$127.89m
Scenario Two - 85% of Application	\$95.59m	\$102.40m	\$109.46m	\$116.98m	\$125.14m	\$133.11m
Scenario Three – 100% of Application	\$95.59m	\$103.25m	\$111.19m	\$119.74m	\$129.04m	\$138.19m

4. Possible total ACT Community Sector salaries as a consequence of the equal remuneration case and compounded by National Annual Wage Review cases

Whole of Sector impact expressed as additional wage cost

2.16 The overall cost of the salary increase to all employers in the Sector in the ACT from the equal remuneration case, including those not funded by the ACT Government, for the same three low, medium and Scenario Threes will be \$12.4m for the low outcome, \$21.12 for the medium outcome and \$30.85m for the high outcome, as outlined in the table below.

2.17 This table assumes²:

- No significant change to the proportionate use of allowances, penalties, overtime, workers' compensation, superannuation or other salary driven costs;
- A five year implementation period commencing on 1 July 2011;
- Continued indexation of contracts by the ACT Government;
- Potential private sector impact has not been included;
- Compounding increases from National Annual Wage Review (NAWR) cases; and
- All Sector employers absorb any current over Award payments.

¹ The alternative outcomes shown below are used throughout this submission and have no status other than as points against which the potential impact of an equal remuneration order might be calculated.

² Refer to the assumptions section in the full salary census report at Annex A for a full list of the assumptions that govern these estimates.

Cumulative Cost Impact on Whole of Sector Employers With Over Award Payments Absorbed	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Scenario One	\$169,223	\$584,989	\$1,709,453	\$3,930,949	\$7,815,426
Scenario Two	\$249,557	\$1,082,160	\$3,239,689	\$7,620,165	\$15,159,224
Scenario Three	\$300,220	\$1,545,557	\$5,158,863	\$12,250,353	\$23,932,849

5. Total cumulative whole of ACT Community Sector financial impact of the equal remuneration case – absorption of over award payments

2.18 The ACT does not support an equal remuneration order that does not allow employers to absorb over award payments. The reasons for this position are outlined later in this submission. Consequently, the table below is provided for comparative purposes only and shows the overall cost under the same assumptions as Table 2 above, but with the exception that employers **do not** absorb any existing over award payments.

2.19 Given the high proportion of over award payments in the ACT, this approach gives a significantly higher cost to employers of \$13.3m, \$28.6m and 42.9m for respectively the low, medium and high outcomes, as outlined below.

Cumulative Cost Impact on Whole of Sector Employers – With Over Award Payments Not Absorbed	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Scenario One	\$168,805	\$1,371,100	\$3,836,202	\$7,854,158	\$13,262,216
Scenario Two	\$1,131,005	\$4,199,455	\$9,621,757	\$17,791,780	\$28,576,904
Scenario Three	\$1,955,912	\$6,685,693	\$14,844,778	\$26,939,781	\$42,900,828

6. Total cumulative whole of ACT Community Sector financial impact of the equal remuneration case– with no absorption of over award payments

Financial impact on the ACT Budget

2.20 No decision has yet been made by the ACT Government over the quantum of support, or how any support agreed would be provided to employers in the Sector. As a consequence, these submissions should not be interpreted as representing any position of the ACT Government. The information contained was collected in order to contribute to the ACT Government being in a position to make an informed decision with regard to support at the appropriate time.

2.21 At the global level, services contracted from the ACT Community Sector by the ACT Government are funded by contributions from the ACT Budget, and from contributions under various arrangements with the Australian Government. For the purposes of determining the potential impact of an equal remuneration order in the ACT and for simplicity, all of this funding is treated as a single source. These submissions do not canvass the outcome of any negotiations between the ACT Government and the Australian Government on respective contributions.

- 2.22 This submission makes an estimate of the potential cost to government funding for the Community Sector in the ACT under a scenario where all employers absorb some or all of any salary increase through existing over Award salary payments, to the extent that these exist. Other scenarios are not significantly considered here.

Constructing the potential cost to the ACT budget

- 2.23 This scenario estimates the cost to the ACT Government of support to ACT Community Sector employers where the cost of new Award salaries during the implementation period overtakes the salaries that ACT employers are paying at any point during the implementation period for an equal remuneration order.
- 2.24 The scenario assesses 100% of the cost of such support against three notional and arbitrarily selected FWA outcomes. The estimates include an allowance for the compounding impact of National Annual Wage Reviews (NAWR³) and for the indexation⁴ that the ACT Government pays to contracted employers and also assumes that employers will absorb any over Award salaries they currently pay prior to the provision of support by the ACT Government.
- 2.25 It was not possible to determine salary arrangements by classification for 24 of the 102 employers who responded to the census and only provided global salary details. The table below is based upon an estimate that half of these employers actually pay above award salaries. The average above award salary paid in the ACT for the relevant classifications has been selected and used as a figure to create an estimate of the impact of the case for this group of employers.

Cumulative Cost Impact Adjusted for likely but not reported over Award salaries	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Scenario One	\$135,378	\$467,991	\$1,367,563	\$3,144,759	\$6,252,341
Scenario Two	\$199,646	\$865,728	\$2,591,752	\$6,096,132	\$12,127,379
Scenario Three	\$240,176	\$1,236,445	\$4,127,091	\$9,800,282	\$19,146,279

7. Adjusted cumulative impact of the equal remuneration case on ACT Government for anticipated but not reported over Award payments.

- 2.26 The table above does not address the potential exposure to private sector salaries. Employers with a business model that use a significant proportion of contracted workers from the for-profit sector, who may then subject to the Award, represent a potential financial risk to those employers and through them to the ACT Government. This risk comes from the exposure to the Award by private sector contracted employees that will be passed on to not-for-profit employers as additional costs. The census could not gain adequate clarity into the exposure of these employers to private sector employees subject to the Award and these figures represent an estimate only.
- 2.27 An estimate of the potential exposure, including fully absorbing over Award payments, is outlined below. The estimate is based on a pro rata of the anticipated

³ See the assumptions in the attached salary census report for estimates of NAWR

⁴ See assumptions in the attached salary census report for budgeted and estimated ACT Government indexation

sector costs and gives an exposure equal to 15% of the total salary cost to employers. The estimate represents the difference between the actual proportion of ACT funding spent on salaries by Community Sector employers in the ACT (66.47%) and the roughly 20% of total funding that the ACT Government estimates for administrative costs. The totals estimated below are based on the possible case outcomes.

Potential Cumulative Private Sector Exposure	Impact 2011-2012	Impact 2012-2013	Impact 2013-2014	Impact 2014-2015	Impact 2015-2016
Scenario One	\$25,383	\$87,748	\$256,418	\$589,642	\$1,172,314
Scenario Two	\$37,434	\$162,324	\$485,953	\$1,143,025	\$2,273,884
Scenario Three	\$45,033	\$231,833	\$773,829	\$1,837,553	\$3,589,927

8. Potential cumulative exposure from ACT Community Sector employers using contracted private sector employees

2.28 It will be necessary to undertake additional work with those Sector employers using a business model that makes use of significant for-profit service providers to understand the actual financial risk to the ACT Government from these employers.

Estimate of total likely cost to ACT Government Contracts

2.29 The table below contains the total likely cost to the ACT Government contracts taking into account the possible FWA outcomes, NAWR outcomes, ACT Government budgeted and forecast indexation, the extent of likely over award payments among the twenty-four employers who did not report in sufficient detail and the potential for private sector exposure through third party contracts by funded ACT Community Sector employers.

Final Likely impact on ACT Government budget	Impact 2011-2012	Impact 2012-2013	Impact 2013-2014	Impact 2014-2015	Impact 2015-2016
Scenario One 66.6% of Claim	\$207,611	\$707,532	\$1,960,88	\$4,351,77	\$8,147,027
Scenario Two 85% of Claim	\$237,080	\$1,028,052	\$3,077,705	\$7,239,157	\$14,401,263
Scenario Three 100% of Claim	\$285,209	\$1,468,279	\$4,900,920	\$11,637,835	\$22,736,206

9. Alternative final likely impact on ACT Government budget, taking account of not reported over award payments and potential exposure to private sector costs through contracted workers

Transitional Arrangements

2.30 All estimates of the impact of future salaries have been made against the salaries contained in the Modern Award. Salaries contained in the *Social and Community Services (ACT) Award 2001* equate to the salaries in the modern award, with the only material differences being for SACS level 3 (approximately 5% reduction in the modern award) and SACS level 4 (approximately 2.5% reduction in the modern award).

2.31 The median salary paid in the ACT is 108% of the ACT SACS Award for SACS 3 and 111% for SACS 4. Given the high proportion of employers paying above award for these classifications, particularly through enterprise agreements, no specific allowance has been made for transitioning to the Modern Award. It is

anticipated that alignment with the modern award can be achieved without significant impact.

ACT Community Sector salaries are market driven

- 2.32 The salary census shows that Community Sector salaries in the ACT are overwhelmingly set by the market, with census returns confirming that 83.87% of employees receive over Award salaries. Responses to the salary census included observations by some employers that in the ACT it is necessary to pay over Award salaries and that to failure to pay over award salaries made it very difficult to recruit and to retain the required skills.
- 2.33 Despite the overwhelming majority of census responses indicating that employees in the Sector in the ACT are paid above Award salaries, some employers do only pay the Award rates. Census responses indicate that at least 5.03% of employees are paid the Award. Additionally, approximately 25% of employers responding to the census, representing 11.1% of employees, chose not to give detailed census responses to the salary classification questions in the census.
- 2.34 While a reluctance on the part of some to provide details of salary by classification can be understood, it can reasonably be assumed that many of these employers are also paying over award salaries, and the actual proportion of over Award salaries in the ACT is higher than the 83.87% reported. This report will assume that ½ of the employers representing the 11.1% of employees without detailed classification data are actually paying above award salaries and that the actual rate of above award salaries paid is between 85% and 95% of all employees and more likely to be over 90%.
- 2.35 In summary, the number of ACT Community Sector employees covered by award rates appears to only be about 1/3 of the proportion that is covered nationally.

Why are ACT salaries so much above the Award?

- 2.36 It has proved impossible at this stage to make useful comparisons between the salaries paid to Sector employees in the ACT and those paid in other jurisdictions. A survey conducted in NSW, with a response rate of just over 30% provides the only currently available comparison.
- 2.37 That survey suggested that 31% of respondent employers in NSW paid above award salaries. This figure is less than half the 65% of ACT employers who acknowledge paying above award salaries. The NSW data is not sufficiently developed to estimate a proportion of total employees who are paid above award. However, the data did agree with ACT data in that the higher classifications were paid a greater percentage above the Award and that smaller organisations were less likely to pay above Award salaries.
- 2.38 Without better comparative data, it is necessary to look to ACT specific reasons for the level of ACT Community Sector salaries. The key drivers for Community Sector salaries in the ACT are likely to be:

- a. Low levels of unemployment; the unemployment rate in the ACT stands (March 2011)⁵ at 3.2%, by some margin the lowest in the Country.
- b. High levels of workforce participation; Levels of workforce participation are 68.3% for women, 78.1% for men, giving a combined participation rate of 73.1%. The national participation rates are 59.0% for women, 72.0% for men, giving a combined total of 65.8%, meaning that there are relatively many fewer available workers in the ACT who might be available to join the Community Sector.
- c. Relatively high levels of indexation growth built into ACT Community Sector contracts. NSW indexation is 2.5%⁶ (tied to public sector wages policy for growth). Indexation for salary purposes in the ACT is 3.5% for 2011-12 and estimated in the ACT Government budget at 4.0% for future years⁷ - the effect of this is that salary growth in the ACT is above that of NSW, the nearest competing jurisdiction, and has been better supported;
- d. Multiple competing employers in the ACT; in the ACT the Australian Public Service and the ACT Public Service provide attractive alternative sources of employment for skilled employees who might otherwise be successfully competing for employment in the Community Sector.
- e. Absence of regions: As a jurisdiction with no non-urban regions of any significance, the Community Sector does not provide an attractive source of employment for prospective regional or non-urban employees who, in other jurisdictions, may have many less options to choose from.

