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Ms Kerry Riseley
Executive Officer
Education and Training Committee
Parliament House
Spring Street
EAST MELBOURNE VIC 3002
eejsc@parliament.vic.gov.au

Inquiry into Portability of Long Service Leave Entitlements

The Centre for Excellence in Child & Family Welfare welcomes the opportunity to provide input into the Inquiry into portability of long service leave entitlements.

The Centre is generally supportive of a scheme to introduce portability of long service leave (PLSL) to the child, youth and families sector, given the benefits to the traditionally low paid workforce.

The Centre however still has some of the same issues in relation to any proposed scheme as were identified in PWC report prepared for Department of Human Services in May 2010, broadly:

- The additional cost of a PLSL scheme
- The additional administrative complexities
- Issues around the scope of eligibility of a PLSL scheme

There have been a number of changes in the workforce context since 2010, including the modernisation of the SCHADS award which need to be taken into account.

In addition to these issues, the Centre also notes that the CYF sector is particularly sensitive to cost and loss of balance sheet assets, and would need to ensure that any PLSL scheme was fully costed for both current and on-going obligations.

The Centre would be pleased to be involved in any further discussions in relation to potential PLSL schemes for the CYF sector.

Regards,

A handwritten signature in black ink, appearing to read "D. Tsorbaris".

Deb Tsorbaris
CEO

Attached: PWC Report – Department of Human Services, Community Sector Investment Fund – May 2010

Department of Human Services Community Sector Investment Fund

Community Services Sector
Portable Long Service Leave

May 2010

Table of acronyms

ACAS	Aged Care Assessment Service
AEU	Australian Education Union
ASU	Australian Services Union
BNC	Bush Nursing Centres
CACP	Community Aged Care Packages
CHC	Community health centres
CSIF	Community Sector Investment Fund
CSO	Community service organisations
CSS	Community Services Sector
DHS	Department of Human Services
EACH	Extended Aged Care at Home
EACH-D	Extended Aged Care at Home – Dementia
ECIS	Early childhood intervention service
HACC	Home and Community Care
HACSU	Health and Community Services Union
KPV	Kindergarten Parents Victoria
LSL	Long service leave
NRCP	National Respite for Carers Program
PLSL	Portable long service leave
PwC	PricewaterhouseCoopers
RDNS	Royal District Nursing Service
SACS	Social and Community services

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Contents

1	Executive summary	1
2	CSS PLSL scheme structure and costs	7
3	Stakeholder consultation	9
4	CSS PLSL Options	17
5	Scheme scope	26
	Appendices	37
Appendix A	CSS PLSL scheme features	38
Appendix B	Actuarial work	41
Appendix C	Costs and benefits of portable long service leave	48
Appendix D	Consulted stakeholders	54

1 Executive summary

1.1 Introduction

In 2003 the Minister for Community Services announced the establishment of the \$7 million Community Sector Investment Fund (CSIF) to assist the sustainability of community services sector organisations. One of the key areas identified throughout the CSIF consultation with the community services sector was the need for effective strategies to enhance sector recruitment and retention.

The idea of a community services sector portable long service leave (CSS PLSL) scheme was identified by community sector representatives as an initiative for the Victorian Government to consider. In 2007 a Feasibility Study was undertaken. This was followed by an announcement by the Premier in 2008 that a scheme would be established as part of a range of measures aimed at strengthening the sector and encouraging workforce retention.

Commitment was made in the Supporting Community Organisations Action Plan and funding was allocated for actuarial work to commence. This was endorsed by sector representatives on the CSIF Reference Group.

In the 2008-09 Budget, \$1.2 million was allocated to the Department of Human Services (DHS) to undertake the preparatory work associated with the scheme.

Following the budget allocation, a reference group of external stakeholders and an advisory group within the Victorian Government were established. A process of stakeholder consultations and submissions was undertaken by DHS at the beginning of 2009. As a result of this process, it became apparent that there was now substantial employer opposition to the proposed CSS PLSL scheme, particularly on the basis of the cost and administration requirements.

The scope of the review undertaken by PricewaterhouseCoopers (PwC) was to identify through consultation, the outstanding issues key stakeholders from the community sector have with the CSS PLSL scheme. The focus of the stakeholder consultation revolved around design, cost and implementation of the scheme. In addition, the PwC actuarial team was asked to examine the actuarial investigations and reports that had been prepared for the CSS PLSL scheme and comment on whether the results of these investigations appeared reasonable. Once the engagement commenced, PwC was asked to further investigate the issues surrounding the scope of the CSS PLSL scheme. Using the findings from the consultations, the actuarial reviews and the further work undertaken, PwC was to provide advice to DHS to assist with resolving stakeholder concerns.

This report summarises the key findings of the PwC review and outlines potential ways forward that take into account concerns raised by the sector.

1.2 Key findings

1.2.1 *Key findings*

The key findings relate to structure and costs, stakeholder views, the benefits and scope (ie eligibility issues) of the proposed CSS PLSL.

CSS PLSL scheme structure and costs

- The initial actuarial feasibility study (Benzulla, September 2007) found that:
 - The preferred model for the CSS PLSL scheme is a compulsory statutory model with a centralised scheme, as this provided lower administration costs, enhanced employee benefits and an income tax exemption
 - The long term employer contribution rate to the CSS PLSL scheme would be 1 per cent to 2 per cent of wages for the “base” level long service leave entitlement of 8.67 weeks after 10 years service.
- The additional cost to employers is somewhat less than the long term contribution rate of 1 per cent to 2 per cent of wages for the CSS PLSL scheme, since employers will make some offsetting savings in relation to their existing long service leave costs.
- However, the CSS PLSL contribution rate will exceed employers’ current long service leave costs, as more employees would qualify for long service leave benefits under a portable scheme than the existing employer arrangements.
- The methodology and assumptions used to estimate the long term employer contribution rates and other findings of the actuarial work undertaken to date, all appear reasonable.

Stakeholder support

- The main unions involved in the community services sector, the Australian Services Union (ASU) and Health and Community Sector Union (HACSU), are supportive of the proposed scheme. The main reasons for their support are as follows:
 - The ASU and HACSU note that the scheme would deliver a new employment benefit in a sector with traditionally low pay
 - In addition, the creation of the scheme could lead to more cooperation and shared initiatives to improve professionalism and skills across the community services sector
 - Unions perceive that a scheme, costing between 1 and 2 per cent of wages, provides a more noticeable and tangible benefit to employees than a pay rise of the same amount. As a result, they feel that it is a well targeted initiative providing an incentive to remain in the sector
 - There was an acknowledgment that some government funding, on a transitional basis, would probably be required in order to win greater employer support if the scheme was to become a reality.
- Employers consulted are generally opposed to the scheme, though the strength of employer opposition varies across the sector. The main issues for employers include the following:
 - The additional cost of the proposed CSS PLSL scheme
 - The additional administrative complexities, most notably relating to the “above base” (higher) long service leave entitlements which currently exist and which would not be met by the proposed CSS PLSL scheme, which covers the base level long service leave entitlements only
 - A perceived lack of clear and proven benefits from the scheme
 - Some particular issues associated with the scope of, or eligibility for, the scheme.

Key benefits of a CSS PLSL scheme

- A CSS PLSL scheme provides increased long service leave benefits to employees.
- In addition, the CSS PLSL scheme could be used to deliver highly valued workplace flexibility initiatives to employees, such as:
 - additional annual leave (eg 5 weeks of annual leave)
 - 4 day weeks or 9 day fortnights
 - training and professional development leave
 - paid and unpaid maternity leave
 - in service payments after 5 or 7 years.
- As the ageing of the population creates additional challenges and opportunities for community services organisations, it will be important for organisations to have these strategies in place to attract and retain an older, and potentially predominantly female, workforce of the future.
- These flexibility options provide an employee benefit to the community services sector which would constitute a genuine comparative advantage in attracting staff. They also create opportunities for employers and employees to cooperatively decide on the most appropriate form in which the retention incentive provided by portability should be taken.
- We note that the ability to access benefits after 5 or 7 years for these purposes would represent a move away from the existing provisions of the *Long Service Leave Act 1992*. However, it would be preferable for the CSS PLSL scheme to embody these flexibilities in order to support a modern and ageing workforce, rather than adhere strictly to the existing provisions of the *Long Service Leave Act 1992*.
- The CSS PLSL scheme could also provide valuable benefits to employers including:
 - administration support to help them manage their long service leave obligations
 - development of shared workforce data for the sector which would assist other sector wide initiatives.
- In addition, the creation of the scheme could lead to more cooperation, shared initiatives and unity across the community services sector.

Scope of the CSS PLSL scheme

- In relation to scope, the ‘whole of organisation’ approach to defining eligibility for the scheme is appropriate for most cases.
- Some scope issues arise relating to specific sub-sectors and groups of employers. These are difficult to resolve and require practical judgments in individual cases.
- It is important that the enabling legislation be sufficiently flexible to accommodate these difficult scope issues.
- In addition, an advisory group, comprising representatives of all stakeholders, could deal with future scope issues in accordance with agreed principles.

Way forward

- It is important that the CSS PLSL scheme be more about workplace retention and flexibility – as this was the original objective – rather than just portability of long service leave.
- In our view, a range of options exist which could address the employer concerns of:
 - **Cost**, by funding the administration costs of the scheme for a transitional period, via direct contributions into the scheme and potentially an additional contribution towards the net cost increase for employers
 - **Administrative requirements**, by allowing the scheme to administer above base (higher) and out of scope (for employees not otherwise covered) long service leave obligations and accept voluntary payments into employer (accumulation) accounts
 - **Benefits**, by allowing CSS PLSL benefits after 5 or 7 years to be taken in ways which enhance flexibility for a modern and ageing workforce and which provides a comparative advantage to the sector.

1.2.2 Key options for consideration

In response to PwC's stakeholder consultations, (see Appendix D), the following options in respect to the proposed CSS PLSL scheme are put forward for consideration, as we believe these options would help address the key areas of stakeholder concern.

Cost of the scheme

- In our view the Victorian Government should:
 - fund the administrative costs of the CSS PLSL scheme for an initial transition period, such as 5 years
 - consider providing additional funding towards the net cost increase of the CSS PLSL scheme to employers for an initial transitional period, such as 5 years
 - provide this funding through direct contributions into the central fund of the scheme, which would be phased out over time.

Administrative requirements

- The scheme should offer to administer, on behalf of employers, above base long service leave entitlements.
- The scheme should offer employers the option of making voluntary contributions to an employer account for above base long service leave entitlements.
- The scheme should offer to administer, on behalf of employers, long service leave entitlements for their out of scope employees and provide employers with the option of making voluntary contributions to an employer account for these long service leave entitlements.
- The scheme should offer to administer, on behalf of employers, any pre-existing (or future) portability entitlements, and provide employers with the option of making voluntary contributions to an employer account for these long service leave entitlements.
- The scheme should undertake significant administrative outreach to assist small organisations to understand and comply with their obligations under the CSS PLSL scheme.

- The Victorian Government and the scheme should place a high priority on the development of shared baseline data which can help in developing sector wide initiatives, including future workforce strategies, and collaboration across the sector.

Benefits of the scheme

- In keeping with the principles of portability, pro rata long service leave entitlements should be payable on the basis of service with one or more employers within the sector, rather than for service with a single employer only.
- The CSS PLSL scheme should allow pro rata portable long service leave benefits after 5 and/or 7 years service in the sector, regardless of whether this service has been with one or more employers.
- The CSS PLSL scheme should allow, subject to employer and employee agreement, these pro rata portable long service leave benefits after 5 and/or 7 years to be used for a specified set of workplace flexibility initiatives including additional annual leave, flexible working arrangements (eg 4 day weeks), time off for training or other professional development, paid maternity leave and in-service benefits.

Review of CSS PLSL scheme initiative

- In keeping with good government practice, prior to the commencement of the CSS PLSL scheme, a review process should be agreed in order to assess the extent to which the scheme has met the original policy objectives and whether any further refinements are required. The review process should establish who would undertake the review, the scope of the review, agreed performance measures and an agreed period of time (eg 5 years).

Scope (eligibility) of the scheme

- The whole of organisation approach should remain as the main underlying principle to determine eligibility for the scheme, with a small number of exceptions in cases of identified anomalies.
- The enabling legislation should provide flexibility for the definition of employers and employees to be specifically added to or refined through subordinate instruments, providing the ability to include and exclude identified organisations and workers.
- A CSS PLSL Advisory Group should be formed, with representation from the Victorian Government, employers and relevant unions to advise the scheme (and potentially the Government) on anomalies and scope issues going forward, in accordance with a set of agreed principles.

Residential aged care and Home and Community Care services

- Home and Community Care (HACC) services should be included within the scope of the CSS PLSL scheme.
- Bush Nursing Centres and the Royal District Nursing Services should, notwithstanding their HACC funding, be excised from the CSS PLSL scheme.
- The Aged Care Assessment Service process should remain the determining factor in defining the excision of residential aged care services.
- Where organisations undertake both community aged care and HACC, staff should be excluded from the scheme only where they are wholly involved in the delivery of excised aged care services.

Registered Community Health Centres

- Registered Community Health Centres should be included within the scheme on a whole of organisation basis.
- Registered Community Health Centres should be eligible for early release of scheme monies through recognition of past service by health workers in the health sector, where employees have an existing legal entitlement to portability.
- The proposed 4 year maximum period for workers to be out of the community sector and retain eligibility for CSS PLSL scheme should be suspended in the case of health workers leaving registered Community Health Centres and going into the health sector.

Kindergartens

- Following the commencement of the CSS PLSL scheme, past continuous service with multiple kindergartens should be recognised for the purposes of calculating eligibility for portable long service leave.
- The Victorian Government, in partnership with the kindergarten sector, should confirm that existing portable long service leave entitlements, which have been accrued to date in the community kindergarten sector, will continue to be upheld.
- To strengthen the shared understanding that existing portable balances remain an employee entitlement, the Victorian Government should provide resources to enable records to be collected across the sector in order to clarify existing entitlements, gain a centralised view as to the extent of those entitlements and potentially advise individual kindergartens of their potential liabilities in relation to past workers.

