



Review of Industrial Relations
Arrangements in the ACT
Community Sector – Key
Deliverable 5

Improvement Options – Provision
of Industrial Relations Advice for
the ACT Community Sector

June 2010



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Executive Summary

The Review of the Industrial Arrangements in the ACT community sector has identified a range of practical improvement options that have the potential to improve the ACT community sector's awareness and understanding of industrial rights, responsibilities and resources.

The identified mechanisms are:

1. Establishment of a single source of advice for *shared community sector Industrial Relations advice*. At present, organisations are required to individually source information on issues of general application across the sector. This is both inefficient and ineffective from a resource management and expenditure perspective, and has a strong potential to result in inconsistent advice and resultant action on sector wide matters.
2. Establishment of a single market tested source of *organisational specific IR advice* to enable organisations to source quality advice at rates that are established as being market competitive.
3. Establishment of a regular IR update service available to all ACT community sector organisations to provide regular networking forums and contemporary information sources for community sector organisations.

Consultation with a number of Chief Executives Officers as part of the discussions on potential policy headline options appeared to indicate support for the overall approach as proposed. Of note at these discussions was the prevalent view that the shared community sector IR advice provider and the IR update service should be located within one community sector organisation on an ongoing basis, rather than being rotated amongst organisations every 2-3 years, as proposed by HBA consulting during the consultation.

Finally, careful consideration in relation to the selection of the organisation to provide the shared IR advisory service and IR update service is required to ensure that all potential providers from within the community sector are considered equitably and consistently, and that any potential and/or perceived conflicts of interest in relation to the provision of independent IR advice to employers are identified and addressed prior to the completion of the selection process.

Background and Approach

Key Deliverable 5 – Industrial Relations Advice

The requirements of this deliverable are:

1. Identify mechanisms to enhance the ACT community sector’s awareness and understanding of industrial rights, responsibilities and resources.

Current Territory Community Sector Assessment

The process of undertaking the Review of Industrial Arrangements in the ACT Community Sector has produced a range of quantitative and qualitative information that has been considered, analysed and incorporated into a series of key recommendation. These are designed to improve the ACT community sector’s awareness and understanding of industrial rights, responsibilities and resources.

The primary sources of information include:

- HBA’s previous experience in working with organisations in the community sector in the ACT;
- The data obtained from the survey of ACT community sector organisations undertaken as part of the review of industrial arrangements;
- Discussions with focus group participants during the process of development of the survey tool;
- Discussions with agency representatives during follow up meetings to gather additional information in relation to funding and operational issues.

The primary quantitative data source for the assessment of organisations in relation to their awareness and understanding of industrial rights, responsibilities and resources was the section of the *‘Survey of Industrial Arrangements in the ACT community sector’* which asked a range of questions of respondents that assessed the current state of arrangements.

This section of the survey sought responses to five questions:

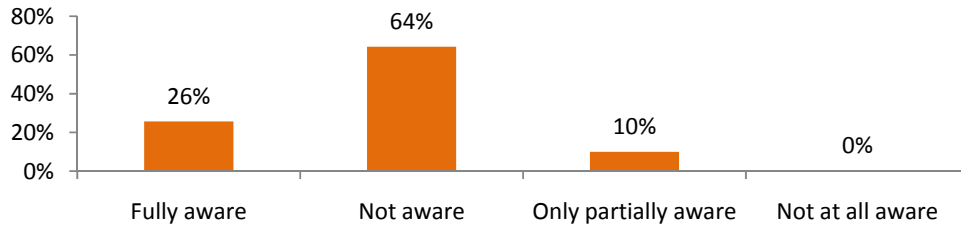
1. How would you best describe your leadership team’s awareness of your industrial rights as an employer in the ACT community sector?
2. How would best describe your leadership team’s awareness of your responsibilities as an employer in the ACT community sector?
3. Specify where your organisation currently sources the majority of your industrial relations advice?

4. Indicate whether you think that there is adequate and accessible information and resources to ensure that you remain informed and current about your rights as an employer?
5. Indicate whether you think that there is adequate and accessible information and resources to ensure that you remain informed and current about your responsibilities as an employer?

What did the survey data show in relation to awareness of employer industrial rights and responsibilities?

In relation to the first question, the results showed that, of all respondents, almost two-thirds (64%) indicated that their leadership teams are not aware of their organisation’s industrial rights as an employer in the ACT community sector, while 26% claim that they were fully aware.