Market based salaries are not unequal for reasons of gender

- 2.39 It is the ACT contention that the existence of market based salaries for workers in the Sector must diminish, or extinguish, the role of gender in creating unequal remuneration in the ACT.
- 2.40 ACT salaries are positioned roughly mid way between the current Award salaries and the salaries proposed in the Application and very close to a point represented by 66.6% of the increase sought by the application. To this extent, ACT salaries have significantly reduced the level of disadvantage relative to the Application. Tables seven and eight above demonstrate that the median ACT salary is above 85% of the value of increase in salaries sought in the ASU Application for all of the Award classifications and close to 95% of a figure represented by 66.6% of the increase sought in the AUS Application.
- 2.41 The previous ACT Submission noted that in some areas, particularly disability, there is no difference in remuneration between public and Community Sector workers, and indeed, that some generally equivalent Community Sector workers in the disability areas are better remunerated than their public sector counterparts.
- 2.41 With regard to other workers, the 2010 ACT Submission highlighted the difficulties in undertaking comparisons between public sector and ACT Community Sector workers. These difficulties have not been diminished by the FWA decision of 16 May, but rather continue and in the case of the ACT are likely

⁵ ACT Workforce Data drawn from Australian Bureau of Statistics Report 6202.0 – Labour Force Australia – March 2011.

⁶ Drawn from submission by Mr Michael Gadiel, NSW Treasury, dated 1 February 2011 to FWA on behalf of the NSW Minister for Industrial Relations.

⁷ See page 76 ACT Budget Paper 3 for 2011-2012.

to contribute all, or a portion of the remaining difference between public sector salaries and Community Sector salaries.

- 2.42 We refer to paragraphs 265-268 of the Decision of 16 May in which, among other things, the contributions of unequal remuneration and work value to the decision by the Queensland Industrial Relations Commission are discussed. It is our view that the median salary paid in the ACT represents a salary level at which unequal remuneration due to gender is eliminated, or very significantly reduced, although we are not able to determine to what extent any remaining gap is due to differences in work value, or to any residual unequal remuneration due to gender.
- 2.43 There are dangers in making broad statements in relation to Community Sector salaries, as the sector is in reality a number of sub-sectors, each with distinctive characteristic and some very significant differences. Nevertheless, it is our view that the remaining differences between the ACT median salary and the salaries sought in the Application are more due to work value differences than to gender based inequalities.
- 2.44 Unfortunately, it is not possible to make a finer delineation between differences due to work value and differences due to equal remuneration without a sub-sector by sub-sector comparison and analysis, and this latter exercise is more properly carried out as a work value exercise.

Positive impact of the ACT Government funding model

- 2.45 The other factor influencing salary levels in the ACT is the ACT Government's funding model, which has been relatively generous in applying an indexed increase to funded employers each year. While there is no doubt that employers in the Sector will always seek higher indexation rates than these, they, in conjunction with the market forces described above, provide for the ability of employers in the ACT to respond to market pressures. The table below shows the current and projected indexation for community sector contracts delivered by the ACT funding model.

Comparison of Real and Projected CPI Change	2007 - 2008	2008 - 2009	2009-2010	2010 - 2011	2011-2012	Project ed2012-2013	Project ed2013-2014	Projecte d 2014-2015
National CPI ⁸	4.4%	1.5%	3.0%	2.7% ⁹	2.75 %	3.0%	2.5%	2.5%
ACT CPI ¹⁰	4.4%	2.1%	2.2%	2.6% ¹¹	N/A	N/A	N/A	N/A
ACT Indexed Community Sector Funding Rate ¹²	3.75%	4.0%	3.15%	3.3%	3.4%	3.7%	3.7%	3.7%

⁸ Australian Bureau of Statistics – Publication 6401.01 Consumer Price Index Australia – Time Series All Groups, Index Numbers and Percentage Changes

⁹ Represents three quarters only to end March 2011

¹⁰ Australian Bureau of Statistics – Publication 6401.01 Consumer Price Index Australia – Time Series All Groups, Index Numbers and Percentage Changes

¹¹ Represents three quarters only to end March 2011

¹² ACT Government Budget Paper No 3, Community Sector Funding Rate table for the following years 2007-08, 2008-09, 2009-10 and 2010-11. Tables comprise a wage price index over 80% of the funds and a CPI index over 20% of the funds. The figure shown here is the combined index that applies to the whole contract.

10. Past and projected Consumer Price indexation for ACT Community Sector employers and indexed funding increases provided by the Act Government

2.46 The effectiveness of this model in delivering competitive salaries is evident when it is applied to the future salaries that may flow from this case. The table below shows the value of median ACT salaries in 2015-2016 following indexation¹³ for the ACT funding model. These salaries are then compared with the salaries from the Application, which have been indexed by the estimated annual national wage review.

2.47 The comparison shows that, excluding the impact of the equal remuneration case, ACT salaries are significantly reducing the gap between the current ACT median salary and the salary sought in the application.

Comparison s after five years for ACT median salaries and Salary sought in Application	ACT Median Salaries escalated by 3.5% then 4% for 4 years	Salaries from ERC Applicatio n indexed by NAWR for five years	85% of Applicatio n Salaries with NAWR Indexatio n for five years	66% of Applicatio n Salaries with NAWR Indexatio n for five years	Differenc e between Applicatio n and ACT Median	Differenc e between 85% sought in Applicatio n and ACT Median	Differenc e between 66.6% sought in Applicatio n and ACT Median
SACS Level 8	\$84,756	\$89,795	\$85,729	\$80,953	94.39%	98.86%	104.70%
SACS Level 7	\$77,034	\$83,582	\$80,033	\$75,869	92.17%	96.25%	101.53%
SACS Level 6	\$70,785	\$77,369	\$74,336	\$70,763	91.49%	95.22%	100.03%
SACS Level 5	\$66,560	\$72,563	\$69,789	\$66,528	91.73%	95.37%	100.05%
SACS Level 4	\$59,756	\$66,324	\$64,075	\$61,431	90.10%	93.26%	97.27%
SACS Level 3	\$53,955	\$58,418	\$56,803	\$54,876	92.36%	94.99%	98.32%
SACS Level 2	\$49,231	\$52,752	\$51,598	\$50,257	93.33%	95.41%	97.96%
SACS Level 1	\$46,219	\$49,063	\$48,012	\$46,315	94.20%	96.27%	99.79%

11. Comparative projections of current median ACT salaries for the next five years under ACT indexed funding and Equal Remuneration Case salaries, indexed by NAWR

¹³ Note that the figures applied here are for the Wage Price Index component.

3. Making an equal remuneration order

The Salary rates to be contained in an equal remuneration order

- 3.1 The difficult issue facing FWA is making a judgement around the extent to which wages in the SACS industry are lower than they would otherwise be because of gender considerations. Although work value change is not irrelevant under Part 2-7, it is clear that the equal remuneration provisions are directed not at undervaluation itself, but at undervaluation that is gender-based.
- 3.2 Consequently, in considering the gap between the current Award and the rates sought in the Application, at what point does the gap cease being due to under remuneration due to gender, and become a gap that may or may not be attributed to work value?
- 3.3 Further, in relation to broadly similar work that can be carried out by State, Territory and local governments. To what extent is the gap between the current Award and salaries obtained by public servants due to gender based under remuneration and to what extent are they due to differences in work value, including the statutory responsibilities and obligations placed on public servants?
- 3.4 We are of the view that this question has not been addressed by the applicants in their further submissions and that the question cannot be answered without a detailed examination of work value, which is not the primary objective of this exercise.
- 3.5 However, a true market for skills will not be subject to gender based distortion, although that does not mean that there cannot be work value issues. It is our view that the high proportion of the employment base in the Sector in the ACT that is paid significantly above the Award and through enterprise agreements suggests that the ACT can be considered to be a true market for skills in the community sector.

Specifying a percentage in the Order

- 3.6 It is our view that an equal remuneration order should be made outside of the Modern Award and be expressed as a percentage. The Government's view here is influenced by the very significant proportion of employees in the Sector in the ACT who are subject to enterprise agreements and we note the interrelationship between an equal remuneration order and an enterprise agreement.

Absorption of over award payments

- 3.7 It is the Territory's position that absorption of over award payments should be provided for in any equal remuneration order.
- 3.8 The purpose of an equal remuneration order is to eliminate gender based unequal remuneration by raising the safety net the Award represents to a level where such unequal remuneration is eliminated. This should leave employers in the Sector who can and do pay over Award wages currently free to respond to market signals for

labour and to continue to pay over Award wages where demand for skills makes this necessary and where they are able to make such payments.

Non-absorption of over award payments inconsistent with the function of Awards as a safety net

- 3.9 The role of the Award is to create and maintain a safety net of minimum wages. There should be a strict separation between these, safety net, wages and wages set by the market.
- 3.10 In practice, this separation leaves employers in the Community Sector in the ACT free to respond to market conditions for labour if they are able to, and we have already addressed the extent to which the ACT model of contract indexation supports this.
- 3.11 To exclude absorption by employers of existing over Award salaries will lead to a significant variation in the effective minimum rates that would apply to employers in the ACT under any such equal remuneration order. Such an outcome in the view of the ACT is inconsistent with the function of the Award as a mechanism to set minimum wages, and would instead create an environment in which Award subject employers would effectively have their own, individual, minimum Award wage rates.
- 3.12 Such an approach would lock in relativities between employers where the use of above award salaries, and the variation between them, had been achieved by employers through efficient operations and the application of market forces over time and reduce the ability of employers to respond to changing market conditions.

Interaction of an equal remuneration order with Community Sector Enterprise Agreements in the ACT

- 3.13 The very great majority of Community Sector employees are already paid above Award salaries. These salaries are typically paid through enterprise agreements that through the operation of S57 of the *Fair Work Act, 2009* (the Act) extinguishes the application of the Award to these employees.
- 3.14 Section 206 of the Act provides a safety net for these employees by ensuring that their base rate of pay cannot fall below the modern award rate that may apply. The operation of these provisions provide for absorption, in that the employer is not subject to the provisions of the Award until increasing Award payments overtake the rates in the enterprise agreement, at which point the obligation on the employer, at a minimum, is to meet the base rate of pay in modern award and thereby return to the embrace provided by S57.
- 3.15 In this situation, an employer paying above Award wages who is not subject to an enterprise agreement would appear to be disadvantaged by an order that does not provide for absorption, when compared with an employer on an enterprise agreement, who cannot be compelled to pay more than the base rate in the Award.

Interaction of an equal remuneration order with contractual arrangements with Community Sector employers

- 3.16 The ACT Government purchases outcomes from the ACT Community Sector. These outcomes are defined in contracts between Sector employers and the ACT Government. These contracts are, in the main, awarded following competitive procurement processes and together reflect the intention, from time to time, of the

ACT Government (and of the ACT Assembly), with regard to the allocation of public resources to achieve outcomes for disadvantaged Canberrans.

- 3.17 An outcome where over Award payments are not absorbed would lead to Section 22A (1) of the *Government Procurement Act 2001 (ACT)*, requires that ‘A territory entity must pursue value for money in undertaking any procurement activity.’ The value for money responsibility allows for the presence and good operation, or otherwise, of a market for particular services to be taken into account, with mechanisms ranging from direct Government provision of services to single source selection available to counter market failure.
- 3.18 In the context created by the above, funding an increase in the price paid for outputs delivered by the ACT Community Sector on behalf of disadvantaged Canberrans qualifies as a procurement activity. More precisely, it might be described as a variation to existing agreements to deliver services.
- 3.19 Section 6.2 of the contracts that the ACT Government enters into with Sector employers in order to deliver services to disadvantaged Canberrans provides that employers can seek a joint review of prices paid under the contract, where costs beyond the control of the employer have risen.
- 3.20 On this basis, a positive response to any request for a review should only be sufficient to ensure that the delivery of contracted services can be maintained to any specified quantity or standard. Support beyond that point may very well fail the value for money test.
- 3.21 The cost impact for each Sector employer is different, based upon the number and classification of their employees, and whether or not, and the extent to which, employers are currently paying above Award salaries.
- 3.22 New services, tendered for following the FWA decision, should be assumed to include the new price of labour and be competed for on that basis.

Inclusion of salary sacrificing arrangements

- 3.23 It is the view of the ACT that salary sacrificing arrangements should not be included in any equal remuneration order.

FBT benefits are not salary

- 3.24 The Productivity Commission¹⁴, in its January 2010 report into the contribution of the not-for-profit sector noted that the use of the Fringe Benefits Tax exemption through Public Benevolent Institution (PBI) status was ‘essentially arbitrary, applying differently to people with the same income and the same job, and benefiting those who know about the concession, (or who are better placed to use it) compared to those who are not.’
- 3.25 It is the view of the ACT Government that FBT benefits are primarily a taxation issue and not a remuneration issue. We note that it is possible for employees of the ACT Government to obtain these benefits where their employment is associated with the operations of a public hospital. Access to these benefits is not the basis for adjustments to the salaries of employees in these hospitals.

¹⁴ Productivity Commission Report on the Contribution of the Not-for-Profit Sector

- 3.26 The inherent inequities and variable impact on workers who are not full time, work variable hours, variable take up rate and so on make the inclusion of FBT benefits into a safety net very problematic.