Early Childhood Intervention Services

- Early Childhood Intervention Services should be considered to come within the scope of the CSS PLSL scheme, because of the link with disability services and the nature of the work, dealing with early childhood intervention.

Children's services in larger non-CSS organisations

- Where organisations are involved in the provision of children's services as well as a broader range of services unrelated to the community services sector, inclusion in the CSS PLSL scheme should be confined to those workers who are employed wholly and directly in the provision of the these children's services.

2 CSS PLSL scheme structure and costs

Key findings:

- The initial actuarial feasibility study (Benzulla, September 2007) found that:
 - The preferred model for the CSS PLSL scheme is a compulsory statutory model with a centralised scheme, as this provided lower administration costs, enhanced employee benefits and an income tax exemption
 - The long term employer contribution rate to the CSS PLSL scheme would be 1 per cent to 2 per cent of wages for the “base” level long service leave entitlement (8.67 weeks after 10 years service).
- The additional cost to employers is somewhat less than the long term contribution rate of 1 per cent to 2 per cent of wages for the CSS PLSL scheme, since employers will make some offsetting savings in relation to their existing long service leave costs.
- However, the CSS PLSL contribution rate will exceed employers’ current long service leave costs, as more employees would qualify for long service leave benefits under a portable scheme than the existing employer arrangements.
- The methodology and assumptions used to estimate the long term employer contribution rates and other findings of the actuarial work undertaken to date, all appear reasonable.

Considerable actuarial work has been done to date, in relation to the proposed CSS PLSL scheme for the community services sector. A summary of the key features of the proposed CSS PLSL scheme is provided in Appendix A.

There have been six main actuarial studies which produced the following reports:

- The Feasibility Study into the scheme, completed by Benzulla in September 2007
- The Actuarial Assessment by Benzulla, completed in August 2008
- An addendum to the actuarial assessment, completed in November 2008
- An options paper in relation to above base long service leave entitlements, completed by DeeDeeRa in March 2009
- A case study report by DeeDeeRa, completed in June 2009
- A report into the costs of alternative models for the CSS PLSL scheme, by DeeDeeRa, completed in July 2009.

A more detailed assessment of these studies is contained in Appendix B.

2.1 Assessment of actuarial work performed

PwC have reviewed the above mentioned actuarial reports in detail and checked whether the results appeared reasonable.

The actuarial reports reviewed concluded that the preferred model is a compulsory legislated portable long service leave scheme with a central fund. All employers would contribute their long service leave obligations to the central fund, which would take responsibility of paying portable long service leave to employees as they become eligible to the entitlements.

The long term employer contribution rate required to fund the CSS PLSL scheme is estimated to be between 1 per cent and 2 per cent of wages. This represents the gross impost on community services organisations as a result of the introduction of portable long service leave.

The CSS PLSL contribution rate exceeds the current long service leave costs to employers, as more employees would qualify for long service leave benefits under a portable scheme than the existing employer arrangements.

A brief summary of the other key actuarial findings follows:

- The size of the sector, the high proportion of part-timers and casuals and existing portability arrangements in the sector were not barriers to the introduction of a CSS PLSL scheme
- The estimated contribution rate, assuming recognition of retrospective service with an existing employer for the purposes of defining eligibility for portable long service leave, was 1.6 per cent of wages for the initial annual contribution rate and 1.4 per cent for the long term annual contribution rate (including administrative expenses of the scheme)
- Where a worker remains with the same employer, the estimated costs for the CSS PLSL scheme (assumed to be 1.4 per cent of wages per annum) would be less than the existing provisioning by employers by around 10 per cent-20 per cent over the long term (ie after 10 years)
 - This is due to assumed higher returns (7 per cent per annum) on central fund investments compared to either book reserves (0 per cent per annum) or interest bearing accounts (5 per cent per annum) and also that contributions would generally be paid into a central fund earlier than they would otherwise be provisioned for
 - However, these savings are over a long period of time (ie 10 years) and do not take into account the opportunity cost in the shorter term of employers being able to use these provisions and/or any interest earned on them, for other discretionary expenses.
- Where typical industry employee turnover rates are allowed for, the estimated costs for the CSS PLSL scheme (assumed to be 1.5 per cent of wages per annum) would be more than the existing provisioning (for selected case study employers) by around -0.19 per cent to 1.2 per cent of wages per year. In addition, the loss of investment income on LSL provisions was estimated to be around 0.1 per cent to 0.9 per cent of wages per year. These additional costs are under-stated for:
 - organisations who used a probability adjusted method to reserve for existing LSL provisions
 - organisations that have casual staff not currently covered for LSL
- In regards to various alternate models to the central fund model:
 - the more decentralised the arrangements, the more volatile the costs to individual employers and this did not include any additional administration costs for chasing up payments from previous employers whenever employees changed employers
 - the smaller the central fund the higher the administration costs for all employers.

In our view, the methodology and assumptions used to estimate these contribution rates and costs appeared reasonable.

A detailed analysis of the costs and benefits of portable long service leave is set out in Appendix C.

3 Stakeholder consultation

Key findings:

- The main unions involved in the community services sector, the Australian Services Union (ASU) and Health and Community Sector Union (HACSU), are supportive of the proposed scheme. The main reasons for their support are as follows:
 - The ASU and HACSU note that the scheme would deliver a new employment benefit in a sector with traditionally low pay
 - In addition, the creation of the scheme could lead to more cooperation and shared initiatives to improve professionalism and skills across the community services sector
 - Unions perceive that a scheme, costing between 1 and 2 per cent of wages, provides a more noticeable and tangible benefit to employees than a pay rise of the same amount. As a result, they feel that it is a well targeted initiative providing an incentive to remain in the sector
 - There was an acknowledgment that some government funding, on a transitional basis, would probably be required in order to win greater employer support if the scheme was to become a reality.
- Employers consulted are generally opposed to the scheme, though the strength of employer opposition varies across the sector. The main issues for employers include the following:
 - The additional cost of the proposed CSS PLSL scheme
 - The additional administrative complexities, most notably relating to the “above base” (that is, higher) long service leave entitlements which currently exist and which would not be met by the proposed CSS PLSL scheme (which covers base level long service leave entitlements only)
 - A perceived lack of clear and proven benefits from the scheme.
- Some particular issues associated with the scope of, or eligibility for, the scheme.

3.1 Background and method

A central component of PwC’s review was to ascertain stakeholder views concerning aspects of the proposed CSS PLSL scheme. The stakeholders consulted fell into three main groups:

- 3 union representatives
- 36 individual employers in the sector
- 8 peak bodies representing groups of organisations
- 3 Victorian Government departments.

A full list of stakeholders that were consulted is outlined in Appendix D. To ensure that the consultations undertaken as part of PwC’s review did not replicate previous efforts, the consultations focused on the following two key issues:

- The extent to which concerns relating to different elements of the CSS PLSL scheme were fundamental to the sector’s support or opposition to the scheme overall

- The likely effect of various design options on overall stakeholder support for portable long service leave.

The results of consultation with relevant unions and employers are summarised below. Due to the extent of employer opposition to the proposed CSS PLSL scheme, the employer views are addressed in greater detail than the union views, which are generally supportive of the scheme. This does not imply that employer opposition outweighs union support, just that the employer concerns will need to be addressed in order to gain support for the scheme.

3.2 Union views

There are two unions with strong coverage in the community services sector – the Australian Services Union (ASU) and the Health and Community Services Union (HACSU). Representatives of both unions were consulted as part of PwC's review.

Both unions are supportive of the proposed CSS PLSL scheme.

They see a significant opportunity to introduce portable long service leave now, which may not be repeated for many years. The main attraction of the CSS PLSL scheme is the additional benefit provided to employees who work and stay in a relatively low paid sector.

Unions addressed the employer claim that portable long service leave was a relatively low priority. In their view, other issues, predominantly focused on pay, were also important but were being dealt with through separate processes such as pay equity applications. They pointed out that the cost of portable long service leave, at between 1 per cent and 2 per cent of wages, would represent an insignificant and unnoticeable pay rise if applied across the sector. Hence the workforce attraction and retention benefit of portable long service leave is better because it targets an incentive to those who might consider staying for a longer period of years.

Unions supported a centralised scheme. This is to be expected, as one of the main disadvantages associated with the decentralised scheme would be that employees' portable long service leave benefits would be at greater risk of non payment.

There was an acknowledgment that some government funding, on a transitional basis, would probably be required in order to win greater employer support if the CSS PLSL scheme was to become a reality.

Another union with some representation in the sector covered by the CSS PLSL scheme is the Australian Education Union (AEU) which represents kindergarten teachers and assistants. The AEU's views were focused on the specific issues relating to kindergartens which are dealt with later in this review.

3.3 Key issues emerging from employer consultations

The results of the employer consultations are outlined below in two ways:

- First, there is a description, in summary form, of the various opinions expressed in relation to costs, administrative requirements, benefits, scope, centralised versus decentralised model, governance, timing and jurisdictional issues
- Second, in relation to the four most prominent issues – cost, administration, benefits and scope – there is an attempt to summarise the overall mood of employer groups.

3.3.1 Cost of portable long service leave

Cost was the most common and significant issue raised by employer representatives in the course of stakeholder consultations. Virtually all employers that were consulted expressed some concern about cost, but the intensity of these views varied.

The potential impact of the scheme's costs included:

- community sector organisations (CSOs) having to decrease services provided
- a decrease in staff or hours worked
- postponement of capital investment
- potential insolvency.

The employers' concerns over cost, included:

- the cost of making up front contributions in excess of any existing provisioning
- the loss of earnings on the funds which are currently held by employers and which will be paid into the central fund under the CSS PLSL proposed scheme
- the additional administrative cost
- the cost of replacing staff that went on long service leave.

Potentially the largest cost impost of a CSS PLSL scheme relates to the additional cost of providing a portable benefit relative to current employer-specific long service leave benefits.

The fact that money, which previously sat on the employer's own balance sheet, will now be paid into a centralised scheme and will not return to the employer when an employee leaves the organisation, creates considerable concern.

Employers repeatedly noted that although the contribution rate, at between 1 per cent to 2 per cent of wages sounds like a small impost, as does the loss of money from the balance sheet, it can be a very high proportion of the organisation's discretionary funds, ie those funds which are not tied up in the delivery of services to which the organisation is contractually or otherwise committed.

The extent and intensity of concern over the scheme's cost was such that it became apparent to PwC that several of the other concerns expressed (including aspects of the administrative burden, some scope issues and a range of potential anomalies) were proxy issues for the underlying issue of cost.

A smaller subset of employers felt that the scheme would disadvantage them in particular because they tended to be used by employees as a stepping-stone to other (eg larger) organisations as part of a career trajectory. As a result, they felt that the benefits of sector-wide retention would accrue to other employers but would be paid for evenly across the sector. Opinions often differed concerning the flow of workers between organisations within the sector, between particular sub-groups in the sector and into other areas of the economy.

3.3.2 Administrative issues

Employers in the sector indicated significant concerns over administrative complexity. The primary concern is the fact that the CSS PLSL scheme only funds the minimum (base level) entitlement enshrined in the *Long Service Leave Act 1992*, providing 8.67 weeks of leave after ten years. By contrast, an estimated 90 per cent of employees are on awards or agreements which stipulate

a long service leave entitlement above this base level. This results in having to administer two long service leave systems, the portable long service leave and the employer-specific long service leave.

Compounding this complexity is the fact that within the sector there are a number of informal and contractually obliged portability schemes currently in existence. For example, religious organisations, kindergartens, community health centres, neighbourhood houses and community legal centres all operate some form of portability arrangement among themselves. Some of these arrangements provide portability at an above base level. Overlaying the proposed CSS PLSL scheme on these existing portability arrangements creates additional administrative complexity.

A preference was expressed for the CSS PLSL scheme to take on as much responsibility for administration as possible – thus centralising the task of dealing with this complexity.

Two other elements of administrative complexity were raised:

- Organisations which operate nationally and have centralised administration support felt that the creation of a Victorian scheme would result in added complexity for them
- Organisations delivering some residential aged care services in addition to a range of other community services felt that the excision of the former category of employees had led to additional complexity. This element is dealt with under the section relating to scope issues.

There were some employer representatives who did not see administrative requirements as being a significant issue. They felt that they had the systems to deal with portable long service leave and existing long service leave entitlements.

3.3.3 Benefits of the CSS PLSL scheme

Portable long service leave does provide additional benefits to employees who remain working in the sector and it is these additional benefits which leads to the additional costs for employers.

However, employers generally lacked any clear sense that portable long service leave would bring benefits to their own individual organisations. Many employers regarded the proposed benefits generated by portable long service leave of retention and recruitment to be unproven and only likely to be realised (if at all) in the long term. There is also a sense that the benefits accrue to the sector in general at the cost of individual employers.

This scepticism was compounded by a general view that the ‘community services’ sector was in fact a very disparate grouping with very little in common between its individual sub-groups. As a result, the notion of a sector-wide benefit was queried by some individual employer representatives.

This also meant that employers expressed some doubt as to whether employees would benefit much, since the flow of workers from their own organisations tended to be into and out of other organisations (such as government) which are not part of the proposed scheme.

Whilst the lack of clarity around the proven benefits was prevalent amongst many stakeholders, others expressed conceptual support for the concept of portable long service leave and a “gut feel” that benefits could arise for both employees and employers.

Nonetheless, employers wanted to ensure that, if they are to bear the cost of the scheme, they will receive a benefit that employees actually want. Several questioned whether portable long service leave was the best and most cost effective way to affect retention and recruitment. A commonly heard view was that if employers had the money to fund portable long service leave, they would rather use the money for other things, including higher pay, flexible working arrangements or paid maternity leave.