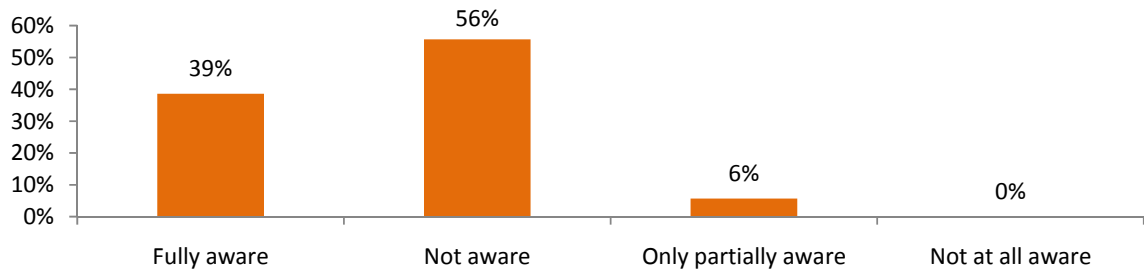
How would you best describe your leadership team’s awareness of your industrial rights as an employer in the ACT community sector?



Base: 70

In relation to the second question, the results showed that just over half of the respondents (56%) indicated that their leadership teams are not aware of their organisation’s responsibilities as an employer in the ACT community sector, while 39% claim that they are fully aware.

How would you best describe your leadership team’s awareness of your responsibilities as an employer in the ACT community sector?



Base: 70

Key observations in relation to the results to these questions.

Both of these questions were constructed to focus the respondent on employer rights and responsibilities (i.e. a description of the organisation's leadership team's awareness).

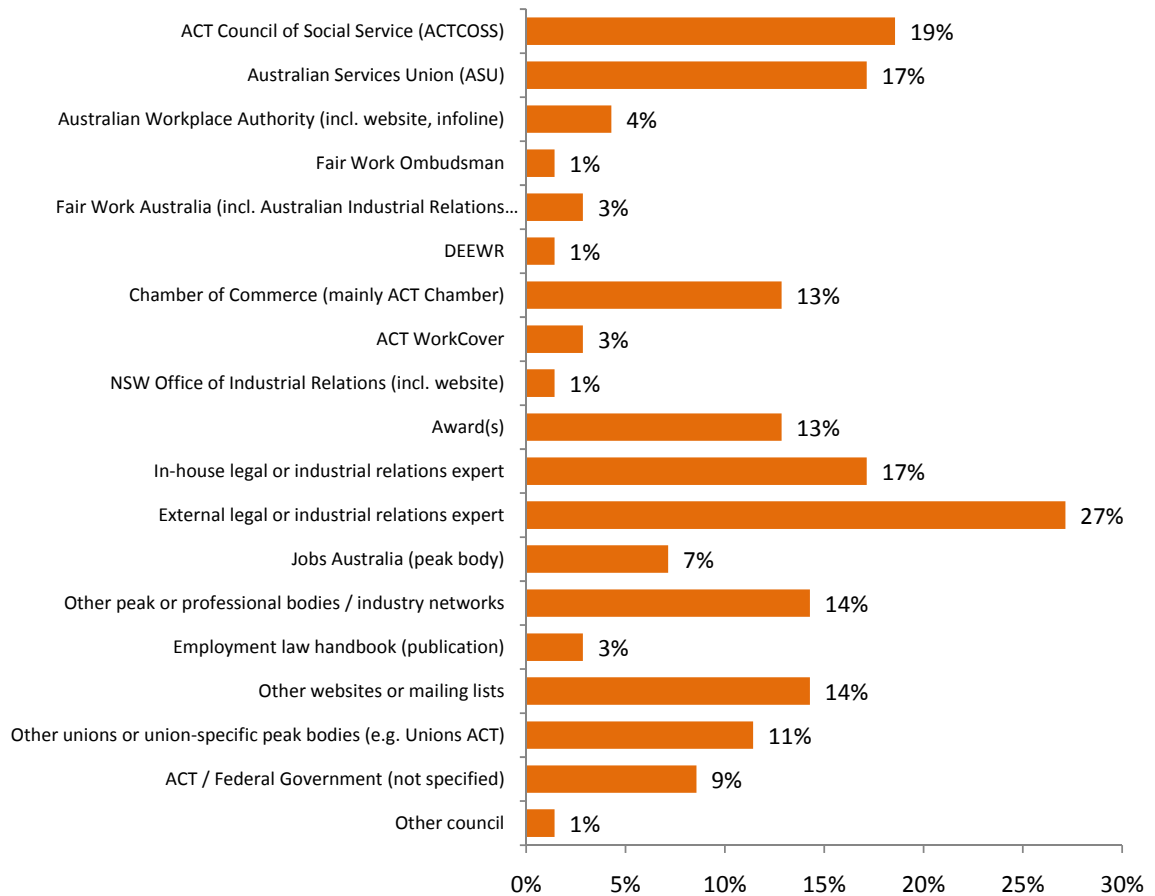
Against this contextual backdrop, the following key observations have been identified:

- Employer leadership teams within the sector have, overall, a much stronger awareness of employer industrial responsibilities than they do employer industrial rights
 - 39% of leadership teams were described as being fully aware of employer responsibilities, while only 26% of leadership teams were described as being fully aware of employer rights.
- Across both questions, more than half of respondent organisations indicated that more than 50% of organisational leadership teams were not aware of both their industrial rights and responsibilities as an employer
 - 56% of organisational leadership teams were unaware of their responsibilities as an employer, with this percentage rising to 64% in relation to employer rights.

What did the survey data show in relation to where employers within the ACT community sector currently source the majority of their industrial relations advice?

In response to this question regarding how organisations currently source industrial relations advice, over one-quarter of respondents indicated that their organisations currently source the majority of their industrial relations advice from external legal or industrial relations experts (27%), followed by the ACT Council of Social Service (19%), and the Australian Services Union and in-house legal or in-house industrial relations expert (both 17%).

Please specify where your organisation currently sources the majority of your industrial relations advice.



Base: 70

Note: Percentages in this graph total more than 100% as respondents were able to answer for more than one category.

Key observations in relation to the results to this question.

This question was designed to obtain information in relation to the how organisations within the community sector currently source industrial relations advice. The intent was to not only identify the sources and the predominance of usage of the sources, but to also ascertain the breadth to which advice was sought.

The survey responses identified that they sourced the majority of their industrial advice from 19 different sources. The most frequently used sources for IR advice were:

- External legal or industrial relations expert (27% of respondents)
- ACT Council of Social Service (19% of respondents)
- Australian Services Union (17% of respondents) and
- In-house legal or industrial relations expert (17% of respondents)

As a result of the responses to this question, it appears that within the sector:

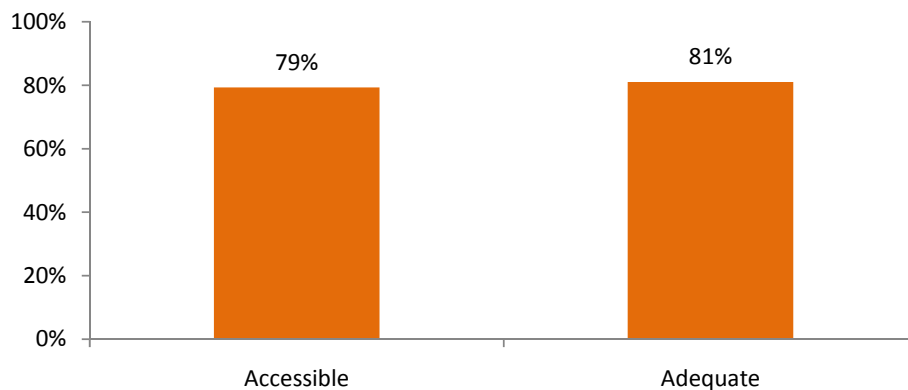
- There are wide spread sources of IR advice within the sector. Given that the core terms and conditions and pay rates for the majority of workers within the sector employed under SFA's with the ACT Government are determined by the ACT SACS Award (with generally minor local variations within organisations), this spread of sources potentially indicates a lack of clarity/awareness within the sector in relation to primary sources of advice on such matters;
- Such a broad range of advisory sources has the potential to impact on the efficiency and effectiveness of the sourcing of advice. It indicates that the current fragmented arrangement across the sector has the potential to result in higher costs, as organisations source advice in an ad hoc/as required basis and potentially differing advice on the same or similar matters as organisations scope requests for advice on similar matters in slightly different ways.

What did the survey data show in relation to whether ACT community sector employers believe that there is adequate and accessible information available to them to ensure that they remain informed and current in relation to their industrial rights and responsibilities?

In relation to this question the majority of respondents think that there is adequate (81%) and accessible (79%) information and resources available to ensure that their organisations remain informed and current about their rights as an employer.

Please indicate whether you think there is adequate and accessible information and resources to ensure that you remain informed and current about a) your rights as an employer and b) your responsibilities as an employer within the ACT community sector.