4. Phasing in of any equal remuneration order

Introduction

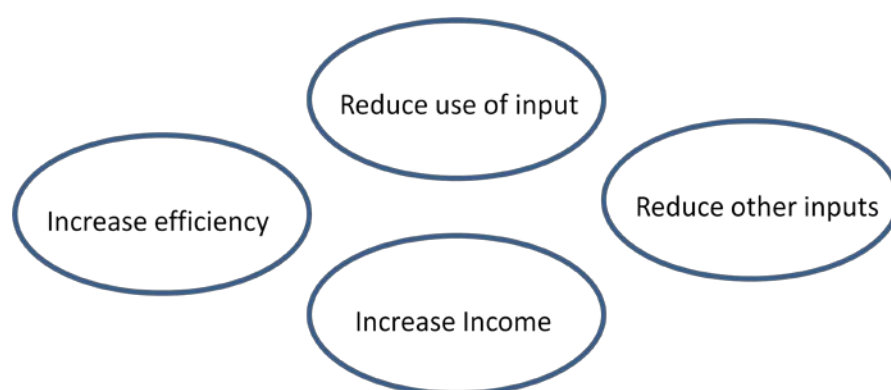
- 4.1 In the first instance, and separate from any decision the ACT Government makes with regard to providing additional support for employers in the ACT Community Sector, the impact of any equal remuneration order will fall first on Sector employers.
- 4.2 The sections above addressed the potential impact in both financial terms and for the potential loss of employment. However, regardless of any support provided by the ACT Government, an equal remuneration order is likely to have a considerable impact beyond a simple financial impact. Issues that employers in the Sector in the ACT are facing now and that are likely to become more pressing in the future as a consequence of an equal remuneration order include, but are not limited to:
- a. **Governance issues** - Many employers in the Sector are no more than small to medium in size and, with very limited resources, need to manage the governance and administrative issues that are common to any institution. Advice from employers in the Sector is that it is very difficult to attract the appropriate level and variety of skills required for good governance;
 - b. **Additional pressure from the for-profit sector – There is likely to be** increased competition between employers and the resulting pressure for rationalisation is likely to result in many governance boards not having necessary skills to guide their organisations in the appropriate direction;
 - c. **Industrial and organisational culture impacts** - Chief among these are those that are caused by changing salary relativities between employees within Sector organisations. As the salary increases are only for those employees who are subject to the Award there will be a number of employees who will not benefit from the increased salary payments. This will lead to a situation where one employee, working side by side with another, may receive a salary increase, while their fellow worker may not;
 - d. **Increase in competition by employers for scarce funds** – Competition by employers for scarce funds will have a negative organisational culture impact in a Sector where employees believe that such competition is at odds with the values of the organisation;
 - e. **Greater skills and qualifications** - It is highly likely that the existing trend in this direction will have the effect of changing the source of Sector employees. Currently, given the very low pay in the Sector, some employees in some fields are those who are low skilled and would struggle to obtain better paying positions in other industries;
 - f. **A shift in the requirements of the Sector** – An increase in salaries may very well have the effect of limiting access to employment for a group for whom the Sector is their best employment option. A reduction in employment opportunities for these people may lead to an increase in unemployment among a group with few alternative employment options; and
 - g. **Change readiness** - Advice from some employers in the Sector is that there are a number of employer governance bodies that will not be able to carry out

this role and that these bodies are simply hoping that the government will fund salary increases.

- 4.3 Meeting these challenges will be made easier for employers in the Sector by a reasonable phase in period for an equal remuneration order. The role of Government agencies in supporting these changes will equally be made easier by a reasonable phase in period.

A universal truth of business

- 4.4 Putting aside for one moment the nature of the business of ACT Community Sector organisations, and focussing for a time instead on their status as employers, the task facing employers following an equal remuneration order can be described as follows. Initially, the equal remuneration order will translate as an increase in their input costs that they have a legal obligation to meet.
- 4.5 ACT Community Sector organisations are not alone in facing such situations, with the for-profit sector regularly facing uncontrollable increases in input costs that, for whatever reason, they are unable to meet, but must manage in order to continue to exist.
- 4.6 A commonly occurring business problem, unsurprisingly, has commonly understood responses. As represented in the diagram below, these standard responses, often applied together in an interrelated way, are to:
- Reduce (if possible) the amount used of the input item with the rising cost, in this case labour;
 - Reduce (where possible) other business input costs;
 - Increase income in an effort to match the rise in input costs; and/or
 - Increase the efficiency of the processes by which inputs are translated into outputs (or in other words, become a more productive organisation so that the rising input cost has less impact);



12. Basic employer options to manage rising input costs

The responsibility of the Community Sector

- 4.7 The first responsibility of each employer in the ACT Community Sector will be, to the greatest extent possible, to seek to apply a mix of these measures to their own circumstances in an effort to minimise the impact of the increasing labour costs.
- 4.8 The January 2010 Productivity Commission Report makes the point that ‘few NFPs would inherently want to be less productive than their potential as this would

mean achieving less of their community-purpose than would otherwise be the case.’¹⁵

- 4.9 Indeed, the logical extension of this point is that employers in the Community Sector have a responsibility to their governing boards, a responsibility to their clients and a responsibility to the agencies that fund them to achieve as much of their community purpose as they possibly can and to consequently be as productive as they can possibly be.
- 4.10 Some of the options open to employers are relatively tactical and may be taken advantage of immediately, or at least very quickly, whereas others are more strategic and will take some time to achieve and may require external assistance.
- 4.11 Equally, some employers will be better able to develop and implement measures to than others. In some cases this will be a consequence of organisational size and resources, in others there will be particular skills available that will allow some organisations to respond more effectively than others.

The responsibility of the ACT Government

- 4.12 Subject to any decision by the ACT Government to provide support, the responsibility of Government is twofold. It must assist the ACT Community Sector in relation to each of these potential areas of response as much as it can. The Government must also ensure that its own operations are as efficient as possible and that they have as little administrative impact as possible upon the operations of Sector employers.
- 4.13 Of course, the most immediately obvious area of Government assistance will be as a source of increased income for Community Sector employers. While Government may provide additional income, for the Sector to simply rely on additional Government provided income without taking steps to improve efficiency would be an abrogation of their responsibilities and an outcome that may not be in the long term best interest of the Sector and of the disadvantaged Canberrans it serves.

A reasonable phase in period for an equal remuneration order

- 4.14 Together, these impacts and consequential issues on both Sector employers and on Government require a reasonable phase in period.
- 4.15 This is likely to be satisfied by a delay of at least six months, and no more than nine months between the issuing of an equal remuneration order and the first payment falling due. Ideally, commencement of the new salaries would coincide with the commencement of a financial year.
- 4.16 A total phase in period, from the issuing of the equal remuneration order, of five years would suffice to allow for the significant changes required to ensure that the Sector develops in a way that strengthens its ability to deliver on its social objectives.

¹⁵ Contribution of the Not-for-Profit Sector – Productivity Commission Research Report January 2010

Appendix A. Report on a census of salary arrangements across the ACT Social and Community Sector – May 2011

A.1 Introduction

- A.1.1 The purpose of this report is to provide sufficient information on the potential salary obligations of employers in the Community Sector (the Sector) in the ACT to allow the ACT Government to:
- a. estimate the potential financial impact upon employers in the ACT Community Sector of the equal remuneration case;
 - b. estimate the financial implications for the ACT Government of increased financial liabilities falling upon employers in the ACT Community Sector; and
 - c. develop options as to how employers and the ACT Government might manage the financial and non-financial impact issues and the extent to which, and conditions under which, the ACT Government might provide assistance
- A.1.2 Issues arising through point c. above are addressed in the related paper *Managing the Impact of the SACS Decision*.

A.2 Scope

- A.2.1 Financial impact for the purposes of this report is defined as the requirement by employers to pay higher salaries for employees who are, or who are likely to be, subject to the *Social, Community, Home Care and Disability Services Industry Award 2010* (the Award) as a consequence of any Fair Work Australia order made to remedy unequal remuneration in the Sector.
- A.2.2 In other words, impact is defined as what employers have to pay as a consequence of the case. It does not make assumptions about what individual employers may choose to pay in the form of above Award salaries.
- A.2.3 Funding, for the purposes of this paper was limited to organisations with service funding agreements with the ACT Government and excluded grant funding, which in the ACT is an insignificant proportion of overall funding and is provided on a one-off basis.
- A.2.4 Not for profit employers operating in the Community Sector in the ACT that are not funded, in whole or in part, by the ACT Government were not invited to participate in the salary census. Validation checks with other sources of information suggested that there are only 12 Sector employers in the ACT with approximately 120 employees subject to the Award who are not funded by or through the ACT Government. This group represents approximately 3% of the total Sector in the ACT.
- A.2.5 Equally, for profit employers who provide services to the Sector were not included in the census, unless they are also directly funded by the ACT Government. For profit and not-for-profit employers in the Sector that provide services to other Sector employers who do receive funding were also excluded.

- A.2.6 Notwithstanding this scope, the data has been sufficient to draw conclusions about the whole of the Community Sector in the ACT, including that portion not funded by the ACT Government.

A.3 Census Methodology

A full census vs. a sample

- A.3.1 Following discussion by the Steering Committee as to whether a sample of employers would provide an adequate picture, or whether a full data set from the whole employer population was necessary, it was agreed to conduct a full census of all Community Sector employers in the ACT funded by, or through, the ACT Government. A full census was chosen over a sample because it was considered that the Sector was comprised of sub-sectors that represented quite different populations of employers, with different organisational structures and salary arrangements, leading to some difficulty in selecting a balanced sample.

The census instrument

- A.3.2 The census instrument was developed by Piazza Research in conjunction with HBA Consulting and with the assistance of Officials from DHCS and from ACT Health.
- A.3.3 The census sought sufficient information from employers to allow the ACT Government to assess the likely impact of the equal remuneration case on both the employer, and on the ACT Government.
- A.3.4 In order to improve the response rate, information sought was limited to that necessary to achieve this objective. While there was an opportunity to seek useful, additional, information from employers, this opportunity was in the main eschewed in order to limit the effort required by employers to complete the census and to retain their confidence that the information sought was focussed on a particular purpose.
- A.3.5 Employers were explicitly advised that the information they provided would identify their organisation and that the data collected would be passed to DHCS for analysis on behalf of the ACT Government.
- A.3.6 The premise behind the design of the census was that the impact of the equal remuneration case would fall differently on employers depending on the nature of their business and on the nature of their classification structure. In other words, the outcome for two employers with the same number of employees, or the same basic salary cost, could be very different depending on a number of variables.
- A.3.7 As a consequence, it was necessary to seek from each Sector employer in the ACT that receives funding from, or through, the ACT Government information on:
- a. The total number of employees – by headcount;
 - b. The total number of employees - by full time equivalent (FTE);
 - c. The number of employees subject to the Award – by headcount;
 - d. The number of employees subject to the Award – by FTE;
 - e. The salary classification structure used by the employer, including the salary range for each level of the classification structure;
 - f. The total number of employees at each level of the classification structure – by headcount;

- g. The number of employees subject to the Award at each level of the classification structure – by headcount;
 - h. The total number of employees at each level of the classification structure – by FTE;
 - i. The number of employees subject to the Award at each level of the classification structure – by FTE.
 - j. The total salary cost for all of the employees at each level of the classification structure.
- A.3.8 The impact of the equal remuneration case will flow through to all those employment costs that are driven by salary. As a consequence, it was necessary to seek from all employers information on:
- a. The cost of overtime payments for employees;
 - b. The cost of any penalties driven by salary (i.e. shift penalties);
 - c. The cost of any allowances driven by salary (i.e. sleep-over allowance); and
 - d. The cost of workers' compensation as a % of total salaries.
- A.3.9 Superannuation costs were assumed to be 9% of salaries for all employers and long service leave costs were assumed to be 1.67% of salaries for all employers.
- A.3.10 A number of contextual and validation questions were also asked. Employers were asked to indicate what percentage ACT Government funding represented of their total program costs in the ACT, in order to establish the overall proportion of Sector funding the ACT Government contributed. Employers were also asked to indicate:
- a. The amount they spent on each program;
 - b. The amount the ACT Government contributed to each program;
 - c. The number of employees funded in each program by the ACT Government – by headcount and
 - d. The number of employees funded in each program by the ACT Government – by FTE.
- A.3.11 When compared with ACT Government records on funding by program, this data allowed for a validation of the information provided by employers and ensured that non-ACT Government funding could be identified and eliminated from the calculation of the overall impact on the Sector and on the ACT Government.
- A.3.12 A copy of the census instrument is at **Appendix A**.