Whereas the unions were of the view that employees would value portable long service leave benefits, many employers were of the view that long service leave entitlements were of limited relevance to many workers in the sector. Particularly for younger workers, the view was expressed that a portable long service leave benefit, which accrued after 7 to 10 years of service in the sector, would not influence workforce decisions.

A more detailed analysis of the potential benefits of portable long service leave is provided in Appendix C.

3.3.4 *Scope of the scheme*

Scope issues (eligibility of employees) posed a concern to particular groups of employers. These included:

- those with staff involved in aged care as well as community service activities which would be covered by the proposed CSS PLSL scheme
- subsectors that already have informal and legislated portable long service leave schemes such as registered community health centres (CHCs).

These and other scope issues are discussed in section 5 of this report.

The more general scope issue raised was that the various sub-sectors within the community services sector did not always have much in common and employees had limited mobility between them.

3.3.5 *Centralised versus decentralised models*

As noted in the discussion concerning cost, the loss of funds from organisations' balance sheets is a major driver of concern. This led to a consideration of a decentralised model of portable long service leave, where funds are held on the employer's balance sheet and a transfer value paid when a worker changes employer but stays in the sector.

Despite some support for a decentralised scheme, the sector was not united in this position. A number of employers accepted the need for, and could even see some benefit in, a centralised approach.

The major concern with a decentralised model was the costs associated with chasing up transfer values from past employers, as well as the risk of organisations folding altogether, with no adequate provision for portable long service leave entitlements.

Overall, the proposed centralised versus decentralised model was not a significant issue.

3.3.6 *Governance*

The governance of the scheme was not a major concern amongst stakeholders. Some questioned whether the Victorian Government could control a centralised scheme whilst others suggested the scheme be set up similarly to superannuation schemes, or the building sectors' portable long service leave scheme Co-invest.

3.3.7 Timing

Organisations expressed a desire to have at least 18 months preparation time before a CSS PLSL scheme was implemented. This would give time for adjustments to be made for future budgets as well as to up-skill any staff that would need to understand the details of the scheme.

3.3.8 Jurisdictional issues

A minority of employers raised the question as to whether the Victorian Government could, on its own, implement a CSS PLSL scheme in respect of Victorian community services workers. In general, it was assumed that this was a policy decision for the Victorian Government and was entirely within the control of the State to implement.

Some stakeholders raised the question as to whether the benefit associated with portable long service leave would be incorporated into awards and enterprise agreements. They questioned the appropriateness of the Victorian Government imposing a new workplace condition, which they perceived to be better dealt with through workplace relations processes.

3.4 Overall state of employer opinion

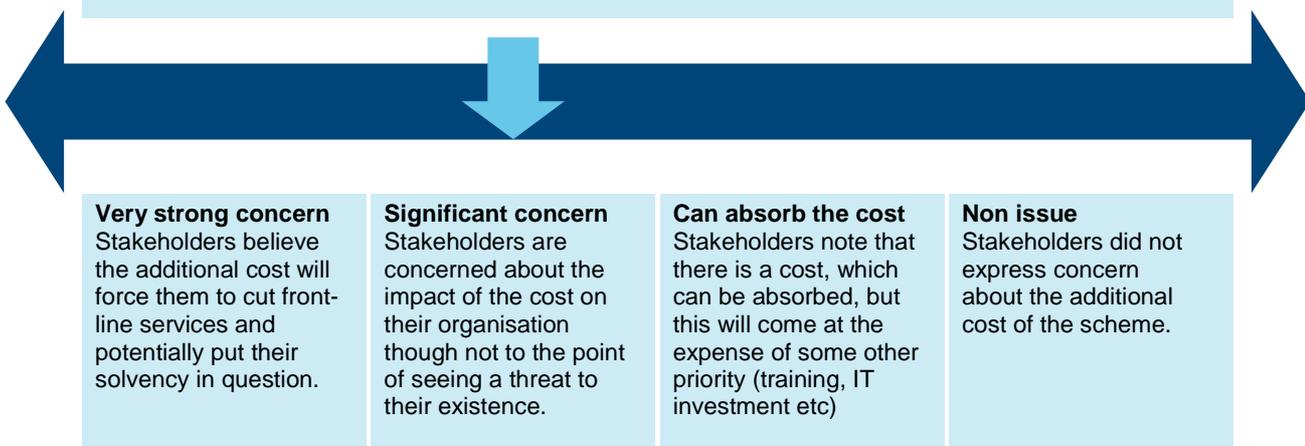
In order to provide some sense of overall stakeholder views, an effort has been made to classify the views of employers according to the four key issues which stakeholders tended to prioritise: cost, benefits, administrative requirements and scope.

This is done by categorising employer views along a spectrum representing the strength of stakeholder concern. In addition, an effort is made to characterise the ‘typical’ or ‘median’ employer in relation to the major issues raised.

Cost

Median stakeholder:

The median stakeholder sees cost as the most important issue associated with the CSS PLSL scheme and has significant concerns about the impact of the costs on their organisation. They are generally suspicious of the claim that the CSS PLSL could make them better off in the long term. They would support the scheme if it was fully funded by government.

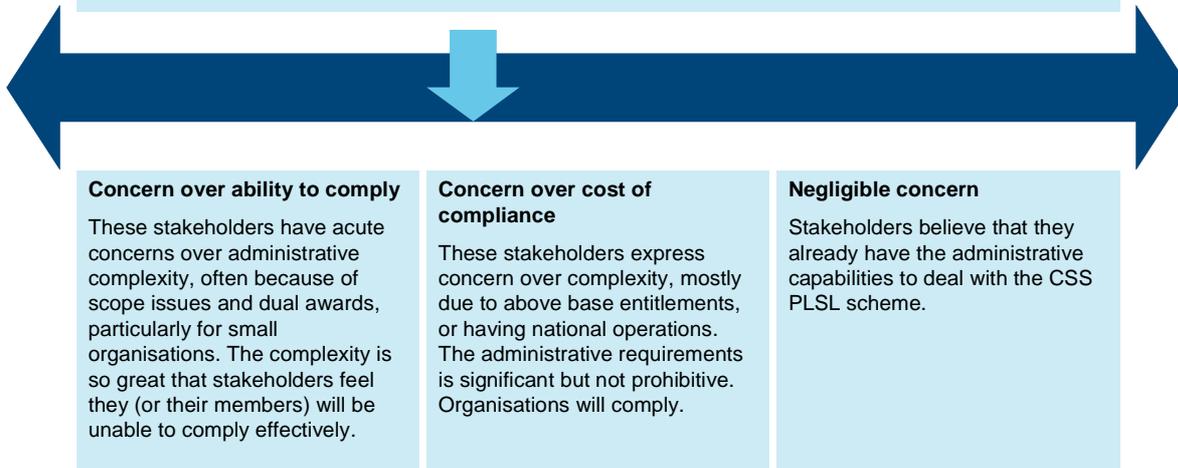


The importance of cost is such that employer support could be regarded as being contingent on some Victorian Government effort to reduce cost.

Administration

Median stakeholder:

The median stakeholder is concerned about the cost of complying with the scheme, particularly in conjunction with above base entitlements. They see a cost associated with compliance, but on the whole feel that compliance can be achieved.

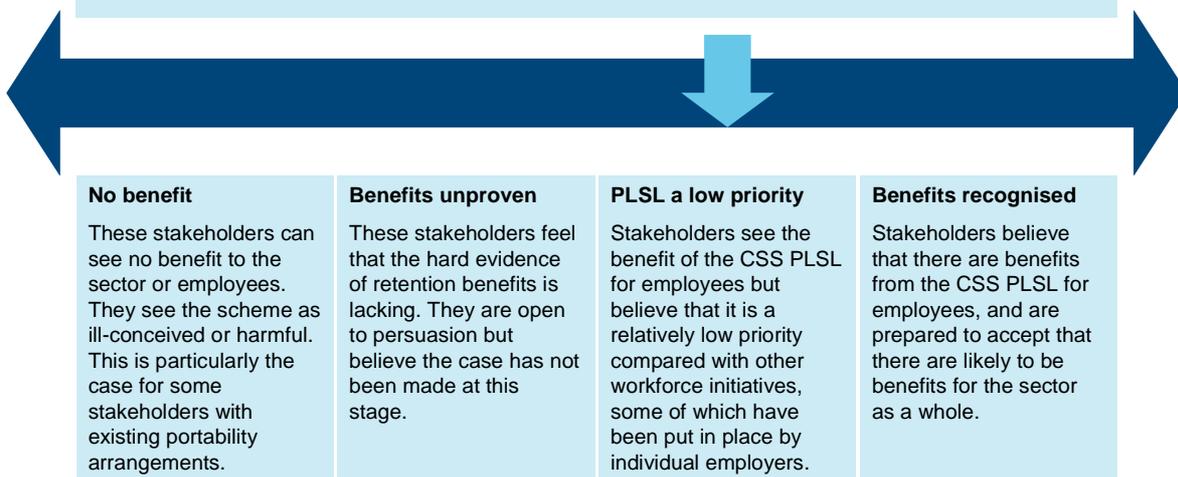


The median view was that the administrative complexity was a cost, rather than an insurmountable burden, but a serious impost nonetheless.

Benefits

Median stakeholder:

The median stakeholder accepts that there is likely to be a benefit to employees from the CSS PLSL, but perceives an opportunity cost.



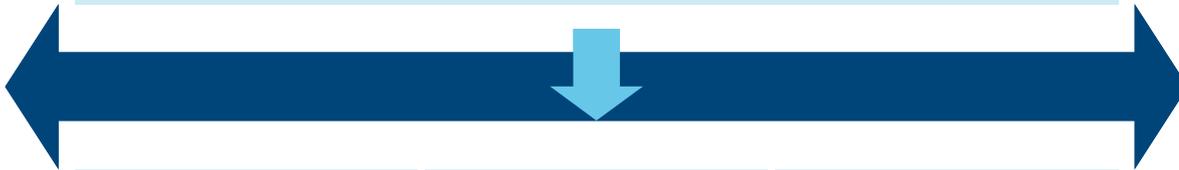
The median position of employers is that portable long service leave benefits appear to exist, but may not be significant.

Whereas Union representatives felt that portable long service leave represented a targeted use of money to provide a benefit for employees.

Scope

Median stakeholder:

The median stakeholder does not oppose the proposed scope of the scheme. Although they might feel that the scope does not reflect typical mobility patterns, they do not argue for the inclusion of additional sectors. Generally, the only sub-group they feel should be excised is their own – which is not a scope issue, but due to cost-benefit considerations.



Acute scope issues

The current scope creates significant administrative or organisational problems for these stakeholders. This is generally because of the difficulty of defining eligibility or due to pre-existing portability arrangements which cut across the boundaries of the proposed CSS PLSL scheme.

Doubts over scope

These stakeholders do not oppose the current scope, but feel that it does not reflect typical mobility patterns for their workers. They have doubts as to whether the community services can be regarded as a sector, and see more mobility between their own sub-group and other sectors such as government or the for-profits.

No substantial scope issues

These employers do not have problems with the proposed scope of the scheme.

Generally, scope issues were less significant than cost, administration and benefits except for those employers, including registered Community Health Centres, who had strong views concerning the overlapping of their existing portability arrangements and the proposed CSS PLSL scheme. Others noted the difficulty of identifying the appropriate boundary between the community services sector and the health or aged care sectors.

4 CSS PLSL Options

Key findings:

A range of options exist which could address elements of employer opposition to the CSS PLSL scheme. These would help address some of the specific issues that emerged in the stakeholder consultation:

- Cost, by funding the administration costs of the scheme for a transitional period, via direct contributions into the scheme and potentially an additional contribution towards the net cost increase for employers.
- Administrative requirements, by allowing the scheme to administer above base (higher) and out of scope (for employees not otherwise covered) long service leave obligations and accept voluntary payments into employer (accumulation) accounts.
- Benefits, by allowing CSS PLSL benefits after 5 or 7 years to be taken in ways which enhance flexibility for a modern and ageing workforce and which provides a comparative advantage to the sector.

The central aim of this review has been to identify potential ways forward in relation to the Victorian Government's portable long service leave policy. As a result, the stakeholder consultations deliberately focused not only on identifying employer views about the currently proposed CSS PLSL scheme, but to explore options and gauge attitudes to potential refinements.

The options outlined in this section specifically relate to the issues of costs, administration and benefits, which arose during the stakeholder consultations.

4.1 Options to address cost

As outlined in the discussion of stakeholder consultations, the cost of the scheme was the primary barrier to employer support.

The option outlined below includes potential funding assistance by the Victorian Government to reduce the impact of costs on employers.

Any Victorian Government funding assistance always has the potential to set undesirable precedents. For example, other sectors could legitimately state that they too would like to have a CSS PLSL scheme if government helps to subsidise the cost to employers.

However, the community services sector has features which distinguish it from other sectors. Such features include the heavy reliance on government funding, the fact that many of the services being provided are being performed as a direct result of government policy and indeed in the past have often been delivered directly by government.

The option of the Victorian Government funding the entire CSS PLSL scheme, ie to effectively fund the long term contributions on behalf of all employers, would be both prohibitively expensive and represent poor public policy.

Also, the additional cost of the CSS PLSL scheme to employers is less than the long term contribution rate, as there are some offsetting savings in relation to their existing long service leave costs.

4.1.1 Funding administrative costs and some potential additional costs of the scheme

In order to reduce the impact of costs on employers, the Victorian Government could fund the scheme's administrative costs for an initial period, such as the first 5 years.

In addition, the Victorian Government could also consider additional funding to help meet the net cost increase of the CSS PLSL scheme to employers, for an initial transition period such as the first 5 years.

One possibility would be to fund the difference between the short term and long term contribution rate (estimated at 0.2 per cent of wages per annum). This would provide transitional support during the initial years when the contribution costs are expected to be higher until the scheme becomes established.

Any government assistance could be designed so as to phase out over time.

There are two mechanisms by which such assistance could be paid.

4.1.2 Provision via funding agreements

The first approach to providing funding assistance to the community services sector would be to add an additional component to the funding formula applying to Department of Human Services (DHS) funded agencies.