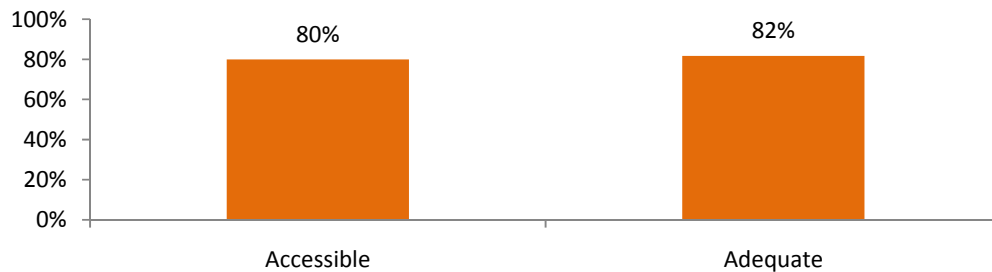
Your Rights as an Employer



Base: 58

Note: Percentages in this graph total more than 100% as respondents were able to answer for more than one category.

Your Responsibilities as an Employer



Base: 60

The majority of respondents think that there is adequate (82%) and accessible (80%) information and resources available to ensure that their organisations remain informed and current about their responsibilities as an employer within the ACT community sector.

Note: Percentages in this graph total more than 100% as respondents were able to answer for more than one category.

Key observations in relation to the results to these questions.

This question was structured to obtain information from organisations in relation to the adequacy and accessibility of information and resources to ensure that employers were informed of their rights and responsibilities as an employer.

The survey data showed that respondents had almost identical views in relation to the adequacy and accessibility of information and resources regarding rights and responsibilities as an employer. Four out of five employers responded that the requisite information was available to them in relation to their rights and responsibilities as an employer.

As a result of the responses to this question, it appears that within the sector:

- The accessibility and adequacy of information and resources available to the ACT community sector in relation to their rights and responsibilities as an employer is seen as currently adequate by the majority of organisations;
- When the responses to this question are compared with the responses in relation to the question of whether the leadership team has awareness of their rights and responsibilities as an employer. The results are quite different. This may tend to indicate that while information is readily available, it is not easy for employers to identify the relevancy of that information to them and their organisation and/or that it is not easily understood and translatable by employers into the context of their organisation.

Proposed Improvement Options – Industrial Rights, Responsibilities and Resources

The requirements of this deliverable are to identify mechanisms to enhance the ACT community sector’s awareness and understanding of industrial rights, responsibilities and resources.

The following two improvement options have been developed in response to the findings in relation to the current status of industrial awareness in the ACT community sector. These options have been developed based on the survey data obtained as part of the Review process and discussions with stakeholders as part of the same process.

1. Establish a single source of advice for shared community sector IR advice. At present, organisations are required to individually source information on issues of general application across the sector. This is both inefficient and ineffective from a resource management and expenditure perspective, and has a strong potential to result in inconsistent advice and resultant action on sector wide matters. This could be developed in tandem with a regular IR update service available to all ACT community sector organisations to provide regular networking forums and contemporary information sources for community sector organisations.
2. Establish a single market tested source of organisational specific IR advice to enable organisations to source quality advice at rates that are established as being market competitive. Single market tested source of organisational specific IR advice’ refers to undertaking a single process on behalf of the community sector (or those that will agree to participate) to select a panel of IR advisory providers that can provide organisational specific advice at agreed rates to organisations on an ‘as required.

1. Establish a single source of advice for shared community sector IR advice and regular update service for ACT community sector employers.

The survey identified that the 78 respondent organisations currently source the majority of their industrial advice from 19 sources. The primary sources identified were:

- External legal or industrial relations expert – 27%
- ACT Council of Social Service (ACTCOSS) – 19%
- In-house legal or industrial relations expert – 17%
- Australian Services Union – 17%

The remaining 15 sources ranged in terms of usage between 14% and 1%. The breadth and diversity of sourcing of industrial relations advice currently operating across the sector has potential implications in relation to the efficiency and effectiveness of these arrangements. While the quality, consistency and cost of advice provided under these arrangements was not assessed as part of the survey, the identified breadth of sourcing for the provision of industrial advice across a sector that has, as its primary basis for employment a single Award, appears to be considerably broader than might typically be anticipated to exist in similar sectors.