The Census Response

- A.3.13 The salary census conducted via the internet between 17 December 2010 and 28 February 2011.
- A.3.14 In 2009-2010, the ACT Community Service and Health Directorates funded between them 153 organisations through contracts for the delivery of services. Responses were sought from all 153 organisations.
- A.3.15 However, it was recognised prior to conducting the census that a significant number of 153 organisations that are funded by these directorates did not employ workers who were subject to the equal remuneration order sought by the ASU. This is primarily due to decisions around funding being broader than a relationship to any specific industrial instrument. As a consequence, the census process was also used as a mechanism to separate out those

employers who were not subject, as this is not information that is collected during the contracting process.

- A.3.16 Census responses were received from 102 of the 153 organisations, or 66.66%, of the employers operating in the ACT and funded by, or through, the ACT Government. Of the fifty-one organisations from which a response was not received, thirty-nine or 76.47% of the non responding organisations were considered to have a legitimate reason to not complete the census. Legitimate reasons were considered to include one or more of the following:
- a. The employees were not subject to the Award and the employer would not be directly impacted by the equal remuneration case; or
 - b. The organisation was staffed primarily by volunteers; and/or in many cases
 - c. The funding (usually very small amounts, less than \$70k) was not directly used for salaries.
- A.3.17 Most of the employers who did not complete a census were small to very small, and typically received less than \$70,000 in funding from the ACT Government. There were a number of organisations, including one significant sized employer, that were considered to be outside the Award as they primarily employ nurses and other health professionals.
- A.3.18 A better measure of the significance of those employers deemed to fall outside the award is that, in total, the thirty-nine employers represented only 4.28% of the total funding to the Sector by, or through, the ACT Government.
- A.3.19 A further twelve employers failed to complete the census, despite repeated requests. Two of these employers were in the process of being absorbed by two employers who did complete the census. The remaining ten simply did not complete the census. These ten employers represent a total of 3.83% of the total funds provided to the Sector by the ACT Government.
- A.3.20 Excluding those employers who fell outside the impact of the Award, the final response rate, as a percentage of employers was 85%. To improve the significance value of this figure, the same response rate, measured as a percentage of funding by or through the ACT Government, was 96.17% and, as a percentage of employees in the ACT subject to the Award was 92.39%.

Data Quality

- A.3.21 A key feature of the design of the census instrument was ensuring the best possible data quality. Much of the data sought was technical industrial, salary, or salary related, data that would need to be provided by an HR professional, or by a respondent with a good understanding of the cost structure of their organisation. As a consequence, data on allowances, penalty payments and overtime was sought at an aggregated, whole of organisation level as to meet the requirement for each classification was considered too onerous.
- A.3.22 In the event, data quality was better than anticipated. The most significant data issues related to what appear to be decisions by some employers to not provide one or more components of the requested breakdown by classifications of employees who were subject to the Award. In some cases, it may have been an uncertainty about who was or was not subject to the Award. However, as anticipated in the census design, it is likely in the

majority of cases that employers were reluctant to provide the full set of information that so closely identifies the cost structure of their organisation.

- A.3.23 These data issues had been anticipated and a number of validation questions were included in the census, which along with access to validation information provided by the Portable Long Service Leave Authority, DHCS and ACT Health and through access to copies of industrial instruments registered in the ACT through Fair Work Australia. As a consequence, it is possible to have considerable confidence in the quality of the data.
- A.3.24 Nevertheless, observations and conclusions drawn from the numbers in each classification are based on data that represents 75% of the employees subject to the Award. As this data is spread across the spectrum of employers, including large, medium sized and small, it was considered representative enough to contribute to valid conclusions about the classification structure of the Sector.
- A.3.25 Additionally, occasional and obvious data mistakes were corrected through access to validation data and through the application of common sense (worker's compensation cannot be 104% of salary and is almost certainly 4%, for example).

Assumptions used in preparing cost impact estimates

- A.3.26 The following assumptions have been used in preparing the estimated cost to ACT Community Sector employers of increased salaries for employees in the ACT Community Sector.
- a. No consideration has been given to any potential for salary increases for employees who are not covered by schedules B, C, D & F of the *Social, Community, Home Care and Disability Award 2010*;
 - b. The number and mix of services purchased by the ACT Government from the ACT Community Sector will not change during the period within which any increased salaries are implemented;
 - c. The number of employees in the ACT Community Sector will not change during the implementation period;
 - d. The distribution of employees across salary classification levels will not change during the implementation period;
 - e. All estimates of future salaries have been made using top of classification salary rates - no adjustments or estimates have been made to determine point in classification on the basis that collecting the information was too onerous and the prevalence of Enterprise Agreements in the Sector in the ACT means that there is limited commonality amongst employers when it comes to the number of increment points within a classification or even the number of classifications. While it is possible to make assumptions about length of service and progression through increments, it was decided that benefits would not outweigh the simplicity of a top of classification approach;
 - f. All estimates of the impact of future salaries have been made against the salaries contained in the Modern Award. Salaries contained in the *Social and Community Services (ACT) Award 2001* equate to the modern award with the only material differences being for SACS level 3 (approximately 5% reduction) and SACS level 4 (approximately 2.5% reduction). The median salary paid in the ACT is 108% of the ACT SACS Award for SACS 3 and 111% for SACS 4. Given the high

proportion of employers paying above award for these classifications, no specific allowance has been made for transitioning to the Modern Award;

- g. Where employers have classification structures that do not match the eight level structure in the Award, the highest level in the non-matching structure is assumed to be equivalent to a SACS level 8, with other levels distributed down from there;
- h. That annual indexation for contracted Community Sector employers are those published in the ACT Budget Paper No 3, and that the wage price index component of these rate increases applies to 80% of the value of the contract and is 3.7% for 2011-2012 and 4.0% for each of the three years to 2014-15 and will be assumed to be 4.0% for 2015-16 and 2016-17. The remaining 20% of the value of contracts is subject to a CPI based indexation of 3.0% for 2011-2012 and 2.0% for the three years to 2014-15 and will be assumed to be 2.0% for 2015-16;
- i. No allowance has been made for the future intentions of employers to absorb, or not absorb, any over Award salaries currently paid to employees;
- j. Implementation of any increased salaries is assumed to be over five financial years, starting on 1 July 2011.
- k. Current Award salaries are based upon the salaries appearing in the *Social, Community, Home Care and Disability Award 2010*, as published on the Fair Work Australia website from time to time;
- l. Estimates of future salary scales are based upon the salary scales contained on page 7 of the Applicant's Equal Remuneration Submission to Fair Work Australia dated 28 February 2011¹⁶;
- m. Salaries for a five year implementation period have been arranged as evenly as possible in percentage increase terms, between the current Award Salaries and the estimated future salary, with any uneven percentage increases made in the last year and if at all possible, made as a smaller increase in that year;
- n. The proportion of total labour costs for ACT Community Sector employers represented by overtime, allowances, penalties, Long Service Leave, worker's compensation and Superannuation will not change over the period increased salaries are implemented;
- o. All overtime, allowances and penalties have been calculated on the basis of a 38 hour week;
- p. Superannuation contributions have been assumed to be 9% of salaries and Long Service Leave contributions have been assumed to be 1.67% of salaries;
- q. Estimates of workers' compensation has been based on information provided by employers and levied on total salary payments, including overtime, penalties and allowances;
- r. Where, in a small number of examples, an employer has not provided a worker's compensation %, one has been attributed based upon the worker's compensation costs of similar employers;
- s. Where salary or classification data has not been provided by an employer it has been derived where this has been possible from

¹⁶ These salary scales will be replaced by rates determined by FWA, once a decision on the equal remuneration case has been made.

information that has been provided, or from validation information provided from other sources, including industrial instruments available on the public record;

- t. Where insufficient classification information has been provided by employers, % increases each year have been based on the increase for SACS Level 5, or for disability service providers, SACS Level 3 as these levels represent the average classification level;
- u. National wage case increases are based on previous increases and, commencing on 1 July 2011 and for each of the next five years, are assumed to start at \$26 per week, or \$1352 annually, by FTE, and advanced by \$2 per year to \$34 per week in July 2015;
- v. All existing employer salaries will be advanced by 3.5% from 1 July 2011 and by 4% for each year after that to reflect the indexation for wages built into contracts between the ACT Government and the ACT Community Sector. Unless there is a clear note in their Enterprise Agreement that advises a different rate¹⁷;
- w. No estimate, account or adjustment has been made for timing or potential quantum of negotiations for new Enterprise Agreements among Community Sector employers and their employees in the period leading up to the FWA decision, or over the period of implementation for any increase in the Award, for any salary increase that is above the indexation provided for in contracts between ACT Sector employers and the ACT Government;
- x. Funding agreements below \$60K have been treated as single salaries, rather than attempt to calculate out the proportion of different classifications that might apply;
- y. The cost of salary increases has not been discounted for the small number of employers where either the existing salary, or the increased salaries would exceed the maximum salaries that can be subject to a Modern Award; and
- z. Unless specifically advised in the census returns, the cost of allowances and penalties, as a % of salaries, is derived from the Award, rather than from Enterprise Agreements, where these might exist, and as such may vary slightly from those actually paid by employers.

Census Data Analysis

- A.3.27 The census results were analysed using Microsoft Excel. Summary data from the whole population of ACT Community Sector employers that responded to the census has been used in preparing this report.
- A.3.28 In all cases, N is 102.
- A.3.29 There is a future opportunity to conduct additional analysis of the data by individual funding program.

The Census and Consultation with the ACT Community Sector

- A.3.30 In order to achieve the highest possible rate of census returns, DHCS wrote on a number of occasions to all employers in the Sector that received funding from, or through, the ACT Government. Three letters were sent between September and December 2010 to progressively advise employers that:

¹⁷ Note the current average national wage increase to March 2011 is 4.2%, based on ABS data.

- a. The equal remuneration case had the potential for significant salary increases. Employers were advised in this letter that the ACT Government needed to understand the impact of the case, in order to plan for it, and that information may be sought from employers;
- b. That a decision had been made by the ACT Government to conduct a census of salary arrangements and that the census would be developed;
- c. Just prior to the distribution of the census, employers were advised that the census was being distributed and were reminded of the importance of the Government having good information on the likely impact in order to make assessments regarding any assistance that may be provided; and
- d. One week before the census closed, employers who had not yet commenced the census or not yet completed it were written to seeking their compliance.

A.3.31 The census instrument was distributed electronically on 17 December 2010 to all 153 employers in the Sector. Given the disruption to normal processes over the Christmas period, employers were given an extended deadline of 28 February to complete the census.

A.3.32 A very small number of employers indicated that they could not meet the deferred deadlines, but did intend to complete the census. These employers were individually contacted to make sure that responses were provided.

A.4 The size of the ACT Community Sector

- A.4.1 Determining the size of the ACT Community Sector is difficult due to differing definitions of what comprises the Sector. For the purposes of this paper, the Community Sector is limited to those employers who are providing services using employees who are subject to the SACS Award.
- A.4.2 The salary census was designed to provide an assessment of the cost of the equal remuneration case to employers who are funded by, or through, the ACT Government. However, sufficient data was collected to allow for some broad assessments of the overall cost to the whole of the ACT Community Sector, including for those employers who are not funded by the ACT Government.
- A.4.3 Based upon data from the Portable Long Service Leave Authority, there are approximately 3,798¹⁸ employees working in the Community Sector in the ACT, excluding child care employees. As the portable long service scheme for the Sector in the ACT is still relatively new, this number is likely to increase slightly. The definition of the Sector used by the Authority is slightly broader than that applied to determine who is subject to the Award¹⁹.
- A.4.5 Responses to the salary census indicated that there were 2,980 employees in the Sector, employed in programs funded by the ACT Government, excluding childcare. This figure includes a number of employees who are not subject to the Award. Adding an estimated additional 289 employees employed by those employers who did not fill out the salary census, gives a total of 3,269. On this basis, Community Sector organisations funded by the ACT employ 86.07% of all of the Sector employees in the ACT, excluding childcare and aged care workers.
- A.4.6 The remaining 529, or 13.93%, of employees that represent the difference between census data and LSL Authority data is made up of managerial and executive employees, employees who are employed at the employer's cost on programs that are funded by, or through, the ACT Government, and by employees of a small number of Community Sector organisations that do not receive ACT Government funding at all.

ACT Community Sector Employee Population	Employee Number	Proportion of Total
Estimated total number of employees in ACT Community Sector – excluding child care and aged care employees ²⁰	3,798	100%

¹⁸ Despite precise numbers being used, all figures should be considered estimates as at end February 2011. There may also be a small number of organisations that have been overlooked, despite best efforts.

