

16 December 2019

The Committee Secretary  
Education, Employment and Small Business Committee  
[eesbc@parliament.qld.gov.au](mailto:eesbc@parliament.qld.gov.au)

Dear Committee Secretary

### **Community Services Industry (Portable Long Service Leave) Bill 2019**

The Community Services Industry Alliance (CSIA) exists to advance the business of our industry to deliver transformational community services. CSIA's core focus is to increase the capacity and viability of community service organisations and secure a prosperous future for the Industry.

Queensland Council of Social Service (QCOSS) is the state-wide peak body representing the interests of individuals experiencing or at risk of experiencing poverty and disadvantage, and organisations working in the social and community service sector. For 60 years, QCOSS has been a leading force for social change to build social and economic wellbeing for all people and communities in this state.

As members of the Portable Long Service Leave Taskforce, CSIA and QCOSS worked alongside industry peaks and unions to come to consensus on key design elements of the portable long service leave scheme (PLSL scheme). CSIA and QCOSS support the policy intent of the Bill and commend the Minister for Industrial Relations and her department for the strong collaboration demonstrated in the development of the PLSL scheme.

## **Comments on the Bill**

Throughout the process, CSIA and QCOSS have connected with our respective members on various elements of the proposed scheme. Our comments on the Bill are informed by these discussions. We note widespread industry support for the PLSL scheme. However, three critical areas of clarification are needed to ensure implementation supports the Bill's policy intent.

### **1. Definition of *community services industry* and *community services* (cl 6, cl 7(1) and schedule 1)**

Clause 6 and clause 7(1) set out a meaning of community services industry and community services, to establish the scope of the scheme. The explanatory notes for clause 6 set out that the definition of community services industry excludes aged care and child care and early childhood. However, Schedule 1 includes *home and community care services* and *seniors community support services*, as well as *family day care services*.

The Minister's speech notes: "It also includes aged-care or childcare workers if their work supports the employer to provide community services. For example, childcare workers who work in a domestic and family violence service or neighbourhood community centre would be covered, but those working in stand-alone kindergartens or long day care centres would not, so it is the provision of the service."

While the policy intent seems to be that residential aged care workers in stand-alone aged care organisations are to be outside the scope of the scheme, without greater clarity in either the Bill or the explanatory notes about the scope of the scheme, there is strong potential for complexity in implementation or unintended consequences.

We note that although industry opinion is divided on the inclusion of aged care in the PLSL scheme's scope, there seems to be consensus on the need for clarity in scheme scope ahead of implementation.

Issues raised by industry organisations include:

- in an organisation providing both residential aged care and community aged care, a worker could move in and out of scheme scope while in the same organisation and doing similar work. Organisations providing both community services and aged care services would face similar implementation issues.
- along similar lines, UnitingCare Queensland noted, “[w]hilst the explanatory notes stipulate the Aged Care industry are excluded it is imperative to include this in the Regulation to ensure clarity of application of the Act. Whilst we are not opposed to an enquiry of the Aged Care industry having a portable long service leave scheme in the future, we do believe full consultation with the industry is required and the whole industry take part in a scheme. A piecemeal approach is not cost effective for organisations and would cause frustration for workers as they would be limited to employment within Community Services industry employers with ancillary aged care services if they are to maintain their service credits/ accrual via the scheme.”

## **2. Definition of *community services work* (cl 7(2)).**

Clause 7(2) and the accompanying explanatory notes set out that workers ‘supporting’ community services work are in scope for the PLSL scheme, and provides an example of ‘administrative support’.

Further clarity on this definition and the meaning of ‘supporting’ would be useful. We recognise the complexity of this, given the diversity of the types of work and organisational structures and arrangements across the community services industry.

For example, in some organisations or service types, a ‘manager’ would have a strong role in direct service delivery or working closely to support frontline workers. This may not be the case in others.

Considering the ‘administrative support’ example, it remains unclear how this would apply to corporate services workers, who arguably support the work of the entire community services organisation and can be subject to the same loss of long service leave entitlements as service delivery workers due to limited-term contracting, insecure work and high mobility leading. However, their work may not be considered ‘administrative support’ for service delivery, depending on how the definition is to be applied. The policy intent in this case seems unclear, with high potential for complexity and confusion in implementation.

We again note there is no clear Industry consensus on this issue, with some organisations preferring all staff in the organisation to be in scope for administrative and equity reasons, while others preferring to explicitly exclude staff not directly delivering services. However, there is strong support for the scope to be clarified ahead of implementation.

## **3. Breaks in service**

The Bill is silent on continuity of service within Industry for the purposes of the PLSL scheme. While the *Industrial Relations Act 2016* provides for up to three months before service continuity is broken for the purposes of long service leave calculation, similar

portable long service leave schemes allow for longer breaks in service – in the Australian Capital Territory community services industry scheme it is up to four years, for example.

Noting the highly gendered nature of our Industry, with women making up around 75 percent of the community services workforce, the Community Sector Peaks response to the Consultation Regulatory Impact Statement (October 2018) stated: “Women experience a range of financial and career disadvantages, stemming from time out of the workforce to raise children, their victimisation in family and domestic violence situations, discrimination and others, leading to a reduced opportunity to accrue long service leave and superannuation entitlements, and fewer opportunities for career advancement and pay increases.”

In that Industry-specific context, we believe there are strong grounds for a longer allowable time away from the Community Services Industry before it is considered a break in service. This would support the policy intent of community services workers maintaining eligibility for long service leave benefits, particularly given the higher likelihood that workers in our industry may need to take longer breaks in service for the reasons above.

The 2018 Peaks submission proposed a four year allowable break in service, in line with the ACT scheme. We continue to support this approach and recommend the Bill include a specific provision for this or provide for it to be specified in regulation.

## Implementation costs

Throughout the development of this Bill, organisations in our industry consistently raised the issue of transition and implementation, particularly impacts on real operational and administrative costs. These issues are outside the scope of this submission, and Industry peaks and individual organisations will raise this issue directly with funding agencies as implementation progresses.

However, we wish to note for the Committee’s information that these issues are a concern for an Industry that traditionally operates on slimmer margins than many other industries and has little ability to absorb implementation costs.

Thank you for the opportunity to contribute to this consultation. Should the Committee wish to discuss any aspect of this submission further, we would be pleased to make representatives of our organisations available.

Yours sincerely,

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