For those agencies which are not DHS funded, a central pool of money could be distributed on an application basis.

The disadvantage of this approach is that it is administratively complex, requiring a large number of individual organisations to apply to the Victorian Government to receive some assistance.

The potential advantage of such a system is that the assistance could, in principle, be targeted to the parts of the sector that are least able to cope with the cost increases.

4.1.3 Direct contribution to the central fund

The alternative approach would be for the Victorian Government to make direct contributions to the central fund, rather than via the individual organisations which form part of the scheme.

This has a significant administrative advantage, as it simply reduces the required contributions for employers across the board and does not require applications by entities which are outside of DHS's funding remit.

The administrative simplicity of making annual lump sum contributions to the central fund to reduce the required employer contributions is preferable to the complexity of providing funding to the organisations themselves through funding agreements or applications to a central fund.

The Victorian Government should:

- fund the administrative costs of the CSS PLSL scheme for an initial transition period, such as 5 years
- consider providing additional funding towards the net cost increase of the CSS PLSL scheme to employers for an initial transitional period, such as 5 years
- provide this funding through direct contributions into the central fund of the scheme, which would be phased out over time.

4.2 Options to address administrative requirements

Aside from cost, the administrative complexity of the proposed CSS PLSL scheme was one of the most significant and regularly mentioned issues in employer stakeholder consultations.

The main source of administrative complexity was the issue of dual long service leave entitlements where employers presently offer their workers above base benefits. This results in a need for employers to effectively maintain two sets of records – one associated with their contributions to the central fund for the base portable entitlement and one for their own above base long service leave entitlements, which can still be triggered when an employee stays with a single employer for the requisite period.

The administrative complexity created by the dual entitlement structure is an inevitable feature of the scheme. The aim of options to address administrative requirements is to ensure that the complexity is dealt with in as efficient a way as possible, by allowing the CSS PLSL scheme to handle as much of the administrative requirements as possible.

4.2.1 A voluntary opt-in for above base entitlements

Administration of above base entitlements

In order to reduce administrative complexities, the CSS PLSL scheme should be able to offer employers the option of administering their above base long service leave entitlements.

Under this approach, an employer would register with the scheme the specific long service leave entitlements relevant to each individual employee and the scheme would administer both the portable base entitlement and the employer-specific above base entitlement.

That is, employers would have the option of outsourcing the administration of all of their long service leave obligations to the CSS PLSL scheme.

Importantly, this possibility represents not merely a way to help overcome the complexity posed by portable long service leave, but a potential benefit to employers relative to their present situation. Many employer representatives shared their concerns that small organisations currently have great difficulty in reliably administering their existing long service leave liabilities.

The use of the CSS PLSL scheme to administer all long service leave obligations for the sector is akin to developing shared service infrastructure for the community services sector.

Funding of above base entitlements

In order to fund the above base entitlements being administered by the CSS PLSL scheme, employers would also be able to make voluntary payments to an employer account held with the central fund. The money would remain vested with the employer rather than the employee or the fund.

This would mean that:

- the amounts deposited in the employer account would be intended to remain on the employer's balance sheet (subject to applicable accounting standards)
- the employer would earn interest on the funds deposited (taking advantage of the potential scale made available by the CSS PLSL scheme)
- the employer could make provisions up to the level they wished – there would be no compulsory contribution
- the employer could use the money at any time to fund other priorities, such as when an employee left their service prior to triggering a long service leave entitlement.

The CSS PLSL scheme could also provide the additional service of advising employers on an appropriate voluntary provisioning rate.

This voluntary, above base, component of the scheme would operate on an accumulation, as opposed to a defined benefit, basis. Thus the 'risk' associated with under or over-provisioning for the employer's own long service leave liabilities would remain with the employer.

This option in relation to the above base component of employer-specific long service benefits represents a form of hybrid between a centralised and decentralised model. It has three characteristics of a centralised approach:

- The ability to hand over administrative responsibility for above base entitlements to the CSS PLSL scheme
- The ability to access the scale economies of the central fund's investment activities
- The benefit of having the central funds advise an appropriate voluntary contribution rate to cover the above base long service leave liabilities.

At the same time, it has the following advantages of the decentralised approach:

- The flexibility for individual employers to contribute to voluntary accounts as they see fit.
- The ability to maintain funds on the employer's balance sheet, earn interest on the funds and potentially utilise money in the event of an employee leaving the organisation.

The CSS PLSL scheme should offer to administer, on behalf of employers, above base long service leave entitlements.

The CSS PLSL scheme should offer employers the option of making voluntary contributions to an employer account for above base long service leave entitlements.

4.2.2 *A voluntary opt-in for certain out-of-scope employees*

A further area of administrative complexity relates to the excision of the aged care sector from the scope of the CSS PLSL scheme and potentially, the other scope issues discussed in Section 5 of this report.

This poses a challenge for organisations which operate a combination of activities involving services which are outside the scope of the scheme and some which are within the scope.

If the option of allowing voluntary administrative support and payments to employer accounts is taken up for the above base long service leave entitlements, a similar approach could be taken in relation to those out-of-scope employees who work within organisations which are otherwise part of the sector and part of the statutory scheme.

As with above base entitlements, the CSS PLSL scheme should be able to offer employers the option of administering their long service leave entitlements for out of scope employees. The employers could also make payments for these employees (for example aged care workers) into a voluntary employer account, with the scheme providing advice to the organisation and employees as to the appropriate contribution and emerging leave entitlements of those staff.

The CSS PLSL scheme should offer to administer, on behalf of employers, the long service leave entitlements for their out of scope employees, and provide employers with the option of making voluntary contributions to an employer account for these long service leave entitlements.

4.2.3 *A voluntary opt-in to deal with pre-existing portability arrangements*

The voluntary opt-in arrangements could also be a suitable platform to deal with the existence of small-scale portability arrangements which currently exist in the sector, some of which offer portability at an above base level.

At present, there are portability arrangements between neighbourhood houses, between community legal centres and within the community kindergarten sector, for example. Where these pre-existing arrangements provide the base entitlement only, they can easily be folded within the new statutory scheme, although there are some specific complications relating to the kindergarten sector, which are dealt with in Section 5 of this report.

Where pre-existing portability arrangements offer an above base level of long service leave, employers have the same dual entitlement issue commonly experienced across the sector, as well as the need to keep track of employees' eligibility for above base portability within these pre-existing arrangements.

The scheme could offer organisations, on a voluntary basis, to administer any pre-existing (or future) above base portability arrangements between members of the scheme. This would involve an employer notifying the scheme that in addition to having an above base obligation to their own staff, they also owe this obligation to staff moving between a small group of organisations who are part of the wider scheme.

It is possible that such schemes would then make use of the ability to make voluntary payments relating to above base entitlements, so that they could operate any additional portability arrangements from an employer's voluntary account when employees change jobs.

The CSS PLSL scheme should offer to administer, on behalf of employers, any pre-existing (or future) portability entitlements, and provide employers with the option of making voluntary contributions to an employer account for these long service leave entitlements.

4.2.4 A strong focus on administrative outreach

In order to entrench compliance, develop a strong understanding of the CSS PLSL scheme and ensure that organisations can adapt to a portable long service leave environment, it will be important for the scheme to engage in significant outreach to the sector. This could involve site visits, regular seminars and other forms of information provision.

Stakeholders across the sector noted that Worksafe's approach to boosting compliance through a cooperative engagement with individual employers was a model which could be adopted by the new scheme.

The CSS PLSL scheme should undertake significant administrative outreach to assist small organisations to understand and comply with their obligations under the CSS PLSL scheme.

4.2.5 Improved shared knowledge of the sector

A further potential benefit of the CSS PLSL scheme would come about if the creation of the central scheme was used as a lever to develop a useful baseline information relating to a range of workforce issues across the sector. For example, the scheme would create, for the first time, a detailed baseline dataset in relation to the number and demographic characteristics of the community services workforce. It would also be in a position to identify and analyse workforce mobility trends, including rates of turnover and patterns of movement within and out of the sector. This data would be collected purely as a result of the scheme's role in administering the portable entitlement.

This dataset would represent a significant improvement compared with the current situation, where the paucity of existing data has been a significant barrier to the development and assessment of the impact of a CSS PLSL scheme.

Over time, the CSS PLSL scheme would be well positioned to provide the evidence base for future workforce initiatives. The scheme could further augment the data it receives through its core business activities by actively seeking additional information from scheme members. This could take the form of exit interviews or surveys of member employers across a range of workforce topics.

In discussions with employers, it was clear that the potential for the scheme to provide a basic dataset for sector wide initiatives was seen as a significant benefit. The benefit would come both in the form of practical information to help inform future strategies, and also by entrenching a culture of collaboration and a greater sense of unity across the community services sector.

The Victorian Government and the scheme should place a high priority on the development of shared baseline data which can help in developing sector wide initiatives, including future workforce strategies, and collaboration across the sector.

4.3 Options to enhance benefits

Consultation with employers reflected that the proposed CSS PLSL scheme involved significant costs in return for unclear and potentially long term benefits. To improve employer acceptance of the scheme requires an effort to reduce costs, enhance benefits or both.

Enhancing benefits is not about increasing the dollar value of the leave entitlements being offered to workers, since this only results in higher costs. The key to offering improved benefits lies in delivering greater flexibility as to how the benefits can be taken.

Several employers noted that portable long service leave was a relatively low priority compared with other initiatives to attract and retain staff. These other initiatives included:

- additional annual leave (eg 5 weeks of annual leave)
- 4 day weeks or 9 day fortnights
- training and professional development leave
- paid and unpaid maternity leave.

A way to give employers a greater sense of benefit from the CSS PLSL scheme would be to also provide greater flexibility in the use of the portable long service leave funds once the employee has stayed beyond a certain number of years.

As the ageing of the population creates additional challenges and opportunities for community services organisations, it will be important for organisations to have these strategies in place to attract and retain an older, and potentially predominantly female, workforce of the future.

The CSS PLSL scheme can play a role in this, particularly to the extent that the benefits it offers are geared towards maximising the flexibilities which would be most attractive to this workforce demographic.

4.3.1 Flexibility in the use of CSS PLSL funds after 5 and/or 7 years

The cost and structure of the benefits should broadly mirror the benefits provided under the *Long Service Leave Act 1992*. This includes a payment of 8.67 weeks ordinary pay for long service leave after the employee has had 10 years' service.

Under the current CSS PLSL scheme the pro rate long service leave payment after at least 7 years service only applies to employment with a single employer. In keeping with the policy objective of the scheme, the pro rate benefit should apply to 7 years service within the sector, not just to a single employer. This is consistent with other portable long service leave schemes around the country such as the building and contract cleaning portable long service leave schemes.

If the above recommendation is adhered with then under the scheme, once an employee has worked for 7 years in the sector, it becomes certain that they will receive a portable long service leave benefit. This will occur either because they stay in the sector for a further 3 years and become eligible to take long service leave, or because they leave the sector and receive a pro rate payout of their benefit.

One option to enhance the range of benefits which the scheme could offer would be to allow greater flexibility as to the way that funds can be used for employees who remain in-service after 7 years.

This option would allow employees to access the money on a pro rate basis after 7 years in order to fund a designated workplace flexibility initiative.

An even more flexible option would be to allow employees to access their portable long service leave benefit after 5 years rather than 7. This would have two key advantages:

- It would help overcome the anomaly created by those awards which allow employees to receive a pro rate payout on exit after 5 years.
- It would sharpen the retention incentive for those staff with only 3 to 4 years of service, who would be within sight of accessing a portable long service leave benefit in a variety of ways.

This option would involve a slight increase in cost, since it would create a benefit for a class of employees, those who stay in the sector for between 5 and 7 years, who would not receive any benefit under the scheme as currently proposed.

Any decision to access the money for some purpose other than taking long service leave would need to be at the election of the employee and require the consent of the employer. That is, neither employer nor employee would have the ability to unilaterally impose a particular course on the other. Nonetheless, greater flexibility could create opportunities for employers and employees to cooperatively decide on the most appropriate form in which the retention incentive provided by portability should be taken.

A minimalist approach would be to require that money could only be accessed after 5 or 7 years for one of a designated list of workplace flexibility initiatives, including:

- additional annual leave
- flexible working arrangements such as 4 day weeks or 9 day fortnights
- training or other professional development leave
- paid maternity leave
- in-service benefits to help overcome the issue raised by some stakeholders that it is often difficult for staff in small organisations to take long service leave because of the disruption this would cause.

The cost of providing this additional flexibility, including in-service benefits, after 5 or 7 years is minor, reflecting the earlier payment of a benefit which would be paid at some point after 7 years (either as long service leave or as a pro rate payout). There might be a small interest cost associated with the early access to these funds by employees who remain in-service. That said, it is by no means guaranteed that all employees would choose to take their portable long service leave entitlement on a pro rate basis at the 5 or 7 year mark, since the entitlement will continue to grow as they accumulate further service in the sector.

These flexibility options provide an employee benefit to the community services sector which would constitute a genuine comparative advantage in attracting staff.

That is, it would introduce an attractive incentive to work for a period in the sector, which is not widely available in other sectors. Importantly, it would provide employers with the enhanced ability to think broadly about the incentives which they could offer to their staff which would be most saleable and relevant to their workforce.

We note that the ability to access benefits after 5 or 7 years for these purposes would represent a move away from the existing provisions of the *Long Service Leave Act 1992*. In addition, the *Long Service Leave Act 1992* does not currently allow flexibility in the way the benefit is taken – it must be taken as leave and the leave cannot be taken as a series of short periods.

Despite these existing legislative restrictions, many employees, including Victorian Government employees have more flexibility concerning the taking of long service leave by virtue of their enterprise agreements. In some cases, this includes receiving additional remuneration in lieu of leave.

It would be preferable for the CSS PLSL scheme to embody the flexibilities required to support a modern and ageing workforce rather than adhere strictly to the existing provisions of the *Long Service Leave Act 1992*.