¹⁹ The Portable Long Service Leave Authority's definition of the Community Sector differs from the Award definition in that it includes child care workers – to obtain the estimate above, child care workers were stripped from the Authority's total employee figures. Neither the Award, nor the Authority's definition includes aged care workers.

²⁰ Based on a combination of salary census and Portable LSL Authority returns.

Estimated Total number of employees in ACT Community Sector employed by ACT Government funded organisations – excluding child care and aged care employees	3,269 ²¹	86.07%
Total number of employees in ACT Community Sector employed by ACT Government funded organisations and subject to the Award – excluding child care and aged care employees	2,865	75.43%
Total number of Full Time Equivalent employees in ACT Community Sector employed by ACT Government funded organisations and subject to the Award.	1,802	N/A
Estimated Sector employees unaccounted for in salary census	529	13.93%

13. Estimates of total ACT Community Sector employees, including employees subject to the Award

- A.4.7 The estimate of the total number of employees in the Sector in the ACT who are subject to the Award is slightly lower than this. Census returns indicated that 2,576 employees in the ACT are subject to the award. If the 289 estimate of the employee numbers in the non responding employers are assumed to all be subject to the award, the proportion of all employees subject to the award in the ACT is 75.43%.
- A.4.8 The total estimated cost of the equal remuneration case to Community Sector employers in the ACT, comprises:
- Employees who are subject to the award and are employed on programs funded by the ACT Government (see tables above);
 - Employees who are subject to the award and are employed at the employers expense on programs whether or not those programs receive ACT Government funding; and
 - Employees of employers who receive no funding from the ACT Government.
- A.4.9 The salary costs in addition to those shown in the tables above are made up of the estimated 289 employees of organisations that did not complete the salary census, all assumed to be subject to the Award and the 529 employees employed on non-ACT Government programs or in organisations not funded by the ACT Government.
- A.4.10 The 529 employee number has been discounted by 25% to reflect the same proportion subject to the award found across ACT Government funded programs, giving a total of an additional 686 employees when the non-census response employees are added.
- A.4.11 The 686 employees have been considered to be employed at an average of a SACS 5, with 80% to be receiving the ACT average SACS 5 salary (see table 9) and the remaining 20% to be receiving Award salaries.

Total number of Community Sector organisations in the ACT

- A.4.12 Returns for the Portable Long Service Leave Authority, once child care providers have been excluded, indicate 165 employers in the Sector in the ACT, which exceeds the 153 with funding contracts with the ACT Government by 12. These Sector employers who do not have contracts with the ACT Government are estimated to employ a total of 140 employees.

²¹ This figure includes an estimate of 289 employees for funded organisations that did not provide a census return.

- A.4.13 On the basis of the above, it is clear that the ACT Government, through its own payments and those it makes on behalf of the Commonwealth, is the dominant funder of the Community Sector in the ACT and that there are relatively few employees who are not funded by the ACT Government to a greater or lesser degree.
- A.4.14 For comparison purposes, it should be noted that the ACT Government's 84.39% share of the total proportion (by funding totals) of community services provided in the ACT is a close match for the 86.7% of Sector employees that is funded by the ACT Government.

A.5 Cost of the equal remuneration case to ACT Community Sector Employers

Introduction

- A.5.1 The census results fall into two principle categories. The first category is information on the potential overall cost impact of the equal remuneration case outcome on employers undertaking programs funded by the ACT Government. The results provide information both by individual employer and for the Sector as a whole. This information applies to each of the likely five years of the implementation period.
- A.5.2 The second category of census results is that which provides more general insights into the size, shape and structure of the Community Sector in the ACT and to some extent, the differing business models that apply. These broader results will be addressed separately.

Estimated cost of increased salaries to whole of Sector employers

- A.5.3 This section considers the potential cost of the equal remuneration case to ACT Community Sector employers for those programs that are funded by, or through, the ACT Government.
- A.5.4 Design of the census was primarily to determine the impact in relation to ACT Government funded programs. In conjunction with other data, it is nevertheless possible to make a broad judgement regarding the overall of the case for both employers and programs not funded by the ACT Government. However, it must be stressed that conclusions about the Sector beyond ACT Government funded programs are indicative only.
- A.5.5 Fair Work Australia determined on 16 May 2011, among other things, that:
*'We record our view, reached on the material before us, that for employees in the SACS industry there is not equal remuneration for men and women workers for work of equal or comparable value by comparison with state and local government employment. Turning now to the nature of the remedy, our preliminary view is that any equal remuneration order we make should take the form of an addition to rates in the modern award. The addition could take the form of a specific monetary amount or amounts or a percentage.'*²²
- A.5.6 The paper will consider three alternative outcomes for a future decision on a remedy for unequal remuneration in the Community Sector. These are:
- A Scenario One, which will assume that following further evidence, Fair Work Australia will make an order equal to two-thirds of the Application by the Australian Services Union (ASU).
 - A Scenario Two, which will assume an order equal to eighty-five percent of the Application by the ASU; and
 - A Scenario Three, which will assume an order equal to the Application by the ASU.
- A.5.7 With regard to all of the possible outcomes, it is important to maintain a distinction between the potential cost to employers, based on their responsibility to meet minimum salary requirements as defined in the Award

²² FAIR WORK AUSTRALIA DECISION - *Fair Work Act 2009* s.302—Equal remuneration order, 16 May 2011

from time to time, and the implications for the ACT Government and other funding agencies. These implications are addressed separately.

Likely salary cost to the overall sector

A.5.8 An estimate of the total number of employees in the Sector allows the total salary bill for employers for the whole Sector in the ACT to be estimated, including allowances and penalties, workers' compensation, and portable long service leave. The figure of \$95.59m appears to be somewhat low, given a total spend across the sector estimated from census returns at approximately \$140m. However, when administrative overheads, non-salary program costs and the estimated cost of services purchased by the Community Sector from the private sector are taken into account, the total Sector salary figure appears reasonably accurate.

Total ACT Sector Salary Bill under selected alternative FWA outcomes	Current 2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Scenario One – 66.6% of Application	\$95.59m	\$101.48m	\$107.59m	\$114.07m	\$121.10m	\$127.89m
Scenario Two - 85% of Application	\$95.59m	\$102.40m	\$109.46m	\$116.98m	\$125.14m	\$133.11m
Scenario Three – 100% of Application	\$95.59m	\$103.25m	\$111.19m	\$119.74m	\$129.04m	\$138.19m

14. Likely total salary bill for the ACT Community Sector under each of three alternative FWA outcomes

Cost of whole of Sector salary increase over implementation period

A.5.9 The parameters for the potential cost of the equal remuneration case for employers are defined by the function of employer's capability to pay higher salaries and by their intent to pay higher salaries.

A.5.10 The role of capability to pay is obvious, as employers face the likelihood of a legally binding and significant increase in input costs with much less certainty around the possibility of a matching increase in income. Intent to pay, however, must also be a consideration in estimating options for the overall cost to employers. **This is because most employers in the ACT currently pay above award salaries, and may intend, or seek to continue, to maintain an existing relativity above an increasing Award, if at all possible. Such an approach would maintain any advantage they had established in attracting and retaining the best employees.**

A.5.11 Such a possibility leads to two broad alternative cost outcomes for each employer and for the Sector as a whole. These are:

- The cost to employers should they absorb all of an increase to the Award using any over Award payments that they may currently make to employees; or
- The cost to an employer if they increase salaries by all of the amount awarded by FWA, regardless of whether they currently pay above Award salaries.

- A.5.12 Of course, the intentions of individual employers are not currently known. Some may intend to fully absorb any existing over award payments. Some employers may intend to mix their response, absorbing some of the increase, but not all, while other employers, possibly a majority, may not be able to make a decision about their intent until after a decision is made by FWA.
- A.5.13 No assumptions have been made about the intentions of employers to absorb or not absorb. However, the estimates in this paper assume that all employers will absorb some or all of any salary increase through existing over Award salaries that they may pay.
- A.5.14 The table below shows the impact for the low, medium and Scenario Threes from FWA. Each of the tables includes:
- The annual cost impact of the equal remuneration case only. This cost excludes the impact of National Annual Wage Reviews and excludes the effect of the contract indexation that the ACT Government makes to each contracted employer;
 - The annual impact of the equal remuneration case, shown with the compounding effect of NAWR and with the effect of contract indexation, leaving the likely financial impact on Community Sector employers; and
 - The cumulative impact of the equal remuneration case, including NAWR impact and indexation, over the implementation period of five years.

Whole of Sector Yearly impact of Alternative Salary Outcomes	Impact 2011-2012	Impact 2012-2013	Impact 2013-2014	Impact 2014-2015	Impact 2015-2016
Low Cost FWA Outcome – ERC only, excludes NAWR & ACT indexation	\$3,651,514	\$3,798,640	\$3,958,294	\$4,116,746	\$4,060,069
Low Cost FWA Outcome, including NAWR and ACT Gov Indexation	\$169,223	\$415,766	\$1,124,465	\$2,221,496	\$3,884,477
Low Cost FWA Outcome - Cumulative Impact	\$169,223	\$584,989	\$1,709,453	\$3,930,949	\$7,815,426
Medium Cost FWA Outcome – ERC, excludes NAWR & ACT Gov indexation	\$4,613,713	\$4,802,945	\$5,053,318	\$5,315,751	\$5,289,373
Medium Cost FWA Outcome, including NAWR and ACT Gov Indexation	\$249,557	\$832,602	\$2,157,530	\$4,380,476	\$7,539,059
Medium Cost FWA Outcome - Cumulative Impact	\$249,557	\$1,082,160	\$3,239,689	\$7,620,165	\$15,159,224
High Cost FWA Outcome – ERC only, excludes NAWR and ACT Gov indexation	\$5,441,225	\$5,726,305	\$6,135,302	\$6,510,740	\$6,547,379
High Cost FWA Outcome, including NAWR and ACT	\$300,220	\$1,245,336	\$3,613,307	\$7,091,490	\$11,682,496

Gov Indexation					
High Cost FWA Outcome - Cumulative Impact	\$300,220	\$1,545,557	\$5,158,863	\$12,250,353	\$23,932,849

15. Summary of possible equal remuneration case cost outcomes for employers on the whole of the ACT Community Sector assuming full absorption of current over award payments

- A.5.15 The tables above were constructed by escalating for each of the three possible outcomes the current Award salaries in even increments over five years till they reached either 100%, 85% or 66.6% of the level sought in the equal remuneration application to FWA. Existing employer salaries for all employers were escalated by 3.5% for 2011-2012 and then by 4%, each year, or by the % increase outlined in the employer's Enterprise Agreement (if available or different)²³. These salaries were then compounded by an estimate each year for National Annual Wage Review (NAWR) increases starting with a flat \$26 for 2011 and rising by \$2 for each subsequent year.
- A.5.16 The total difference was then determined between the new award salaries for each of the three alternate outcomes, and the salaries that each employer in the ACT currently pays, or would pay for each year over the five year implementation period, after fully absorbing any existing over award salary payments.
- A.5.17 Twenty-four employers (representing approximately 25% of total employee numbers) did not provide disaggregated data on salaries by classification and employee numbers. These employers were initially treated as if they were paying the Award, which is the minimum legal payment that they can make.
- A.5.18 However, it is highly likely that a significant number of these employers are in fact paying over award salaries to their employees, despite not providing the detail in their census responses. An adjustment has been in the final estimates by assuming that twelve of the twenty four employers where Award status is uncertain have been assumed to be paying the average ACT salary for each classification. This treatment has the effect of slightly lowering the financial impact.

Cumulative Cost Impact on Whole of Sector Employers With Over Award Payments Absorbed	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Scenario One	\$169,223	\$584,989	\$1,709,453	\$3,930,949	\$7,815,426
Scenario Two	\$249,557	\$1,082,160	\$3,239,689	\$7,620,165	\$15,159,224
Scenario Three	\$300,220	\$1,545,557	\$5,158,863	\$12,250,353	\$23,932,849

16. Adjusted impact of the equal remuneration case on ACT Government for anticipated but not reported over Award payments.

²³See assumptions – The 3.5% and 4% increase is based upon the figure published on page 76 of the ACT Budget Paper 3 for 2011-2012 for the estimated wage price index component of indexed increases in funding to Community Sector employers.