Based on our experience, this breadth of advisory sourcing can result in:

- Differing advice on similar or identical issues
- Multiple requests for advice of the same or similar nature, requiring each individual organisation to expend time and cost to identify, document and send requests to advisors
- Higher individual cost for advice as individual agencies approach advisers for advice on a piece meal rather than coordinated manner

In relation to the proposed improvement option regarding this aspect of the current industrial relations arrangements in the ACT community sector, it is suggested that consideration be given to undertaking a process to identify potential provider organisations within the ACT community sector (most likely to be one of the larger service providers, who already source and manage a number of information services) and providing them with some additional funding to deliver these services to community sector employers.

Establishing the function

Careful and equitable consideration should be given to the approach to be used to establish and operate this shared IR advisory and regular update function. Based on the survey data, a number of organisations currently have in-house IR capability. The process of establishing a shared function must take into account the current organisational arrangements and IR requirements in place across the sector, and involve a selection process that engages the sector effectively in the definition of the function to be provided, the process of selection and the final decision making outcome.

Some examples of the types of information that might be sourced and distributed through this service could include:

- General changes to the industrial relations legislation and regulations; and
- Sector specific changes to the industrial relations arrangements (e.g. progress with the pay equity case for the sector)

Funding the function

From a funding perspective, the establishment of a single source of shared IR advice and regular update function should not be an expensive one to establish or operate. Assuming that this function is ultimately assigned to an organisation with existing internal IR capability, the major additional costs would be in the design, compilation and dissemination of shared advice to multiple organisations, by contrast with the current arrangement where the in-house adviser is sourcing information for provision to a limited number of internal stakeholders within a single organisation.

From our experience, we would suggest that total funding for the provision of shared community sector IR advice under this arrangement should be in the range \$15-20,000 per annum.

Broader sector IR capability development relating to this option

In developing this improvement option, consideration was given to whether and how this function could also be linked to broader sector IR capability development.

In this context, one option identified was to consider establishing the single function within one organisation, but rotating the function over time to other organisations within the sector, through a selection process involving the sector. The anticipated benefits of this approach were identified as:

- the potential to broaden and deepen the IR capability across more than one organisation by rotating the function over time

- the potential to encourage the establishment of such an arrangement within the sector by not requiring a long term decision to be made in terms of the location of the function in a single organisation.

While HBA Consulting still believes that the identified merits associated with this approach, further consultation on this option with a number of Chief Executive Officers and senior staff during late April and early May 2010 identified that while there was solid support for the establishment of the function, there was strong feedback that the current preference for the function to be located in one organisation, and not rotated.

The key issue raised in support of this alternative approach was that, once established, it would be more efficient and effective to target the development and maintenance of the shared IR function in one organisation, rather than rotating the function. While understanding the intent of the option tabled, from a practical operational and knowledge management perspective, the feedback received indicated that there was general support for the proposed alternative approach.

Given this feedback, HBA Consulting suggests that the alternative option identified be pursued as the preferred option for implementation.

Efficiency and Effectiveness Implications

The efficiency and effectiveness gains through the establishment of the single source of shared IR advice and regular update services, will ensure that employers across the sector would not need to seek to commit resources within each organisation to source, identify and disseminate information to internal stakeholders on an individual organisational basis.

The information obtained and distributed through this function would be electronically based, distributed by email and, from a records management perspective, would ensure that over time a single, consistent and complete data base of IR information distributed to the community sector would be built up and able to be referenced or accessed when and as required.

2. Establish a single market tested source of organisational specific IR advice to enable organisations.

At present, the majority of organisations within the ACT community sector who require specialist IR advice source this individually using agreed internal organisational processes. This type of approach is generally both inefficient, as some organisations may be seeking advice that has previously been sourced by another, expensive, as it is purchased on an individual ‘as needed’ basis and may lead to inconsistent outcomes dependent upon the way in which the request for advice is framed by each of the requesting organisations.

Establishing the function

This type of function could be implemented through a tender process coordinated across the sector and incorporating in the tender specifications the type of advice and services required now and into the future by the sector. The selection process could be managed by a cross section of community sector representatives and should realise more efficient and effective IR advisory outcomes in terms of both consistency and quality of advice as well as improved value for money.

Funding the function

It is suggested that this function could be funded by a mix of monetary and ‘in kind’ contributions from the community sector as the benefits in terms of access and cost of advice under this type of arrangement should offset the initial investment requirements.

Efficiency and Effectiveness Implications

This efficiency and effectiveness gains anticipated to be realised through the establishment of a panel of providers are:

- Decreased unit cost for advice;
- Ease of access for all community sector to pre-qualified providers;
- Increased consistency of advice; and
- Improved awareness of sector issues by panel providers over time leading to an improved contextual understanding for advice provided.