In keeping with the principles of portability, pro rata long service leave entitlements should be payable on the basis of service with one or more employers within the sector, rather than for service with a single employer only.

The CSS PLSL scheme should allow pro rata portable long service leave benefits after 5 and/or 7 years service in the sector, regardless of whether this service has been with one or more employers.

The CSS PLSL scheme should allow, subject to employer and employee agreement, these pro rata portable long service leave benefits after 5 and/or 7 years to be used for a specified set of workplace flexibility initiatives including additional annual leave, flexible working arrangements (eg 4 day weeks), time off for training or other professional development, paid maternity leave and in-service benefits.

4.4 Review of CSS PLSL scheme initiative

In keeping with good government practice a review process for the CSS PLSL initiative should be agreed prior to the commencement of the scheme. The review process would establish:

- the person/s responsible for undertaking the review – which might include Government and/or stakeholder and/or independent representatives
- the scope of the review – which would include an assessment against the original policy objectives
- agreed performance measures – so that appropriate data can be collected from commencement of the scheme and
- an agreed time period (for example 5 years from commencement).

This will help ensure that the CSS PLSL initiative fulfils the policy objectives and if not, will provide a mechanism for further requirements.

Prior to commencement of the CSS PLSL scheme, a review process should be agreed in order to assess the extent to which the scheme has met the original policy objectives and whether any further refinements are required. The review process should establish who would undertake the review, the scope of the review, agreed performance measures and an agreed period of time (eg 5 years).

5 Scheme scope

Key findings

- The whole of organisation approach remains the most appropriate basis for defining the scope of the CSS PLSL scheme.
- Difficult scope issues arise, and are best handled through the legislative flexibility provided by subordinate instruments.
- Home and Community Care should remain within the scheme, but with some flexibility to address anomalies where HACCC is linked to community aged care.
- Inclusion of registered Community Health Centres should be on a whole of organisation basis but with early release of CSS PLSL monies to meet existing portability requirements.
- Some recognition of existing portability arrangements in the kindergarten sector will be necessary in the transition to the new scheme.

5.1 Issues relating to scope

PwC was asked to examine five key aspects of the scope of the proposed CSS PLSL scheme. Some of these aspects arose specifically in the course of consultations with employer groups.

The following issues were addressed:

- How to ensure that the decision to excise residential aged care from the scheme's scope can be practically implemented
- The most appropriate treatment for registered community health centres and other health providers
- The most appropriate basis for the inclusion of kindergarten teachers
- The treatment of early childhood intervention service (ECIS) workers
- The treatment of management staff in organisations which offer some childcare or kindergarten services as part of a broader suite of activities which are unrelated to community services.

5.1.1 *The whole of organisation approach*

The CSS PLSL scheme as originally announced by DHS involved a whole of organisation approach. Under this approach, the scheme would apply to:

- all employees of non-government and not-for-profit organisations that deliver a specified range of community service activities
- coordinating, teaching, direct care staff and business administration and management staff of non-government and not-for-profit organisations that deliver children's services licensed under the *Children's Services Act 1996*.

This approach has the advantage of relative simplicity for organisations, since it enshrines the principle that eligibility is based on the organisation rather than the activities of the employee specifically.

The alternate approach of basing eligibility on the employee's activities could have been structured in a number of ways – including award coverage or actual role performed – but each would involve significant complication. Particularly in light of the award modernisation process being undertaken through the Federal workplace relations system, it would not have been feasible to base eligibility on legacy awards. Any definition of eligibility on the basis of occupational role would have the effect of splitting the majority of CSS organisations, with some employees eligible for portable long service leave and others not.

The decision to excise the residential aged care sector creates challenges for the whole of organisation approach. It effectively means that organisations offering a combination of residential aged care and community services will face the need to split the workforce between those who are eligible and those who are not.

An important question following on from the excision of aged care is whether the whole of organisation approach should be revisited in its entirety.

Because of the relative simplicity of the whole of organisation approach, the preferred option is to retain it as the basis for eligibility across the bulk of the sector. Specific rules then need to be applied in cases such as residential aged care where a departure from the whole of organisation approach has become necessary.

As a result, in assessing several of the specific scope issues outlined below, there is a clear preference, wherever possible, to maintain a whole of organisation approach.

The whole of organisation approach should remain as the main underlying principle to determine eligibility for the scheme, with a small number of exceptions in cases of identified anomalies.

5.1.2 Managing and implementing scope issues

The need to make specific rules to deal with particular anomalies will require a degree of legislative flexibility.

In addition to the legislative provisions defining community services, it will be necessary to have regulation making power, or the ability to use flexible subordinate instruments to refine the definitions of employer and employee under the scheme.

This would allow the Minister for Community Services or an appropriate delegate to determine that certain organisations were specifically included or excluded notwithstanding the application of the legislative definition, and also to identify classes of employees who would be included or excluded.

The enabling legislation should provide flexibility for the definition of employers and employees to be specifically added to or refined through subordinate instruments, providing the ability to include and exclude identified organisations and workers.

It will also be necessary to consider a range of policy and implementation issues on an ongoing basis. It would be appropriate to have an advisory group, comprising representatives of employer and employee organisations as well as government, which can formulate advice on these matters. The advice could be in relation to relatively large-scale policy issues, including the inclusion or exclusion of classes of workers or organisations, but could also deal with smaller scale implementation issues,

such as the processes by which individual organisations should determine the eligibility of their employees.

The combination of legislative flexibility and an advisory group allows for the efficient determination of scope issues which will arise in the future. Many of these scope issues are complex, and it is possible that some unintended consequences will emerge. It will be necessary for there to be a process by which organisations can seek a determination that certain employees are excluded from the scheme. This could arise in relation to:

- some management staff in organisations which deliver some residential aged care and some community services
- management and other non-CSS staff of organisations which offer children's services as an adjunct to non-CSS related services
- management and other non-CSS staff of organisations which perform some community services on a small scale which are incidental to their overall operations.

In determining individual cases, the advisory group would need to have some clear guiding principles on which to base decisions. The following are some basic principles which could help in this process:

- Horizontal equity – requiring that people undertaking like roles in different organisations should be, to the maximum possible extent, treated similarly for the purposes of eligibility
- Respecting a commonsense boundary between the community services sector and other sectors such as health or residential aged care
- Avoiding perverse incentives for organisations to cease delivering community services so as to be removed from the scheme
- Taking into account the challenges posed by pre-existing portability arrangements which cut across the boundaries of the CSS PLSL scheme
- Departing from the whole of organisation approach when organisations are delivering some community services which are minor or incidental to their overall activities.

These factors often come into conflict when applied to a given specific context. As a result, no single factor can be regarded as an absolute principle to be upheld in all cases. Individual applications will require pragmatic judgments to ensure that an appropriate balance of the relevant considerations is achieved.

A CSS PLSL Advisory Group should be formed, with representation from the Victorian Government, employers and relevant unions to advise the scheme (and potentially the Government) on anomalies and scope issues going forward, in accordance with a set of agreed principles.

5.1.3 The excision of residential aged care

In October 2009, the Minister for Community Services made a decision to excise residential aged care from the scope of the CSS PLSL scheme.

The mechanism used to determine the services to be excised was the Aged Care Assessment Service (ACAS) which determines client eligibility for certain aged care services. These include a range of community based aged care services in addition to residential care. These community based services are as follows:

- Community Aged Care Packages (CACP)
- Extended Aged Care at Home (EACH)
- Extended Aged Care at Home – Dementia (EACH-D)
- Transition Care program
- National Respite for Carers Program (NRCP).

Treatment of HACC services

In addition to services based on ACAS assessments, representatives of the aged care sector advocate the excision of Home and Community Care (HACC) services from the CSS PLSL scheme.

HACC encompasses a range of services delivered by a number of different types of organisations and individuals. Some elements of HACC, such as home nursing, are delivered by health professionals while others, including personal care, home help, planned activity groups and some respite services, are typically delivered by non-health workers.

Eligibility for HACC does not involve an ACAS assessment. In addition, the target group for HACC involves both frail aged and those with complex needs (including with a disability), thus the range of clients is broader than is the case for residential aged care services.

A key consideration in determining whether HACC should be included in the CSS PLSL scheme is whether HACC services tend to be integrated with residential aged care services or with broader community services. The available evidence suggests that HACC services are delivered in a broad range of configurations, including:

- stand alone agencies delivering HACC services only
- aged care providers offering a range of community based options (including CACP and EACH) as well as HACC
- disability and other community service providers, delivering HACC as part of a suite of community services
- large not-for-profit organisations delivering the full range of aged care, HACC and a wide range of community services.

It is estimated that of the 301 non-government, not for profit organisations in Victoria which receive HACC funding, 38 are also funded to deliver aged care services such as CACP and EACH which have been excised from the scheme. Of these, some 28 also provide other community services which are funded by DHS and are clearly within the scope of the CSS PLSL scheme. This suggests a relatively small number of organisations delivering aged care and HACC but no other community services.

Discussions across the sector suggested that, on balance, it was more likely that HACC services were integrated with broader community services or delivered by stand alone agencies. Integration is likely to be particularly strong in the disability sector.

This means that a decision to excise HACC would lead to considerable administrative complexity across a large number of organisations which deliver both HACC services and other eligible community services. As a result, the preferred option is to keep HACC services within the scope of the scheme.

Home and Community Care (HACC) services should be included within the scope of the CSS PLSL scheme.

Notwithstanding the preference for retaining HACC within the scope of the scheme, some specific refinements to this policy might become necessary in particular circumstances.

A potential anomaly arises in the case of Victoria's 15 Bush Nursing Centres (BNCs). These entities are HACC funded, but perform the role of health and aged care providers in small, relatively isolated communities. They are administered by the rural health branch of the Department of Health rather than the HACC branch. Several stakeholders acknowledged that the fact that BNCs were HACC funded was an anomaly.

A second potential anomaly arises in the case of the Royal District Nursing Service (RDNS) which is also HACC funded, but is widely perceived to operate as part of the health sector rather than the community services sector. The RDNS receives significant HACC funding under the home nursing stream. Although it is possible that some RDNS services could fit the definition of community services, it is unlikely that this amounts to a significant proportion of the RDNS's activities. On this basis, the preferred approach is to leave the RDNS out of the CSS PLSL scheme.

Bush Nursing Centres and the Royal District Nursing Services should, notwithstanding their HACC funding, be excised from the CSS PLSL scheme.

Making the residential aged care excision operational

A decision to leave HACC services within the scope of the CSS PLSL scheme avoids administrative complexity for a large number of organisations. However, it creates some additional complexity for those agencies which deliver a range of community based aged care services, including both HACC and CACP, EACH and Commonwealth funded respite services.

In order to make the excision of residential aged care operational, it must be possible to translate it from a funding-stream basis to a staff basis. That is, the funding programs must map clearly on to specific individuals to ensure that eligibility for each worker in the organisation can be clearly defined.

PwC spoke to a range of aged care providers which fit this description. In general, the following key points emerged:

- It is generally possible to determine which funding stream a person is working under at any point in time, because the funding is tied to clients. Thus the key determining factor is the client for whom the workers is delivering services
- Notwithstanding the above point, an individual worker might work across more than one funding stream in the course of performing their role within the organisation
- Core residential care services are usually operationally separate from HACC services. Staff overlap is relatively small
- Community aged care services such as CACP and EACH are significantly more likely to be integrated with HACC services, with a high degree of staff movement between the funding streams and many people working across both simultaneously.

To illustrate the extent of the integration, one service provider indicated that they ran a respite service which was funded by HACC between Monday and Friday and National Respite for Carers

Program (NRCP) on Saturday and Sunday. Many staff could thus be expected to work across both funding streams.

Dealing with these anomalies is not straightforward. However, the administrative complexity can be minimised if some reasonably clear rules of thumb can be devised to guide decisions on eligibility.

Where an aged care provider delivers HACC and community aged care services, the desirable outcome is that staff should be excluded from the CSS PLSL scheme if they are wholly employed in the 'excised' aged care sector. This could include management staff that are not specifically associated with HACC or other community services.

Aged Care Assessment Service process should remain the determining factor in defining the excision of residential aged care services.

Where organisations undertake both community aged care and HACC, staff should be excluded from the scheme only where they are wholly involved in the delivery of excised aged care services.

5.1.4 Registered Community Health Centres

The situation confronting registered CHCs relates to the existence of a portability scheme which cuts across the boundary of the CSS PLSL scheme. Nursing and allied health workers in registered CHCs are, by virtue of their awards and enterprise agreements, entitled to portability when moving between registered CHCs and the broader health system.

The potential interaction of two portability schemes could disadvantage registered CHCs who may be forced to pay for portability through the CSS PLSL scheme but be unable to access money from the scheme to meet legal obligations under the health sector portability arrangements.

One possibility would be to excise CHCs altogether. It is estimated that around 20 per cent of registered CHC staff (up to 400 workers) are employed in undertaking community services functions. The principle of horizontal equity suggests that they should be eligible for the CSS PLSL scheme in the same way as similar workers in other organisations.

This leaves two possible approaches:

- To make a distinction between health workers and CSS workers within registered CHCs and split the organisation in a similar way to the treatment of residential aged care
- To preserve the whole of organisation approach but relax the rules of the CSS PLSL scheme to ameliorate some of the disadvantage experienced by the registered CHC sector.

Under the first approach, a distinction would be made between employees on the basis of their industrial instruments – specifically whether they were employed under awards or enterprise agreements which provided portability into the health sector.

Although this would provide some clarity, it would create some anomalies when considered in the context of other organisations.

For example, a distinction of this nature would exclude all nurses and allied health professionals, even where they were delivering services – such as HACC – which are otherwise included in the CSS PLSL scheme.