Potential for unquantified cost exposure

- A.5.19 There is an area of potential financial exposure that cannot be fully quantified by either the Portable Long Service Scheme data, or the salary census data. Data provided by employers, supported by discussions with some employers, indicate that a business model employed by some employers in the Sector makes use of employees sourced from third party organisations.
- A.5.20 The project was informed by some employers that their model was to provide a brokerage service, in which as little as 20% of ACT Government funding was used to employ employees, with the remaining 80% used to deliver services through third party suppliers. These third party suppliers may be either not-for-profit Community Sector employers, for profit employers, either as employees of labour hire businesses, or as employees of specialist for-profit providers of services. In some cases, the third party providers are independent contractors, who in turn may be legitimate independent contractors, or who may be contractors under a sham contracting arrangement. Finally, a number of these third party providers may provide services from across the ACT border.
- A.5.21 The employees of these third party employers may, or may not, be subject to the Award, depending on the nature of the service provided. As such, it is very difficult to estimate both the size of this third party sub-group of service providers and also the proportion of this sub-group that may be subject to the Award and consequently, to salary increases that will be passed on to the not-for-profit service providers contracted by the ACT Government.

Potential Private Sector Exposure	Impact 2011-2012	Impact 2012-2013	Impact 2013-2014	Impact 2014-2015	Impact 2015-2016
Scenario One	\$25,383	\$87,748	\$256,418	\$589,642	\$1,172,314
Scenario Two	\$37,434	\$162,324	\$485,953	\$1,143,025	\$2,273,884
Scenario Three	\$45,033	\$231,833	\$773,829	\$1,837,553	\$3,589,927

17. Estimated third party exposure of ACT Community Sector employers to equal remuneration case salary increases

A.6 Financial Impact upon the ACT Government

Introduction

- A.6.1 This paper has earlier made it clear that the responsibility for additional salary costs as a result of the SACS case falls on employers. The question for governments around Australia will be whether or not they should assist Community Sector employers manage the impact of a significant increase in their input costs that is beyond their control.
- A.6.2 The ACT Government has not yet made a decision about the extent and nature of any support that it may provide to employers in the Sector in the ACT, although the information gained through the census process will contribute significantly to any decision made.
- A.6.3 Nevertheless, it should be noted that the Territory holds contracts with employers in the ACT Community Sector. These contracts were, in the main, awarded following competitive procurement processes and reflect at any time the intent of the ACT Government and of the ACT Legislative Assembly, with regard to the allocation of public resources to achieve outcomes for disadvantaged Canberrans.
- A.6.4 Section 22A (1) of the *Government Procurement Act 2001*, requires that ‘A territory entity must pursue value for money in undertaking any procurement activity.’ The value for money responsibility allows for the presence and good operation, or otherwise, of a market for particular services to be taken into account, with mechanisms ranging from Government provision of services to single source selection available to counter market failure.
- A.6.5 Section 6.2 of the contracts that the ACT Government enters into with Sector employers in order to deliver services to disadvantaged Canberrans provides that employers can seek a joint review of prices paid under the contract, where costs have risen beyond the control of the employer.
- A.6.6 In the context created by the above, funding an increase in the price paid for outputs delivered by the ACT Community Sector on behalf of disadvantaged Canberrans qualifies as a procurement activity. More precisely, it might be described as a review process that could lead to a variation to existing agreements to deliver services.

Basis for assessing the impact on the ACT Government

- A.6.7 A remedy for unequal remuneration due to gender will be determined by the Full Bench of Fair Work Australia following further submissions from parties to the case.
- A.6.8 In advance of that decision, the possible impact on the ACT Government is based on three estimated alternative decisions of FWA. These possible outcomes are meant to be representative for the purpose of estimating potential costs and are not intended to precisely anticipate an outcome. The possible FWA outcomes used for costing purposes are:
- a. salary increases that are in line with the Application by the ASU, which will be described as the Scenario Three;
 - b. salary increases that equal eighty-five percent of the Application by the ASU, which will be described as the Scenario Two; or
 - c. salary increases that equal two-thirds of the Application by the ASU, which will be described as the Scenario One.

Support only where Award salaries rise above existing salaries

- A.6.9 In this scenario, employers are expected meet their obligation to pay salaries that are no less than the Award. Those employers who employ their workers on Enterprise Agreements, have through that process, extinguished the application of the Award over their workers. Unless, of course, their salaries drop below the minimum in the Award and they trigger the provisions of Section 206 of the *Fair Work Act 2009*.
- A.6.10 Over the five year implementation period for increased salaries, this scenario costs support by the ACT Government where Award salaries overtake the salaries paid by an employer. In simple terms, ACT Government support is estimated for any gap between current salaries paid and new Award salaries.
- A.6.11 The table below shows the likely impact upon the ACT Government budget over the five year implementation period using three possible Award outcomes from the FWA decision. The table assumes that no additional funding will be provided to employers who are paying above award salaries, but shows the cumulative cost of meeting the cost to all ACT Community Sector employers of all salary payments over the implementation period, but only once the Award salary increases above the current or anticipated salary payments of each employer.
- A.6.12 A number of employers (24, representing 11% of employees) did not provide aggregated salary information and did not provide the breakdown by classification required. These employers could be treated as if they were paying the Award, which is the minimum legal payment that they can make. However, it is highly likely that a significant number of these employers are paying over award salaries to their employees, despite not providing the detail in their census responses.
- A.6.13 The table below shows the likely impact upon the ACT Government budget if some of the employers who did not provide detailed salary data are assumed to be paying the average ACT salary for each classification. Ideally, the proportion of employers assumed to be paying above Award salaries would match the proportion of employers who specifically advised that they were paying the Award and were not paying over Award salaries. These employers represent only 5.03% of the total number of employees in the Sector, which reflects the bias towards smaller organisations being more likely to pay Award salaries. However, on a conservative basis, twelve, rather than twenty-one of the twenty-four employers where Award status is uncertain have been assumed to be paying the average ACT above Award salary for each classification.

Cumulative Cost Impact Adjusted for likely but not reported over Award salaries	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Scenario One	\$135,378	\$467,991	\$1,367,563	\$3,144,759	\$6,252,341
Scenario Two	\$199,646	\$865,728	\$2,591,752	\$6,096,132	\$12,127,379
Scenario Three	\$240,176	\$1,236,445	\$4,127,091	\$9,800,282	\$19,146,279

18. Likely impact on ACT Government budget taking account of likely but not reported over Award salary payments

- A.6.14 The tables above show the impact of the equal remuneration case in financial terms, with costs in all scenarios escalating, even if at different rates, as the

gap between salaries paid and likely to be paid, steadily diverge from the salaries that will be required to be paid following the completion of the case.

A.6.15 This perspective can also be presented in organisational and in human terms. The table below shows the proportion of the 102 employers who responded to the census, who would be unaffected by the anticipated salary increase for each year of the implementation period, given the assumptions underpinning this paper.

A.6.16 The second table presents similar information, showing instead the proportion of workers who would be unaffected by the anticipated salary increase for each year the implementation period. Not surprisingly, the proportion unaffected shrinks in line with the rise in costs for each of the selected outcomes from FWA, but still demonstrates that some ACT salaries are sufficiently above any of the alternative Award options to be not impacted at all.

Percentage of ACT Community Sector employers that will not be affected by the ERC at each year of implementation	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016
High Cost FWA Outcome – 100% of Claim	63.72%	53.92%	27.45%	13.72%	9.80%
Medium Cost FWA Outcome – 85% of Claim	67.65%	59.80%	43.14%	26.47%	13.73%
Low Cost FWA Outcome – 66.6% of Claim	71.4%	66.66%	56.86%	45.09%	31.37%

19. Percentage of ACT Community Sector employers who would remain unaffected by the equal remuneration case – given different possible outcomes

Percentage of ACT Community Sector workers that will not be affected by the ERC at each year of implementation	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016
High Cost FWA Outcome – 100% of Claim	90.52%	65.08%	31.08%	16.87%	7.51%
Medium Cost FWA Outcome – 85% of Claim	90.52%	74.55%	43.20%	31.07%	14.74%
Low Cost FWA Outcome – 66.6% of Claim	90.52%	89.48%	66.65%	45.80%	34.38%

20. Percentage of ACT Community Sector workers subject to the Award who would remain unaffected by the equal remuneration case – given different possible outcomes

Impact of Transitional arrangements for Modern Award

A.6.17 All estimates of the impact of future salaries have been made against the salaries contained in the Modern Award. Salaries contained in the *Social and Community Services (ACT) Award 2001* equate to the salaries in the modern award, with the only material differences being for SACS level 3 (approximately 5% reduction in the modern award) and SACS level 4 (approximately 2.5% reduction in the modern award).

A.6.18 The median salary paid in the ACT is 108% of the ACT SACS Award for SACS 3 and 111% for SACS 4. Given the high proportion of employers paying above award for these classifications, particularly through enterprise

agreements, no specific allowance has been made for transitioning to the Modern Award. It is anticipated that alignment with the modern award can be achieved without significant impact.

Likely total Cost

A.6.19 The likely total cost of the case, under different possible outcomes delivered by Fair work Australian is outlined in the table below.

Final Likely impact on ACT Government budget	Impact 2011-2012	Impact 2012-2013	Impact 2013-2014	Impact 2014-2015	Impact 2015-2016
Scenario One 66.6% of Claim	\$207,611	\$707,532	\$1,960,88	\$4,351,77	\$8,147,027
Scenario Two 85% of Claim	\$237,080	\$1,028,052	\$3,077,705	\$7,239,157	\$14,401,263
Scenario Three 100% of Claim	\$285,209	\$1,468,279	\$4,900,920	\$11,637,835	\$22,736,206

21. Alternative final likely impact on ACT Government budget, taking account of not reported over award payments and potential exposure to private sector costs

A.7 Factors influencing the variable cost of salary increases between employers

- A.7.1 **The most significant finding from the census with the potential to impact upon the salary cost in the ACT of any equal remuneration decision by FWA is that the salaries paid to employees in the Community Sector in the ACT are primarily set by the market and not by the Award.**
- A.7.2 This finding has a major impact on the extent to which a FWA decision will impact upon the ACT, the timing of that impact and upon the strategies the ACT Government might employ to assist employers manage the impact. Indeed, as one employer made clear in the notes section of the census, *“staff are not paid according to the award on the basis that the market in Canberra would not enable us to recruit suitably skilled, experienced and trained staff if we were to limit wage packages to the award.”*
- A.7.3 Over award payments to employees can be made in three ways. They can be made through Enterprise Agreements, through simply paying above award salaries (modern awards are minimum rates awards), or through common law employment contracts. The census did not seek information on the employment instrument used by employers as this was irrelevant to the primary purpose of the census.
- A.7.4 On the surface, the high level of over award payments appears to differ from the results obtained through the HBA Review of the Industrial Arrangements in the ACT Community Sector, which indicates in Report One of July 2010 that 31% of employers draw ordinary base rates of pay from the Award.
- A.7.5 The results, however, are not necessarily in conflict. The HBA report indicates the percentage of employers who draw upon the Award for ordinary base rates and allows for employers to draw base salaries from more than one instrument. The salary census seeks information on the actual salaries paid to employees, regardless of the industrial instrument under which the salaries are paid, and shows the percentage of employees that receive above award payments, rather than the number of employers.

Award and Above Award Salaries in the ACT Community Sector	Number of Employers	Number of Employees Represented	Percentage of Funding Represented
Employers Paying above Award	68	2,163	83.89%
Employers Paying the Award	12	130	5.03%
Uncertainty over Salary Levels	24	283	10.99%
Totals	104	2,576	100%

22. Employers paying award and above award Salaries, including those employers who did not indicate and for which there was no third source of validation data

- A.7.6 Responses to the salary census show that twelve employers representing only 5.03% of the total ACT funding base indicated that they paid salaries that matched the Award rates. Not surprisingly, these employers were concentrated amongst the smaller employers, with ten of the twelve receiving funding of less than \$400k per year. Two larger employers indicated that they paid award salaries in the ACT and both were ACT branches of national Community Sector employers.

- A.7.7 The level of salaries for a further twenty four employers representing 10.99% of employees could not be established as the data provided by their employers did not include classification levels and associated salaries and no validation data was available that could indicate their salary levels. It is likely that this information was not provided by these employers due to sensitivity over revealing detailed information about the cost structure of the employer.
- A.7.8 Employers where the salary was uncertain have been costed if they paid the Award rate. However, it is unlikely that all of these employers do pay Award rates, given the robust nature of the salary market for the Sector in the ACT. Final cost estimates will contain sensitivity analysis that will presume, for both large and small employers that a representative percentage does pay above Award salaries.
- A.7.9 Nevertheless, 68 employers, representing 83.89% of employers indicated, with associated salary scales, that they paid their employees above Award salaries. These employers are skewed somewhat towards the larger employers, with the largest twenty four employers, representing some 70% of total funding, and 65% of all employees, all paying above award salaries.

SACS Classification Level	Number of ACT Gov Funded SACS Employees	Proportion of total employee population	Current Average ACT Salary for each Classification	Percentage of Current Award
SACS Level 8	98	5.31%	\$ 75,971.71	131.66%
SACS Level 7	66	3.58%	\$ 62,442.10	114.70%
SACS Level 6	122	6.61%	\$ 57,593.62	112.54%
SACS Level 5	401	21.73%	\$ 53,428.04	111.51%
SACS Level 4	213	11.54%	\$ 47,970.42	107.19%
SACS Level 3	511	27.70%	\$ 45,075.00	111.29%
SACS Level 2	228	12.36%	\$ 39,921.58	105.67%
SACS Level 1	206	11.17%	\$ 36,722.56	106.08%
Totals	1845 ²⁴	100%		

23. Average ACT Community Sector salaries by numbers of employees and by classification

- A.7.10 Over award payments are greatest for the higher classification levels, with average payments to SACS level 8 being more than 130% of the Award salary.
- A.7.11 Over award payments then fall as a percentage of the award in a relatively smooth curve that is consistent amongst all employers, with a disruption to the curve at SACS level 3 that will be discussed in more detail below.

Distribution of employees across the classification structure

- A.7.12 The distribution of employees across the classification structure is one of the most significant drivers of increased salary costs for employers. This is because the potential increases in salary sought by the application to FWA, and using the Queensland decision of May 2009 as an example, are likely to be greater in percentage increase terms for those employees on higher classifications than for those employees on lower classifications.

²⁴ This total does not match the total number of employees for the Sector as some employers provided total numbers and salaries, but no breakdown of numbers by classification.

SACS Classification	Number of Employees	Total % Salary Increase Sought
SACS Level 8	98	151.25%
SACS Level 7	66	148.14%
SACS Level 6	122	144.65%
SACS Level 5	401	133.32%
SACS Level 4	213	129.01%
SACS Level 3	511	123.39%
SACS Level 2	228	120.04%
SACS Level 1	206	117.70%

24. Proposed salary increases for each of the eight SACS Award classifications

- A.7.13 The table above shows the eight-level Award classification structure, with the number of employees reported for each level in the ACT and the overall % rise for the classification sought in the Application to FWA.
- A.7.14 Employers only provided sufficient detailed classification information for 75% of sector employees subject to the Award. However, as the 75% that was provided is representative of the Sector, it is considered to provide an accurate representation of the distribution of employees across classifications.
- A.7.15 From the table it can be clearly seen that the salary impact for each employer will depend significantly on the distribution their employees across the classification structure, with the total cost driven by the number of employees at any particular level in the structure.
- A.7.16 Employers with a workforce structured from the lower classifications will be significantly less affected than those employers who have a more highly structured classification profile.
- A.7.17 The ramifications of this likely difference in outcomes for different classifications is that each employer will need to develop a specific implementation strategy based on their own circumstances in order to manage the impact. Equally, when assessing how best to support the Sector to manage the impact, governments, including the ACT Government, will need to tailor approaches that are able to meet the very specific needs of different employers.

5. Broader Salary Census Findings

- 5.1 The primary purpose of the ACT Community Sector salary census was to provide sufficient information to allow the ACT Government to make informed judgements about the likely cost of the equal remuneration case and about the potential impact upon the ACT Government budget of the case.
- 5.2 In addition to meeting this objective, a number of incidental conclusions can be reached, along with a number of areas for further analysis and recommendations for future action.

Observations about the ACT Community Sector

- 5.3 Detail about the size of the ACT Community Sector is contained above. However, it is worth observing that the total number of employed persons in the ACT at March 2011 is 205,800 and that the 3,798 Community Sector workers (excluding child care and aged care workers) comprises 1.85% of total ACT workforce. Community Sector workers in the ACT who are subject to the Award represent 1.39% of the total number of employed persons in the ACT.
- 5.4 It is impossible to know how this figure compares to other jurisdictions as the ACT is currently the only jurisdiction with sufficiently detailed data on the Sector. The NSW Treasury estimate 27,835 FTE subject to the Award and employed in the Sector in NSW. Converting this figure into a total employee figure using the ACT ratio of 58.7 FTE for every 100 employees, gives a total of 39,330, which represents 1.08% of employed persons in NSW.
- 5.5 Looked at another way, the Government funded Community Sector FTE in the ACT equates to 0.5% of the ACT population, whereas the Government funded FTE in NSW is 0.38% of the NSW population.
- 5.6 Separately the ratio of approximately 6 FTE for every 10 employees in the Sector in the ACT highlights the prevalence of part-time and casual working arrangements in the Sector.

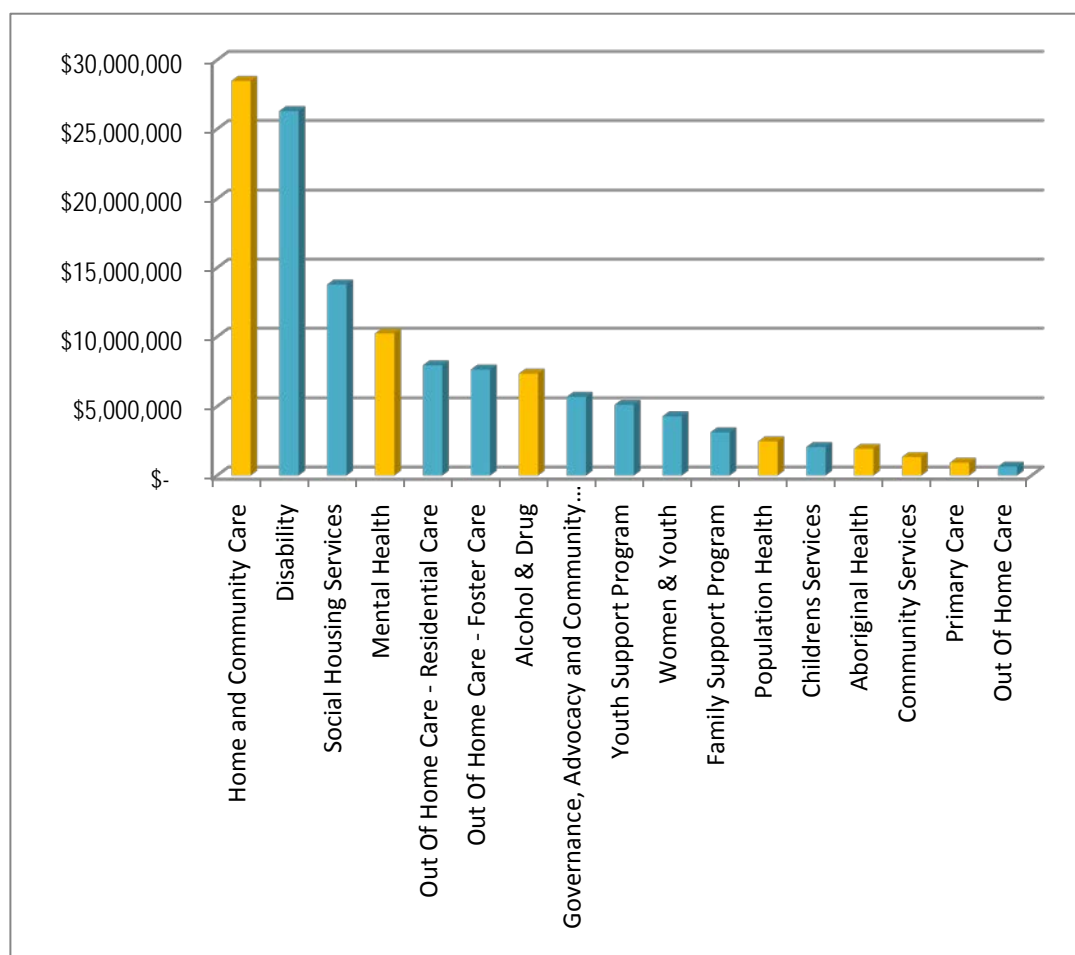
Total Community Sector spending in the ACT

- 5.7 Respondents to the salary census were asked to nominate the proportion of their budgets that ACT Government funding represented. All respondents to the census answered this question.
- 5.8 Based on the responses, the 104 ACT Community Sector employers who responded to the census (representing 92% of ACT funding, including those employers who were not required to respond to the census) received \$119m in 2009-2010 in ACT Government funding, which represented 58.6% of their

combined \$203m²⁵ budget. This spending also represents 1.78% of the ACT's domestic final demand²⁶.

ACT Government proportion of Community Sector Spending

5.9 The table below shows, in order of size, the ACT Government's funding programs, comprising Housing, Health, Disability, and Community Services. Returns from the salary census demonstrate that the funds provided by, or through, the ACT Government comprise 84.4% of spending in the ACT in these program areas.



25. Distribution of ACT Government Community Sector funding by program and by funding agency.

Proportion of funding going to salaries

5.10 Funding models in the ACT Government assume, broadly speaking, that 80% of funding provided to a Community Sector employer will be used to pay salaries, and the remaining 20% will cover administration costs. The formula for escalating contract payments is based upon this model, with 80% of the contract

²⁵ \$203m includes child care and aged care and other programs delivered to the people of the ACT that are not subject to the Award and may not be funded by the ACT Government. These figures do not include employers in the ACT Community Sector who are not funded by the ACT Government, nor do they include employers that did not participate in the census because all their operations were totally outside the scope of the Award

²⁶ Domestic final demand is the sum of private and government final consumption expenditure and private and public gross fixed capital expenditures Australian National Accounts: Concepts, Sources and Methods, cat. no. 5216.0

- value escalated by the relevant Wage Price Index, and the remaining 20% escalated by the Consumer Price Index, which is usually a lower figure.
- 5.11 Information provide through the salary census has allowed an analysis of the proportion of ACT Government provided funds that goes to salary and, by inference the proportion that is not salary and therefore everything else, including administration.
 - 5.12 Overall, 66.83% of ACT Government funding is spent on salaries, including overtime, penalties and allowances. This figure also includes an allowance for superannuation, workers' compensation and long service leave.
 - 5.13 At first glance, this figure looks a little low, but is otherwise unremarkable. However, 66.83% overall hides a very significant difference in business models within the ACT Community Sector.
 - 5.14 The data clearly shows two distinct populations within the employer group. The median % Government funding that is spent on salaries by ACT Community Sector employers is 76.82%. Half of the employers spend a higher percentage on salaries, which matches the traditionally understood model for the Sector, and the other half spend less than this on salaries. In some cases, they spend a lot less.
 - 5.15 The census was not designed to explore this issue in any depth. However, there are a number of reasons why 50% of employers in the Sector spend a lower than anticipated proportion of their funding on salaries. These include non-salary program costs, which in some areas can be quite significant. However, reports from employers, and the data itself, suggest that one of the several reasons for this discrepancy is that a number of employers make significant use of the services provided by third party employers (both for and not-for profit). Some significant employers (by % of total ACT Gov funding) indicated that this approach was their business model.

The classification structure and career paths

- 5.16 It is noticeable that the distribution shown in Table 7 is not a normal distribution but shows two distinct peaks, at SACS Level 3 and at SACS Level 5. This twin peak distribution reflects the presence of two distinct employer population types.
- 5.17 Of the 104 responses to the census, only 4 employers in the ACT use the whole of the available eight level classification structure. Another 19 employers use five or more levels of the structure, with the remaining 81 employers using four or less levels of the structure, for example levels 8,6,5 and 3.
- 5.18 Broadly speaking, Community Sector employers in the ACT employ based on two patterns. The first is a pattern that commences at the SACS 4 or 5 Level and goes down with significant numbers at and below that level, while the second pattern is one that commences at the SACS 8 level, and stops at the SACS 4 or 5 level.
- 5.19 In general terms, employers engaged in the disability sub-sector have classification structures clustered around the SACS 3 level, while those in the traditional community sub-sector, and have classification structures clustered around the SACS 5 level. In many cases, the more lowly classified structures have nobody above the SACS 5 level, leading to the assumption that the management of these employees is carried out by employees who are not subject to the SACS Award.
- 5.20 The classification structure of community service organisations tends to be higher, with the average employee most frequently being a SACS level 5, or occasionally a SACS level 6.

- 5.21 While, as anticipated, the larger employers tend to use more of the classification structure, this is not by any means always the case, with many of the larger employers using quite truncated versions. In some cases this selective approach to the classification structure reflects structures drawn from enterprise agreements, however, in most instances it appears that the business model the employers apply only requires Award subject employees at particular levels.