Under the second approach, two refinements to the scheme's rules would be introduced:

- Registered CHCs would be eligible to receive an early release of funds from the CSS PLSL scheme on behalf of an employee who was a health professional and who was now triggering a long service leave entitlement on the basis of past service in the health sector. This would provide the CHC with funding for the base level of long service leave on a pro rate basis relating to the period for which the employee had worked in the CHC. The remaining component of the long service leave entitlement would need to be met by the CHC
- When a health professional leaves a registered CHC to go to another part of the health sector, the normal four year period for which the worker can leave the CSS and maintain eligibility for the CSS PLSL scheme would be suspended. This would create an ongoing incentive for the worker to return to the CSS at some future point.

Both of the options put forward have advantages and disadvantages and the competing merits are difficult to determine. On balance, PwC's preferred approach is the second option, maintaining a whole of organisation approach and refining scheme rules to reduce some of the disadvantage experienced by the registered CHC sector.

Registered Community Health Centres should be included within the scheme on a whole of organisation basis.

Registered Community Health Centres should be eligible for early release of scheme monies through recognition of past service by health workers in the health sector, where employees have an existing legal entitlement to portability.

The proposed 4 year maximum period for workers to be out of the community sector and retain eligibility for CSS PLSL scheme should be suspended in the case of health workers leaving registered Community Health Centres and going into the health sector.

5.1.5 Issues specific to the kindergarten sector

The kindergarten sector faces a unique set of circumstances as a result of historical factors. In 1984, a portability entitlement for kindergarten teachers and assistants was legislated. However, the list of kindergartens to be covered by the legislation was never gazetted. Notwithstanding this, kindergartens in the sector operated on the basis that portability was in place – initially in the belief that it was legislated and later according to a 'gentleperson's agreement'. The relevant sector was defined as the community kindergartens and local government-run kindergartens, thus it excluded any for-profit enterprises. However, representatives of the sector have indicated that in practice, the scheme was confined to the community kindergartens.

Under these arrangements, past service in the sector was recognised for the purposes of determining when a worker became eligible for long service leave. Rather than paying transfer values when workers changed employer, the kindergartens waited until an employee took long service leave and then sought contributions from relevant previous employers.

Prior to the early 1990s, this system posed limited administrative complications for the kindergartens themselves, since the relevant Victorian Government department (the forerunner of today's Department of Education and Early Childhood Development) provided centralised payroll services on behalf of the community kindergartens. As a result, the responsibility for provisioning for long service leave entitlements rested with the department. This obviated the need to seek payment from previous employers in many cases, since the department was effectively the paymaster for all community kindergarten employees under the scheme.

After the early 1990s, however, the payroll function was decentralised and handed to individual kindergartens. This created a need for kindergartens to chase up former employers when one of their staff took long service leave as a result of a portable entitlement flowing from service with multiple kindergartens.

The creation of the new CSS PLSL scheme creates two main issues:

- The CSS PLSL scheme will recognise, at the point of the scheme's commencement, past service with an existing employer for the purposes of defining eligibility for long service leave. However, confining past recognition of service to the current employer is less appropriate in the case of kindergarten staff. Where such staff have past service with multiple kindergartens, they might be eligible for a long service leave entitlement (under existing arrangements) soon after the scheme's commencement, despite having only relatively short service with their current employer. This would create a situation where an employer would need to pay for a long service leave benefit, but the CSS PLSL scheme would not release any money towards that payment.
- The fact that the pre-existing portability arrangements have not had strong legislative backing creates the possibility that employers could decide to no longer recognise past service on a portable basis, preferring to apply portability only on a prospective basis in keeping with the rules under the proposed CSS PLSL scheme. This would effectively erode existing worker entitlements.

The first issue is a transitional one, concerning the recognition of past service when the CSS PLSL scheme is introduced. Because kindergartens and staff have operated on the basis that portable entitlements exist, it would be appropriate for the CSS PLSL scheme to recognise this past service.

Following the commencement of the CSS PLSL scheme, past continuous service with multiple kindergartens should be recognised for the purposes of calculating eligibility for portable long service leave.

This means that the scheme would pay, on a pro rate basis, the portion of the benefit accrued after the commencement of the scheme, even though the worker in question might have fewer than 7 years' continuous service if the definition is confined to past service with one employer only. The remaining component of the benefit would need to be funded by the present and past employers as currently occurs.

It should be noted that similar issues could arise in relation to other pre-existing voluntary portability arrangements such as those relating to neighbourhood houses and community legal centres. It would be possible to implement similar rules for these sub-sectors. However, the case in favour of doing so for kindergartens is particularly strong because of the quasi-legislative basis for the entitlement brought about by its unique history.

The cost of allowing early release in such cases is not expected to be significant. It would allow the CSS PLSL scheme to recognise pre-existing portability arrangements where these have been a reality and where employees have relied on them.

The second issue – protecting existing entitlements – involves the issue of the legal status of the entitlements which have been built up in the past in the kindergarten sector.

Prima facie, it would be undesirable to allow workers' entitlements to be eroded when the CSS PLSL scheme is introduced. This is particularly the case for long standing staff who have built up an expectation of substantial long service leave entitlements on a portable basis in the sector.

Rather than passing retrospective legislation, it would be desirable to gain the agreement of the sector, particularly through the peak body, that existing portable entitlements will continue to be honoured.

This agreement would be backed up by a firm government policy commitment to the principle that existing entitlements be maintained.

The peak body, KPV, supports the principle that existing portable long service leave balances remain an entitlement of kindergarten employees and should continue to be honoured in the future. Currently KPV provides advice to individual kindergartens about their long service leave obligations, including contributions for portable entitlements for staff that have moved to other centres.

The Victorian Government, in partnership with the kindergarten sector, should confirm that existing portable long service leave entitlements, which have been accrued to date in the community kindergarten sector, will continue to be upheld.

To strengthen the shared understanding that existing portable balances remain an employee entitlement, the Victorian Government should provide resources to enable records to be collected across the sector in order to clarify existing entitlements, gain a centralised view as to the extent of those entitlements and potentially advise individual kindergartens of their potential liabilities in relation to past workers.

This process could then stimulate a 'clean up' of existing leave balances through the payment of transfer values by past employers to current employers or relevant staff.

This could be done using the voluntary employer accounts suggested for above base entitlements.

5.1.6 Early Childhood Intervention Service workers

Early Childhood Intervention Service (ECIS) workers provide support to children with a developmental delay or a disability. They provide a number of services, ranging from counselling and therapy to planning and coordination.

Many of the workers providing ECIS are allied health professionals. PwC understands that most ECIS services are delivered by community service organisations. Of the 54 organisations funded in 2008-09 for ECIS services, 28 were non-government organisations in the community services sector. The remainder were government organisations which would fall outside the scope of the scheme.

In general, these services appear to be delivered by specialist ECIS providers or by disability providers. It is understood that in some cases, the services targeted at young children with developmental delays are a forerunner to disability services once the child is older.

Where these services are being delivered in conjunction with disability services, the organisations in question would be included on a whole of organisation basis in any event.

The inclusion of these workers should not create a precedent for the broader inclusion of allied health professionals beyond the CSS.

If the inclusion of ECIS workers proves difficult to legislate, then organisations delivering ECIS services in the not-for-profit sector should be included as employers by regulation.

Early Childhood Intervention Services should be considered to come within the scope of the CSS PLSL scheme, because of the link with disability services and the nature of the work, dealing with early childhood intervention.

5.1.7 Organisations delivering some children's services

A potential anomaly has arisen in relation to organisations whose main functions fall outside the community services sector but who deliver some children's services, such as a small child care centre.

It is proposed that the workers directly employed in these services be included in the CSS PLSL scheme. However, it would be an unintended consequence for the management or other staff of such organisations to be included in the scheme by virtue of children's services being delivered.

Where organisations are involved in the provision of children's services as well as a broader range of services unrelated to the community services sector, inclusion in the CSS PLSL scheme should be confined to those workers who are employed wholly and directly in the provision of these children's services.

This could be done through a regulation or other subordinate instrument defining employees under the scheme.

Although this represents a departure from the whole of organisation approach, it represents an appropriate practical outcome which preserves the eligibility of those workers whose role is specifically focused on delivering community services.

Appendices

Appendix A	CSS PLSL scheme features	38
Appendix B	Actuarial work	41
Appendix C	Costs and benefits of portable long service leave	48
Appendix D	Consulted stakeholders	54

Appendix A CSS PLSL scheme features

The key features of the portable long service leave scheme proposed by DHS to the community service sector are outlined below.

Centralised fund

The scheme would operate as a centralised scheme to which all community services sector employers would contribute a specified amount – 2 per cent initially and then 1.4 per cent in the long term of workers salaries. The centralised pool of assets that would be built up by contributions from employers would be used to pay out worker once entitlement is activated. Payments into the scheme would be quarterly. The central fund will have a board that is comprised of employer and employee representatives. The boards main functions will be; governance, policies and guidelines, administration determinations, set investment strategy and to appoint service providers.

Scope

The scheme would be compulsory for all community services sector employees as defined by Australian Institute of Health and Welfare's (AIHW) national classification of community services (Version 2, 2003) and the Australian Bureau of Statistics (ABS) industry classification and the service activity classifications adopted by DHS as part of its funding process. It is proposed that the scheme will apply to:

- All employees of non-government and not-for-profit organisations that deliver a specified range of community services and activities.
- Coordinating, teaching, direct-care staff and business administration and management staff of non-government and not-for-profit organisations that deliver children's services licensed under the Children's Services Act 1996.

The licensed children's services activities and proposed specified range of community services activities for the Scheme's scope are:

- Licensed children's kindergarten and childcare services: covering kindergarten services, centre-based child care including long day care, occasional care and after school hour's care.
- Personal and support services: covering adoption services, child protection case management, family services, placement and support services, family therapy and mediation, drug and alcohol services, incest and sexual abuse counselling, domestic violence counselling, sexual assault support, family violence support, crisis counselling, financial counselling, victim support, problem gambling, social services referral and liaison work, housing and homelessness support, culturally and linguistically diverse (CALD) services, early childhood intervention services, children's resource work, youth services, social work, welfare services, carer support, falls prevention, mental health management support, suicide prevention.
- Youth justice support services: covering adolescent mediation and support, Koori services, housing pathway services, corrections pathway services.
- Financial and material assistance: covering emergency financial relief, financial advice, information and referral, special equipment and materials, household goods, clothing and furniture, food provision and concessions, housing establishment funding.
- Disability services: covering services specifically for the support of persons with a disability, including providing information, planning, capacity building, individual support, targeted services

and residential accommodation support, respite care, training and employment support for persons with disabilities, disability enterprises.

- Community and home care services covering recreation and leisure, living skills development, provision of community transport, domestic assistance, home maintenance, food service, respite care and personal care.
- Community housing and housing support covering housing assistance, housing information and referral, social housing advocacy and support, case managed housing support services, transitional housing support workers, tenancy management.
- Accommodation and support covering group homes and shared accommodation, supported residential services, alternative family placement, residential rehabilitation, transitional accommodation, respite care, crisis accommodation including accommodation for people with disabilities, children and young people and people with significant housing needs.
- Community legal services: covering consumer and legal information, advice and referral, housing, tenancy information advice and referral, individual advice and court advocacy, parole board advice, counselling, practical support for victims of crime, legal education, law reform and policy development, mediation, legal centre management.
- Aboriginal support services: covering the aboriginal community controlled sector, capacity building, men's behaviour change programme, advocacy and liaison work.
- Service and community development and support for residents of Victoria: covering advice and consultancy on service networks, provision of training and training resources, volunteer resource development and placement, social planning and policy work, advocacy, welfare fundraising, community development co-ordination, employment and learning co-ordination, community centre-based development and support, community education, cultural group development, neighbourhood renewal services.

The following activities are defined as 'supporting the provision of community service activities' and therefore will also be covered where they are provided in organisations that deliver community or children's services:

- Business administration and management within a community services or children's services organisation covering administration and office support, building and property management,
- Occupational Health and Safety (OH&S),
- Information and communication technology (ICT) infrastructure and support,
- Human resources, finance and financial management, marketing and communications, team leadership, supervisory and management roles.

Stand alone community health centres that provide any of the services described above will be included in the Scheme.

Independent contractors and labour hire employees will not be covered by the Scheme, as these workers are either self-employed or employed in for-profit organisations.

Residential aged care has been excised from the scheme. Where there are organisations that provide residential aged care and other community services the employees involved only in residential aged care are not included in the scheme.

Legislated

The scheme would be legislated into Victorian law this would underpin the compulsory involvement of employers in the community services sector which should result in a lower tax liability for the scheme relative to a non-statutory option.

Entitlements

The portable entitlements of the scheme are inline with the Victorian *Long Service Leave Act 1992*. Employees will qualify for LSL after 10 years service in the sector. 1 day's of employment in a quarter means that the whole quarter will count towards the 10 year qualification period. It is important to note that portability will only apply to the "base level" entitlement. Employees in the community services sector will be entitled to:

- 8.67 weeks of long service leave after 10 years or 13 weeks after 15 years
- 4.33 weeks of LSL for every 5 years served in the sector thereafter
- Pro rate entitlement on leaving the sector (not specific employer) after 7 years
- Employees retain eligibility for entitlement in the scheme with up to 4 years out of the sector

The entitlement will be based on pay at (or near) the date of taking LSL. The entitlement will take into account the actual hours that an employee has worked, meaning that they will be averaged over all quarters in the scheme.

Retrospective

The scheme will recognise an employee's service in the sector prior to the commencement of the scheme. It will only recognise service with an employees' current employer not for any service with previous employers in the sector. The scheme would pay the employee the component of entitlement accrued since its establishment. The scheme will recognise an employee's eligibility to entitlement but not the quantum of entitlement, which will remain with employers.

Funding the scheme

A \$1.2 million allocation for the establishment of the scheme was made by the Victorian Government in the 2008-09 state budget. These funds were assigned to establish the scheme, included in this was the completion of business modelling, detailed actuarial and financial advice and the design of the scheme structure. Once the scheme is established it will be self funding. All employers will contribute the same percentage of worker's earnings into the central scheme. The employer's contributions would be invested to earn a return which would assist in funding the worker's entitlements. The initial and long term contribution rates that the actuarial study calculated for the scheme to be financially viable were 2 per cent and 1.4 per cent of workers wages respectively.

Appendix B Actuarial work

The following are PwC's summary of the actuarial reports

1 The Feasibility Study into the scheme, Benzulla (2007)

The Feasibility Study aimed at canvassing the main conceptual and design issues associated with a portable long service leave scheme, including the various options as to how such a scheme might be constructed. It arrived at a number of conclusions which shaped the design of the proposed scheme and formed the basis for subsequent work.

The report noted that the design of the scheme would need to consider:

- The overall size of the community services sector (estimated to be 62,500 workers in total, of which 73 per cent are females)
- The high proportion of part-time and casual employees in the sector:
 - 55 per cent of disability staff and 25 per cent of community care workers are part-time and
 - 20 per cent of disability staff and 63 per cent of community care workers are casual
- The diverse range of occupations in the sector, hence the challenges in defining a 'worker' for the purposes of the scheme
- The relatively low earnings in the sector (\$28,600 per annum in 2001)
- Relatively high turnover (in excess of 20 per cent), resulting in a need to keep the administration of any scheme simple and to educate organisations as to their obligations and administrative requirements.

Overall, the report found that the size of the sector, the high proportion of part-timers and casuals and existing portability arrangements in the sector were not barriers to the introduction of a CSS PLSL scheme.

It noted that a legislated and fully compulsory scheme would be preferable to any voluntary arrangement, largely because of the ability to spread administrative fees over a larger base, the enhanced benefit to employees of a broad-ranging portability scheme and the ability to receive an income tax exemption if the scheme was compulsory.

The report recommended that the entitlement be set to align with the Victorian Long Service Leave Act and the SACS Award, both of which allow for 8.67 weeks paid leave after 10 years of continuous service (with pro rate leave paid on exit after 7 years). Employers providing more generous entitlements would need to make provision for these outside the central CSS PLSL scheme.

The Feasibility Report estimated that the cost of providing the base entitlement – ie before any account is taken of administrative costs – would be between 1 per cent and 2 per cent of wages.

It also recommended that benefits are prospective – that is, that any future benefit be calculated only on the basis of service after the commencement of the scheme. However, it was also suggested that the scheme could recognise service prior to the commencement of the scheme for the purpose of determining eligibility for benefits (but not the level of benefit).

The report noted the relationship between the size of the scheme and the likely administrative cost as a percentage of wages. For example, it was estimated that a scheme encompassing 10 per cent of the community services workforce (which was estimated to be 62,500) would involve annual employer

contributions of around 0.5 per cent of wages just to cover the administrative costs. This contrasted with a figure of 0.1 per cent if the entire sector was covered.

The report noted that one administrative option would be to outsource the administration of the scheme to an existing entity such as CoINVEST, which manages the portability scheme in Victoria's construction industry. Such an outsourcing arrangement was recognised as the preferred option.

Finally, the report estimated that the cost of establishing the scheme would be in the range from \$500,000 to \$1 million, which would result in a modest annual figure when amortised over a five year period.

The initial Feasibility Report put in place several of the key design features of the scheme which remain part of the proposed scheme as it stands, including:

- A compulsory, legislated scheme
- Contributions based on wages
- A portable entitlement consistent with the SACS Award and Victorian Long Service Leave Act 1992
- Prospective benefits combined with some recognition of retrospective service for the purposes of determining eligibility.

The report was premised on the assumption that the CSS PLSL scheme would operate via a centralised model – that is, the creation of a centralised scheme into which employer contributions are made, and in which money and interest are retained for the purposes of meeting portable long service leave benefits as they fall due. The analysis of the advantages of a centralised, as distinct from a decentralised model arose in a subsequent report.

2 The Actuarial Assessment, Benzulla (2008)

The Actuarial assessment sought to estimate, in greater detail, the overall cost of the scheme. In general, it assumed the design features outlined in the Feasibility Report, although it calculated costs separately for three types of scheme:

- A compulsory statutory scheme, involving an estimated 60,000 workers and wages bill of \$1,570 million per annum
- A voluntary statutory scheme, involving 30,000 workers and an estimated wages bill of \$780 million per annum
- A voluntary sector scheme, involving an estimated 12,000 workers and wages bill \$310 million.

The reported tested three assumptions concerning turnover within the sector as a whole (as distinct from turnover in individual organisations). These were:

- A low turnover scenario, involving 5 per cent average annual exit from the sector
- A medium turnover scenario, involving 8 per cent average annual exit from the sector
- A high turnover scenario, involving 12 per cent average annual exit from the sector.

It was assumed that the scheme's assets were invested at a real return of 3 per cent per annum – effectively a nominal return of 7 per cent less annual growth in workers' wages of 4 per cent per annum. A 1 per cent real return was also modelled.

Given the assumptions made concerning the age of new entrants to the scheme, it was estimated that the average contribution required to cover the portable long service leave benefits of new entrants to the sector would range from 0.9 per cent (assuming high turnover and 7 per cent nominal returns) to 1.3 per cent (assuming low turnover and 5 per cent nominal returns). The report noted that these average contribution rates were premised on an average new entrant age of 33 years. A lower new entrant age would result in a higher average contribution rate. Overall, the report noted that it would be prudent to assume a contribution rate towards the higher end of the possible range, thus a figure of 1.2 per cent of wages was chosen as the appropriate average.

The 1.2 per cent contribution rate only covers the entitlement of new entrants to the scheme. Different considerations apply to the necessary contributions required to fund the entitlements of existing workers, for whom the quantum of benefit will be calculated prospectively, but eligibility will be calculated by including retrospective service with the current employer.

The resulting contribution rates required to fund the entitlements of existing employees ranged from 1.3 per cent to 1.5 per cent depending on investment returns and were relatively insensitive to assumptions concerning sector turnover.

As a result, the report concluded that the initial base contribution rate (ie the rate required to cover entitlements but not administrative expenses) would be 1.4 per cent of wages, potentially dropping to 1.2 per cent of wages over time as existing workers are replaced by new entrants who have no retrospective service.

If retrospective service was to be disregarded for the purposes of determining eligibility, then the required initial base contribution rate would be 1.0 per cent of wages.

On the basis of advice from CoINVEST, it was estimated that the cost of establishing the statutory compulsory scheme would be around \$1 million, which, amortised over a five year period would result in an annual contribution of 0.02 per cent of wages.

The ongoing administrative expenses of the scheme, also estimated on the basis of advice from CoINVEST, were calculated at 0.2 per cent of wages.

As a result, the estimated contribution rate, assuming recognition of retrospective service with an existing employer for the purposes of defining eligibility for portable long service leave, was 1.6 per cent for the initial contribution rate and 1.4 per cent for the long term contribution rate. This includes the administrative expenses of the scheme.

3 Addendum to the Actuarial Assessment (2008)

In November 2008, Benzulla released an addendum to the actuarial assessment, which started to deal with the question of the extent to which the costs of a CSS PLSL scheme would exceed the costs currently being borne by employers in the community services sector as a result of existing long service leave arrangements.

This reflected a recognition that in the community services sector, employers had some existing long service leave costs. This contrasts with other sectors into which portable long service leave has previously been introduced, such as the construction and contract cleaning industries, where long service leave had been rare because of the structure of the industry.

As a result of this fact, the contribution rate charged to cover the benefits provided under portable long service leave does not necessarily reflect the net cost to employers in the community services sector, since they currently provision to some extent to cover long service leave liabilities. Under the CSS PLSL scheme, the central scheme will meet the cost of the base level entitlement (but not the above base entitlement) when a worker qualifies for long service leave as a result of service with a single employer.

In order to estimate the net cost to employers, the addendum report sought to analyse existing provisioning practices in the sector. It was noted that provisioning currently involves reserving after 1, 5 or 10 years. This could take the form of book reserving (ie the recognition of the liability in the employer's books) or the setting aside of funds in an interest bearing account.

Worker remains with same employer

Where a worker remains with the same employer, the addendum report findings were as follows:

- If the contribution rate was 2 per cent of wages, then the cost of portable long service leave would exceed the existing provisioning by employers.
- If the contribution rate was 1.4 per cent under a compulsory statutory scheme, the cost of the portable long service leave would be less than the existing provisioning by employers by around 10 per cent-20 per cent over the long term (ie after 7 years on exit or 10 years in service)
- The report noted that a majority of employers in the community services sector used book reserving to provision for long service leave liabilities and that the savings of the portable long service leave were greater for employers that used book reserves.

These findings were supported by detailed output from the actuarial models, which were provided in the appendices. We were not required to verify these results, but they appear reasonable.

The quoted savings are a direct result of the CSS PLSL scheme being assumed to earn a higher rate of return (7 per cent per annum) compared to that earned on either a book reserve (0 per cent per annum) or an interest bearing account (5 per cent per annum), and also that contributions would generally be paid into a Central Fund earlier than they would otherwise be provisioned for.

However, we note that these savings are over a long period of time (ie after 7 years on exit or 10 years in service) and do not take into account the opportunity cost in the shorter term of employers being able to use these provisions and/or any interest earned on them for other discretionary expenses, which is the case under the current arrangements.

Worker changes employers

The report quoted turnover rates of 20 per cent per annum for workers in this sector but went on to state that where a worker does not remain with the same employer, the results as set out above (for workers who remained with the same employer) were still applicable.

Unlike the previous results, this statement was not supported by any detailed output from the actuarial models.

In our view, this statement does not appear reasonable. If turnover rates are around 20 per cent per annum then the probability of an employer ever having to make a long service leave payment, whether pro rate after 7 years on exit or after 10 years in service, is around 10 per cent or less. This does not appear to be factored into any of the results quoted. A portable long service leave arrangement where the employer has to pay 1.4 per cent of salaries each and every year into the scheme will always be more expensive for any employee that does not remain at least 7 years with the same employer and based on the sector turnover rates, this is likely to be for 90 per cent or more of employees.

4 DeeDeeRa Options Paper (2009)

The Options Paper produced by DeeDeeRa in March 2009 dealt with the issue of providing award long service leave entitlements and/or above base entitlements, both of which provide a benefit in excess of the proposed portable entitlement based on 8.67 weeks for 10 years of service.

This issue arises because, just as long service leave has been a feature of the community services sector up until now, it is equally true that it will continue to be a feature of the sector in the future. Some workers will continue to trigger a long service leave entitlement as a result of continuous service with a single employer, as distinct from a portable benefit based on continuous service within the sector.

This would be relatively unexceptional if all employers offered long service leave entitlements in line with the base level in the SACS Award and the Long Service Leave Act 1992. However, it is estimated that around 90 per cent of workers in the sector are employed under awards or agreements involving long service leave entitlements above this base level. This poses a potential administrative headache for employers who could face the need to keep multiple records – or at least to pay their base contribution to the central scheme as well as maintaining separate records in order to provision for their own above base long service leave costs.

The Options Paper puts forward two main options for allowing the CSS PLSL scheme to take on responsibility for these above base benefits.

One option is to do so on a defined benefits basis, so that all employers pay a defined contribution rate on the basis of their award benefits. This has the perceived advantage of relieving employers of administering their award long service leave liabilities, since all the administration would be performed by the scheme. The offsetting disadvantage, however, was that the scheme itself would bear significant additional complexity and cost.

A further disadvantage (not discussed at length in the report) is that it would exacerbate the situation for employers associated with making up front contributions in respect of their award as well as the base level of long service leave. In other words, it would magnify one of the main objections which employers have to the CSS PLSL scheme.

The second option was to cover additional entitlements over the base level (whether mandatory or voluntary) on an accumulation basis. Under this proposal, employers would make additional contributions to the scheme which would fully vest in the employee.

The employee accounts would operate somewhat like superannuation accounts, in that they would earn interest, but would not return to the employer in the event that the employee left the organisation prior to triggering a long service leave entitlement. However, if the employee account exceeded the long service leave entitlement, the employee would receive a “windfall” gain.

The options Paper suggests that one of the advantages of both approaches is that they would provide employees with a higher level of portability, although it is difficult to see how this would work in practice given the number of different award and/or voluntary entitlements.

However, the CSS PLSL scheme as proposed does not provide portability above the base level. It is this feature which both reduces the net cost, but adds to the administrative complexity of the CSS PLSL scheme. When an employee moves from one organisation to another within the sector, it is only the base entitlement – 8.67 weeks per 10 years of service – which is portable. Any additional component (whether mandatory under an award or voluntary by agreement) is lost once the employee leaves their existing employer.

This would appear to undermine the case for both options – the defined benefit approach and the accumulation approach based on an account vested in the employee.

An alternative model, which could go some way to addressing employer concern, is to have a voluntary **employer** account which vests in the employer, rather than the employee. Such a possibility is discussed later in this report.

5 Case Studies DeeDeeRa (2009)

In June 2009, DeeDeeRa Actuaries considered the likely cost of the proposed CSS PLSL scheme on a number of specific organisations selected by DHS (based upon information provided by the organisations).

Eight organisations were selected, which ranged in size from 19-1,443 employees, covering 3,156 employees in total, or approx 5 per cent of the total employees in the sector. Average weekly earnings for these employees were approximately \$700 per week and staff turnover was between 20 per cent – 30 per cent per year and 86 per cent of employees were entitled to LSL benefits greater than the basic benefit.

For these case study organisations, the additional costs for a central CSS PLSL scheme were estimated to be between -0.19 per cent to 1.2 per cent of wages per year assuming the contribution rate to the central scheme was 1.5 per cent of wages (plus the additional costs for additional LSL benefits). These additional costs reduce when employees are assumed to defer taking LSL when first payable, in which case, the costs for all but one organisation reduced to less than 0.4 per cent of wages.

In addition, the loss of investment income on LSL provisions, which would be no longer held on balance sheet, was estimated to be around 0.1 per cent to 0.9 per cent of wages.

The report also noted that these additional costs were under-stated for:

- those organisations who used a probability adjusted method to reserve for their existing LSL provisions (which would be common) and
- those organisations that have casual staff which are not currently covered for LSL but would be covered under the portable long service leave arrangements.

6 Costs of alternative models, DeeDeeRA (2009)

In July 2009, DeeDeeRa Actuaries considered the impact on estimated costs of a number of alternative models, for which a brief description of each follows:

- Central fund:
 - Employers contribute a specified percentage of wages to a central scheme
 - LSL benefits at base level (as per LSL Act (Vic)) are paid from the fund
- Decentralised fund:
 - Employers maintain their own reserves
 - Upon an employee's transfer to a new employer, the face value of LSL entitlement (on base level) is also transferred to the new employer
 - When LSL benefit paid, the current employer meets the cost

- Hybrid fund:
 - Employers maintain their own reserves
 - Upon an employee's transfer to a new employer, the face value of LSL entitlement (on base level) is transferred to the Central Fund
 - When LSL benefit paid, the current employer meets any cost in addition to that accumulated in Central Fund
- Transitional fund:
 - As for Central Fund except only covers all new employees (per employer) post introduction of the scheme
 - Fund will pay base level LSL benefit for period of service for which the Central Fund has received contributions.

Projections of these alternatives, on a sector wide basis, indicated relatively small variations in overall costs.

The costs for individual employers of the alternative models are sometimes higher, sometimes lower than the Central Fund model costs (1.5 per cent), depending upon the employee demographics.

In summary:

- the more decentralised the arrangements, the more volatile the costs to an individual employer
- the smaller the Central Fund (eg Hybrid and Transitional) the higher the administration costs for all employers.

We also note that any additional administration costs incurred in having to chase up payments from previous employers whenever employees changed employers, were ignored. In our view, this could be a considerable additional administration requirements for both the employers under the decentralised model and also potentially for the Fund under the Hybrid model.

Appendix C Costs and benefits of portable long service leave

Below is PwC's high level cost benefit analysis of the CSS PLSL scheme

1 Costs, benefits and transfers

There are three main ways in which the introduction of portable long service leave could impact on behaviour:

- portable long service leave could result in a larger percentage of the workforce remaining within the community services sector. That is, the annual sector-wide turnover could reduce from the actuarial assumptions of 5 per cent (low), 8 per cent (medium) or 12 per cent (high) as a result of the heightened attractiveness of staying within the sector.
- portable long service leave could result in greater mobility between employers within the community services sector.
- portable long service leave could result in the community services sector being more attractive to prospective employees – ie those who do not currently work in the sector.

A lower sector turnover as compared to employer-specific turnover results in increased costs to employers, however, there might still be a net benefit to employers to the extent that more experienced and better skilled workers are available to fill positions.

An increase in mobility between organisations also comes at some cost to employers, who lose experienced staff whom they might otherwise have retained.

The third potential behavioural effect – making the community services sector a more attractive option for prospective workers – has negligible direct effect on the costs of the scheme.

The overall cost and benefit impacts of portable long service leave, and the role of behavioural change, can be illustrated by dividing workers into five categories based on their current behaviour and noting the potential impact of portable long service leave on their incentives. The table below illustrates the range of new behaviours on the basis of the incentives provided by portable long service leave.

For example, a worker currently getting long service leave with an existing employer could either continue to stay with that employer or move within the sector because of the changed relative benefit of portability. The worker could not be assumed to leave the sector altogether because of the introduction of portability. Equally, a worker who currently does not stay in the sector for 7 years cannot be assumed to stay with a single employer and trigger long service leave as a result of the introduction of portable long service leave.

Current behaviour	Behaviour under portable long service leave
Currently get long service leave with a single employer	Continue to stay with an existing employer and receive long service leave
	Leave existing employer but stay within the sector due to increased relative attractiveness of portability
Currently change employers but stay within the sector for 7 years or more	Continue to stay within sector for 7 years or more
Currently leave the sector before 7 years	Stay in the sector for 7 years due to the attractiveness of portability
	Continue to leave the sector before 7 years
Currently do not work in community services sector	Are attracted to the sector because of portable long service leave
	Remain unattracted to the sector

The costs and benefits associated with each behavioural group can also be illustrated in table form. In each case, the costs and benefits are described by comparing the situation with portable long service leave with the situation without portable long service leave. This approach abstracts from the transition to the new scheme which only takes into account prospective service for the purposes of calculating benefits.

Current behaviour	Behaviour under portable long service leave	Costs	Benefits	Net impact
Currently get long service leave	Continue to get long service leave	Contributions to the scheme partially replace existing provisioning	Scheme pays for part of the long service leave entitlement	No net impact
	Leave existing employer but now get portable long service leave	Employers lose skilled staff to a greater extent	Reduces employer provisions for LSL	Possible small net cost
Currently stay within the sector for 7 years or more	Continue to stay within sector for 7 years or more	Employers pay contributions to the scheme	Employees receive base entitlement which they did not previously	Transfer

Current behaviour	Behaviour under portable long service leave	Costs	Benefits	Net impact
Currently leave sector before 7 years	Stay in the sector for 7 years and get portable long service leave	Increases the contribution rate	More workers receiving a portable entitlement. More experienced and skilled workforce	Benefit to employers through enhanced workforce skill and experience
	Continue to leave sector before 7 years	None	None	No impact
Do not work in CS sector	Are attracted to the sector because of portable long service leave	None. Size of employment pool driven by other factors	Enhanced choice; improved skill base for employers	Very small net benefit
	Remain outside sector	None	None	No impact

The overall net impact of portable long service leave on employers and employees is difficult to determine because the data which could help determine the question is limited. As the actuarial report noted, there is limited data on sector turnover and the extent to which it differs from organisation-specific turnover (ie the extent to which workers leave an employer and go to another one within the community services sector).

2 The case for a transfer

Employee representatives argue in favour of a CSS PLSL scheme (paid for by employers) on the grounds that it provides an additional employee benefit in a low-paid sector. This amounts to an argument that, even if the introduction of portable long service leave represents primarily a transfer from employers to employees, such a transfer can be justified in order to bring overall employee remuneration closer to levels prevailing in other sectors.

In determining whether such a transfer is a desirable policy, two issues arise: firstly whether, given the cost to employers, a portability scheme represents the best use of scarce resources compared with alternative forms of employee benefit, including pay rises; secondly, why there is a need to mandate portability through a compulsory scheme, as distinct from allowing voluntary portability arrangements to emerge.

In relation to the first issue, several employers expressed the view in stakeholder consultations that even if the costs of the scheme were met from another source (eg government) a CSS PLSL scheme would be a relatively low priority compared with other measures to improve employee retention and attraction.

This view coincides with standard economic approaches to cost-benefit analysis, in which the question as to whether a policy is worthwhile rests on it being a better option than the available alternatives. As a result, one key question is whether portability is preferable to a pay rise of an equivalent value. Union representatives expressed the view that, given the choice, portability was a more attractive option, since the equivalent pay rise would be too small to make a meaningful contribution to attracting and retaining employees in the sector.

The pay rise which is implicitly being forgone through the introduction of portable long service leave is the difference between the contribution rate and the existing cost of provisioning for the base level long service cost for individual employers. This means that the value of the hypothetical pay rise forgone is likely to be less than the estimated contribution rate. Although unions and most employer representatives felt that low pay was a significant deterrent to working in the community services sector, it is possible that the creation of a CSS PLSL scheme provides a more noticeable benefit than a small pay rise.

A related issue concerns the specific group at which workforce strategies should be aimed. A number of employers, particularly in the disability, housing and child and family welfare sectors reflected that their workforce tended to consist of two main cohorts – a group of relatively young workers who stayed in the sector for a very short period, and an older, predominantly female, group who tended to stay for a longer period than the economy-wide average. In other words, many employers felt that in terms of employment duration, they were over-represented at both ends of the spectrum and under-represented in the middle.

Portability – providing a more concentrated benefit on those who stay in the sector for a longer period – could be preferable to a small pay rise spread across the entirety of the community sector workforce.

3 Portable long service leave as a ‘public good’

A broader question concerns whether portable long service leave could be argued to be justified as a public good, particularly in the context of an ageing workforce, where the needs of the sector to retain long-standing workers will be paramount.

Several employers accepted the need for retention incentives to be focused on more long-standing workers. Nonetheless, they often expressed the view that the incentives should take other forms, including higher pay, additional annual leave, training or flexible arrangements such as nine-day fortnights. Several employers noted that they provide these benefits at present, and clearly it would be open to any employer to limit the availability of such benefits to those who are likely to stay with the employer for a period of time.

However, it should be noted that the preference of individual employers may not be definitive in this case. It is logical for individual employers to prefer that a given sum of money be spent on specific initiatives which aid retention in their own workplace. Sector-wide retention initiatives (such as portability) share some of the characteristics of a public good – whereby individual employers may not provide them of their own accord, even if they lead to aggregate benefits, since individual employers cannot capture the full benefits of the initiative. As a result, employers individually will tend to prefer organisation-specific retention initiatives to sector-wide ones, even if the aggregate benefit of the latter approach is greater.

The standard policy response to a public good is for the government to provide the good and levy those who benefit to pay for it. If the public good argument holds, this would be a reason to mandate participation in a compulsory scheme.

It should be noted that several existing portability arrangements have emerged in the community services sector. The presence of these smaller schemes could be taken to reflect the fact that in many existing cases, portability can and does offer a retention benefit which is of equal or greater value than other alternatives. On the other hand, it leads to the question why a larger scheme should be mandated when existing schemes have emerged spontaneously in those cases where they are most appropriate and valuable.

It should be noted in this context that although these existing portability arrangements are often referred to as ‘voluntary’, only some of them actually fit that description. Others, such as the scheme covering community health workers, are enshrined in industrial instruments, such as the relevant award or enterprise bargaining agreement. There is thus an element of compulsion associated with these

schemes, as a result of the longstanding government intervention in the labour market, which also determines pay rates, general leave entitlements and a range of other workplace conditions.

Despite the presence of smaller existing portability schemes, it could still be argued that a larger scheme covering the community services sector as a whole should be mandated on the basis that it offers benefits to the sector as a whole. Individual employers are unlikely to fund themselves because the benefits do not accrue to them individually, particularly compared with other firm-specific retention initiatives.

On this analysis, the reason that small groupings within the community services sector have adopted their own portability arrangements is that the group is small and cohesive enough that it can 'contract' relatively easily to agree on a scheme for mutual benefit. Where the relevant group is larger, such as the community services sector in its entirety, it is costly for the parties to agree on a voluntary scheme, even if such an initiative would offer net benefits overall. The most appropriate response in such a case would be to institute a mandatory scheme.

4 Broader benefits of portable long service leave

The discussions concerning the introduction of portable long service leave – both via the stakeholder consultation involved in this report and the broader debate over the scheme – have indicated two attributes of the community services sector:

- Firstly, that the sector is relatively disparate. Individual groupings within the community services sector perceive their issues and interests as being distinct from one another. Within some of these groupings, there is a competitive atmosphere between individual organisations, particularly where competition exists for government funding.
- Second, the evidence base required to assess potential policy innovations is lacking. The fragmentation of the sector and the small nature of several organisations make it difficult to collect reliable data on workforce and other industry characteristics.

The creation of a central CSS PLSL scheme has the potential to address these two aspects of the sector over time. The central scheme would hold detailed information concerning the workforce, including employment history at different employers within the sector. It could thus help provide the evidence base for future targeted workforce retention initiatives. In turn, this potential broader role for the scheme could help to build a greater sense of collaboration and shared interests across the currently disparate community services sector.

Future workforce strategies will be required, as the ageing of Victoria's population create challenges and opportunities for community services organisations. It will be important that organisations, and the sector generally, have strategies in place to remain attractive to an older, and potentially predominantly female, workforce of the future.

The CSS PLSL scheme can play a role in this, particularly to the extent that the benefits it offers are geared towards maximising the flexibilities which would be most attractive to this workforce demographic.

5 Costs, benefits and policy momentum

The above analysis indicates that the balance between costs and benefits of the proposed CSS PLSL scheme is relatively finely balanced. There is not a clear and unequivocal overall net benefit as a result of introducing portable long service leave. There is, however, a transfer from employers to employees – organisations incur increased costs to fund a new and improved benefit to a group of workers in the

sector who do not currently receive long service leave. This helps explain the extent of employer opposition to the proposed scheme.

There are likely to be additional benefits to the sector through the collection of reliable data on workforce and other industry characteristics, as well as the possibility of increased retention and more experienced staff.

Whether these offset the costs of portable long service leave is unclear. In addition, whether portable long service leave represents the best targeted way to improve retention cannot be conclusively determined.

As a result, the public policy case for the CSS PLSL scheme rests mostly on the case for a transfer – based on the perceived need for an additional employee benefit to workers in a traditionally low paid sector.

Appendix D Consulted stakeholders

Organisation	
Aged and Community Care Victoria	Merri community services
Annecto	Mind Australia
Arafemi	Moira
Association of Neighbourhood houses and Learning centres	Motor Neurone Disease Victoria
ASU	NDS,
Berry St	Neami
Brotherhood of St Laurence	Norwood
CareConnect	Oakleigh Centre
Central Access Ltd	Prahran mission
Centre of Excellence in Child and Family Welfare	Salvation Army
Clarendon Children's Centre Co-op	Southern Cross Care
Community legal centres	Synthesize
Council to Homeless Persons	Uniting Care Community Options
DASSI	Vantage Inc
Department of Education and Early Childhood Development, Manager Partnerships	VCOSS
Department of Health, Director of Aged Care Policy and Analysis	VHIA
Department of Health, Director of Health Services	Vic Serve
Department of Health, HACC Director	Victorian healthcare
HACSU	Villa Maria
Inner South Community health	Wallara
ISIS Primary care	Wesley
Jesuit Social Services	Windermere
Kindergarten Parents Victoria	WIRE
Mambourin (chair)	Women's Health Victoria
Mental Illness Fellowship	Youth Affairs council Victoria