Appendix B. Salary Census Instrument

ACT COMMUNITY SECTOR SALARY CENSUS 2010

Organisational Information

1 Please enter the name of your organisation:

Employment Structure and Arrangements by Program

2 Please indicate as a percentage (%) the proportion of your total services in the ACT that are funded by the ACT Government *(Please indicate in the space provided below)*

_____ %

Programs:

- a) Out of Home Care – Foster care
- b) Out of Home Care
- c) Out of Home Care – Residential
- d) Children's Services
- e) Family Support program (FSP)
- f) Youth Services Program (YSP)
- g) Community Services Program (CSP)
- h) Disability
- i) Home and Community Care (HACC)
- j) Mental Health
- k) Alcohol and Drug
- l) Community Health
- m) Primary Health and Chronic Disease
- n) Social Housing and Homelessness (NAHA)
- o) Sexual Assault Reform Program (SARP)
- p) Other 1 (Please Specify)_____
- q) Other 2 (Please Specify)_____
- r) Other 3 (Please Specify)_____

(Please note: you will be asked to answer this question for each program you indicated above (there be space provided to do so in the online survey form).

For the **<insert program name here >** program. Please indicate the total amount of funding you

allocate to your program (\$).

\$ _____

Please note: you will be asked to answer this question for each program you indicated above (there will be space provided to do so in the online survey form).

For your <insert program name here> program **only**, please indicate:

a) **Total funding (\$) provided by the ACT Government (if different to the amount you allocate to this program)**

b) **Total number of paid employees allocated to this program (Full Time Equivalent) ;**

c) **Total number of paid employees allocated to this program (Head count) ;**

d) **Total number of paid employees allocated to this program who are subject to the *Social, Community, Home Care and Disability Services Industry Award 2010* (the Award) (Full Time Equivalent);**

e) **Total number of paid employees allocated to this program who are subject to the Award (Headcount)**

a) Total ACT Government Funding Provided for this Program	b) Total no. of Employees (FTE)	c) Total no. of Employees (Headcount)	d) Total no. of Employees subject to the Award (FTE)	e) Total no. of Employees subject to the Award (Headcount)
\$ _____	_____ FT E	_____	_____ FTE	_____

IMPORTANT Definitions:

*Subject to the Award = Employees subject to the award are those who work in the Crisis assistance and supported housing sector;
Social and community services sector;
Home care sector; and
Family day care scheme sector.*

Total Hours Worked = No. employees x total no. hours work by each **per week**, i.e.:

Full time employees = no. full time employees x 38 hours (typical full time weekly hours)

Part time employees = no. part time employees x no. hours worked

Casual employees = no. casual employees x no. hours worked

Full Time Equivalent (FTE) = total number of hours worked ÷ 38, i.e.:

Full time employees = Total full time employee hours worked ÷ 38

Part time employees = Total part time employee hours worked ÷ 38

Salary and Classifications

Does your current employment classification structure align with the Award?

YES (If Yes, go to Q7)

NO (If No, go to Q8)

1 ☐

2 ☐

You have indicated that your classification structure does not align with the **SACS / Crisis Acc' / Family Day Care / Home Care classification** structure.

In the table below please:

a) Align your organisation's classification structure as best as possible to the 8-level SACS/ 4-level Crisis Acc' / 5-level Family Day Care/ 5-level Home Care classification structure (Please give a short description of your collective agreement titles if they differ from the SACS classification titles)

b) The total Full Time Equivalent (FTE) for each of your classification level,

c) Number of staff (Headcount) in each classification,

d) Minimum salary paid for each classification that applies in your organisation (\$),

e) Maximum salary paid for each classification that applies in your organisation (\$), and;

f) Total salary paid to all employees in these classifications (\$).

(The online survey will provide a link PayPoint information for each classification)

Social and Community Services (SACS) AWARD

AWARD CLASSIFICATION: a) please name your collective agreement titles if different from title below)	b) FTE	c) Head Count	d) Annual (base) salary bracket paid (for each classification as it applies in your organisation)		e) Total salary paid to your employ ees in each classifi cation
			Minimum	Maximum	
SACS Level 8	____ F TE		\$ _____ _____	\$ _____ _____	\$ _____
SACS Level 7	____ F TE		\$ _____ _____	\$ _____ _____	\$ _____
SACS Level 6	____ F TE		\$ _____ _____	\$ _____ _____	\$ _____
SACS Level 5	____ F TE		\$ _____ _____	\$ _____ _____	\$ _____
SACS Level 4	____ F TE		\$ _____ _____	\$ _____ _____	\$ _____
SACS Level 3	____ F TE		\$ _____ _____	\$ _____ _____	\$ _____
SACS Level 2	____ F TE		\$ _____ _____	\$ _____ _____	\$ _____
SACS Level 1	____ F TE		\$ _____ _____	\$ _____ _____	\$ _____

Crisis Accommodation AWARD

AWARD CLASSIFICATION	b) FTE	c) Head Count	d) Annual (base) salary bracket paid (for each classification as it applies in your organisation)		e) Total salary paid to your emplo yees in each classifi cation
			<i>Minimum</i>	<i>Maximum</i>	
Crisis Acc' Level 4	____ ^F TE		\$ _____	\$ _____ _____	\$ _____ _____
Crisis Acc' Level 3	____ ^F TE		\$ _____	\$ _____ _____	\$ _____ _____
Crisis Acc' Level 2	____ ^F TE		\$ _____	\$ _____ _____	\$ _____ _____
Crisis Acc' Level 1	____ ^F TE		\$ _____	\$ _____ _____	\$ _____ _____

Home Care AWARD

AWARD CLASSIFICA TION	b) FTE	c) Head Count	Annual (base) salary bracket paid (for each classification as it applies in your organisation)		f) Total salary paid to your employees in each classification
			<i>d) Minimum</i>	<i>e) Maximum</i>	
Home Care Level 5	____ ^{FT} E		\$ _____ _____	\$ _____ _____	\$ _____
Home Care Level 4	____ ^{FT} E		\$ _____ _____	\$ _____ _____	\$ _____
Home Care Level 3	____ ^{FT} E		\$ _____ _____	\$ _____ _____	\$ _____
Home Care Level 2	____ ^{FT} E		\$ _____ _____	\$ _____ _____	\$ _____
Home Care Level 1	____ ^{FT} E		\$ _____ _____	\$ _____ _____	\$ _____



You have indicated that your employment structure includes SACS / Crisis Acc' / Family Day Care / Home Care classification.

Please describe in the table below:

a) The total Full Time Equivalent (FTE) for each SACS / Crisis Acc' / Family Day Care / Home Care classification level,

b) Number of staff (Headcount) in each classification,

c) Minimum salary paid for each classification that applies in your organisation (\$),

d) Maximum salary paid for each classification that applies in your organisation (\$), and;

e) Total salary paid to all employees in these classifications (\$).

(The online survey will provide a link PayPoint information for each classification)

Social and Community Services (SACS) AWARD

AWARD CLASSI FICATI ON:	a) FTE	b) Head Count	Annual (base) salary bracket paid (for each classification as it applies in your organisation)		e) Total salary paid to your employ ees in each classifi cation
			c) Minimum	d) Maximum	
SACS Level 8	_____FTE		\$ _____ —	\$ _____ —	\$ _____
SACS Level 7	_____FTE		\$ _____ —	\$ _____ —	\$ _____
SACS Level 6	_____FTE		\$ _____ —	\$ _____ —	\$ _____
SACS Level 5	_____FTE		\$ _____ —	\$ _____ —	\$ _____
SACS Level 4	_____FTE		\$ _____ —	\$ _____ —	\$ _____
SACS Level 3	_____FTE		\$ _____ —	\$ _____ —	\$ _____
SACS Level 2	_____FTE		\$ _____ —	\$ _____ —	\$ _____
SACS Level 1	_____FTE		\$ _____ —	\$ _____ —	\$ _____

Crisis Accommodation AWARD

AWARD CLASSIFICATION	b) FTE	c) Head Count	d) Annual (base) salary bracket paid (for each classification as it applies in your organisation)		e) Total salary paid to your employees in each classification
			<i>Minimum</i>	<i>Maximum</i>	
Crisis Acc' Level 4	_____FT E		\$ _____	\$ _____	\$ _____
Crisis Acc' Level 3	_____FT E		\$ _____	\$ _____	\$ _____
Crisis Acc' Level 2	_____FT E		\$ _____	\$ _____	\$ _____
Crisis Acc' Level 1	_____FT E		\$ _____	\$ _____	\$ _____

Family Day Care AWARD

AWARD CLASSIFICATION	b) FTE	c) Head Count	d) Annual (base) salary bracket paid (for each classification as it applies in your organisation)		e) Total salary paid to your employees in each classification
			<i>Minimum</i>	<i>Maximum</i>	
Family DC Level 5	_____FT E		\$ _____ —	\$ _____ —	\$ _____ —
Family DC Level 4	_____FT E		\$ _____ —	\$ _____ —	\$ _____ —
Family DC Level 3	_____FT E		\$ _____ —	\$ _____ —	\$ _____ —
Family DC Level 2	_____FT E		\$ _____ —	\$ _____ —	\$ _____ —
Family DC Level 1	_____FT E		\$ _____ —	\$ _____ —	\$ _____ —

Home Care AWARD

AWARD CLASSIFICATION	b) FTE	c) Head Count	d) Annual (base) salary bracket paid (for each classification as it applies in your organisation)		e) Total salary paid to your employees in each classification
			Minimum	Maximum	
Home Care Level 5	_____ FT E		\$ _____ —	\$ _____ —	\$ _____
Home Care Level 4	_____ FT E		\$ _____ —	\$ _____ —	\$ _____
Home Care Level 3	_____ FT E		\$ _____ —	\$ _____ —	\$ _____
Home Care Level 2	_____ FT E		\$ _____ —	\$ _____ —	\$ _____
Home Care Level 1	_____ FT E		\$ _____ —	\$ _____ —	\$ _____

Worker's Compensation



Please indicate the cost of your workers' compensation premium for FY 2009-10, expressed as a percentage (%) of total salaries

_____ % of total salaries

Penalties



Please indicate if your organisation makes penalty payments that will be affected by a change to salaries:

YES

NO (If No, go to Q12)

1 ☐

2 ☐



Please indicate:

- a) Which penalties were paid to your employees in the FY 2009-2010 (*Tick all that apply*); and
b) The average no. of hours paid per week for each penalty during that period (*Enter the No. of hours paid per week (average) in the space next to each type of penalty*).

Penalty Payments:	a) Payments affected by award:	b) Average hours paid per week
Overtime Monday to Saturday	1 <input type="checkbox"/>	_____ hours per week
Overtime Sunday	1 <input type="checkbox"/>	_____ hours per week
Overtime Public Holiday	1 <input type="checkbox"/>	_____ hours per week

Shift Penalties Afternoon	1 <input type="checkbox"/>	_____ hours per week
Shift Penalties Night	1 <input type="checkbox"/>	_____ hours per week
Shift Penalties Public Holidays	1 <input type="checkbox"/>	_____ hours per week
Other (Please Specify)	1 <input type="checkbox"/>	_____ hours per week
Other (Please Specify)	1 <input type="checkbox"/>	_____ hours per week
Other (Please Specify)	1 <input type="checkbox"/>	_____ hours per week

Allowances

Please indicate if your organisation makes allowance payments on behalf of your employees that will be affected by a change to salaries:

YES

1 ☐

NO (If No, go to Q14)

2 ☐

12

Please indicate:

a) Which type of allowances you pay on behalf of your employees that are affected by a change to salaries *(Tick all that apply)*; and

b) The average no. of hours paid per week for each allowance. *(Enter the no. of hours paid per week (average) in the space provided next to each type of allowance)*

Allowances:	a) Payments affected by award:	b) Average number of hours paid per week
On call Allowance	1 <input type="checkbox"/>	_____ hours per week
Heat Allowance	1 <input type="checkbox"/>	_____ hours per week
Sleepovers	1 <input type="checkbox"/>	_____ hours per week
Other (Please Specify)	1 <input type="checkbox"/>	_____ hours per week

Other (Please Specify)

1 ☐

**hours
per
week**

Other (Please Specify)

1 ☐

**hours
per
week**

Other Programs and Further Information

1.8 Would you choose to, please indicate in the space provided below programs that you deliver that are **not** funded by the ACT Government.

Programs:

- a) (Please Specify) _____
- b) (Please Specify) _____
- c) (Please Specify) _____
- d) (Please Specify) _____
- e) (Please Specify) _____
- f) (Please Specify) _____
- g) (Please Specify) _____
- h) (Please Specify) _____
- i) (Please Specify) _____
- j) (Please Specify) _____

1.9 Would you choose to, please provide any further information or feedback about the impact of the equal remuneration case and/or this survey:
