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| Victorian Fair Jobs Code for Community Services Sector |
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1. Purpose
	1. Victoria's community services sector is strong, vibrant and mature and has a proud history of supporting Victorians facing poverty and disadvantage. It is one of Victoria's biggest and fastest growing sectors and employs committed, compassionate and highly skilled workforces.
	2. Community services are essential to the health and wellbeing of many Victorians and their communities. To meet Victoria's current and future needs, community services need to attract and retain highly skilled, professional workers through safe, secure and rewarding jobs. The Victorian Fair Jobs Code for the Community Services sector (the CS Code) is based on a shared commitment between the Victorian Government and community services to grow and support this critical workforce.
	3. The introduction of the CS Code reflects the unique context in which community services organisations operate, with important differences to business and commercial environments. The CS Code is intended to promote community services workers' rights and security in a way that is fit-for-purpose and does not place an undue burden on community services organisations.
	4. The Victorian Government recognises that, as a key source of funding for community services organisations, it plays an important role in influencing conditions that enable safe, secure and rewarding jobs. The Victorian Government also acknowledges that it contracts with community services organisations to provide services on its behalf.
	5. In this context, the CS Code seeks to:
		1. promote secure employment opportunities;
		2. recognise the community services sector's employment, industrial relations and workplace health and safety obligations in government funding contracts;
		3. foster cooperative relationships between employers, employees and their representatives; and
		4. promote workplace equity and diversity.
2. Application
	1. Subject to Section 2.3, the CS Code applies:
		1. to all organisations which receive direct funding from the Victorian Government under a service agreement to provide community services in Victoria, where such funding exceeds $2 million in aggregate for the forthcoming financial year (determined at the commencement of a financial year); and
		2. for the benefit of employees of these organisations who are covered by the scope of the Social, Community, Home Care and Disability Services Award or an enterprise agreement based on this Award.
	2. If the CS Code applies to a community services organisation, it applies in relation to employees contracted by the community services organisation for the provision of community services that are funded, in part or whole, by the Victorian Government. It does not cover services delivered by the community services organisation that are not funded by the Victorian Government.
	3. The CS Code will not apply to:
		1. organisations that are not a community services organisation, such as:
			1. a government or non-government school;
			2. an early childhood education and care service;
			3. a public or private hospital;
			4. state or Commonwealth Government agencies; and
			5. a local government agency.
		2. staff of community services organisations engaged in delivering services or performing activities that are not community services, such as:
			1. early childhood education and care;
			2. school education; and
			3. acute healthcare.
		3. staff employed by community services organisation who are not community services practitioners, for example:
			1. primary, secondary or higher education teachers;
			2. early childhood educators; and
			3. health care professionals, such as medical doctors, nurses, midwives or allied health professionals.
		4. community services organisations, or parts of their workforces, to which the Minister determines that the CS Code should not apply.
	4. The CS Code will apply only to the extent that it is not inconsistent with Commonwealth and state law or regulations.
	5. The CS Code, and the responsibilities, roles and functions of the [relevant government agency], will not duplicate or replace the responsibilities, roles and functions of regulators, dispute resolution bodies and other Victorian Government agencies.
3. Definitions
	1. In this code:
		1. **Community Services** means any of the following:
			1. child and family services, including out-of-home care services;
			2. disability services (only Victorian Government funded services would be within the scope of the code);
			3. family violence and sexual assault services;
			4. social or community housing and homeless services;
			5. community-based mental health and wellbeing treatment services;
			6. community-based alcohol and other drugs treatment services
			7. rehabilitation and transition services for people in contact with the justice system
			8. community legal services;
			9. any of the above services provided by an Aboriginal Community controlled organisation; and
			10. industry associations or peak bodies representing these sectors.
		2. **Community services organisation** means a non-government organisation that delivers community services.
		3. **Minister** means any Victorian Government Minister who holds portfolio responsibility for community services.
4. Standards
	1. All community services organisations to which the CS Code applies must comply with the standards below.

## Standard 1: Comply with all applicable employment, industrial relations and workplace health and safety obligations.

* 1. Community services organisations covered by the CS Code must comply with all applicable employment, industrial relations and workplace health and safety legislation.
	2. An adverse ruling or enforceable undertaking made against a community services organisation by a regulator under applicable employment, industrial relations and workplace health and safety legislation will be considered a breach of the CS Code. Community services organisations must report any such ruling or undertaking to [relevant government agency].

## Standard 2: Promote secure employment and job security.

* 1. The Victorian Government and community services organisations acknowledge the positive impact that secure employment has on employees and the provision of quality services to the Victorian community.
	2. Community services organisations will give preference to ongoing forms of employment over casual and fixed term arrangements wherever possible. Community services organisations will endeavour to limit the use of fixed term employment to circumstances such as:
		1. replacing employees on approved leave;
		2. meeting fluctuating client and employment needs and unexpected increased workloads;
		3. delivering programs which are only funded by the Victorian Government until fixed date specified in the service agreement and there is no expectation that funding will be renewed at the end of that period;
		4. delivery of pilot and/or trial programs for the duration of the pilot or trial period;
		5. delivery of short-term crisis responses which are funded for a specified period;
		6. filling a vacancy resulting from an employee undertaking a temporary assignment or secondment;
		7. to temporarily fill a vacancy where, following an appropriate selection process, a suitable ongoing employee is not available; or
		8. filling a vacant role whilst a review of the area is undertaken, provided that such appointment does not exceed a period of twelve months.
	3. Community services organisations will not use fixed term contract positions for the purpose of undermining the job security or conditions of full-time ongoing employees
	4. Community services organisations will not use casual labour for the purpose of undermining the job security of ongoing employees.
	5. The employment of casuals by community services organisations will be limited to meeting short-term work demands, fluctuating staffing needs or specialist skill requirements which are not continuing and would not be anticipated to be met by existing employee levels.

## Standard 3: Foster cooperative and constructive relationships with employees and unions.

* 1. As and when required by applicable laws, Awards or enterprise agreements, community services organisations must:
		1. allow employees to actively participate in and be represented by the industrial organisations or associations of the employees' choice;
		2. make reasonable allowances for employees to participate in lawful union activities;
		3. provide release from normal duties for union representatives that is reasonably necessary to carry out representative functions;
		4. permit union members to post or distribute written material by appropriate means;
		5. allow reasonable access to electronic communication devices provided by the employer to facilitate communication between employees and/or the union; and
		6. have processes in place to communicate or consult with employees and employees' representatives about major workplace changes that are likely to have significant effect on the employees.

## Standard 4: Foster workplace equity and diversity.

* 1. Community services organisations will:
		1. comply with anti-discrimination, equal opportunity laws and Fair Work legislated minimum requirements; and
		2. demonstrate a commitment to equity and diversity in their organisational practices.
	2. Consistent with applicable laws, Awards or enterprise agreements, community services organisations will provide paid family and domestic violence leave entitlements covered under the National Employment Standard (including 10 days paid leave) and will endeavour to introduce extended family and domestic violence leave entitlements (up to 20 days), where possible.
1. Administration and compliance
	1. [Relevant government agency] will be responsible for administering the CS Code. [Relevant government agency] will:
		1. engage and communicate regularly with community services organisations to support community services organisations to understand and comply with the requirements and obligations under the CS Code;
		2. administer the compliance, complaint and dispute resolution processes in sections 5, 6 and 7 of the CS Code
		3. undertaking a review of the CS Code after two years of operation; and
		4. monitor and evaluate outcomes of the CS Code, including periodic reviews of the impact and effectiveness of the CS Code to foster safe, secure, and fair working conditions.
	2. All community services organisations which are subject to the CS Code will be responsible for ensuring their own compliance with the CS Code.
	3. Community services organisations are required to comply with the CS Code in the delivery of services under any relevant service agreement.
	4. [Relevant government agency] is entitled to request information from a community services organisation with respect to the organisation's compliance with any of the terms in the CS Code. This includes information from a community services organisation in respect to the composition of its workforce and the nature of their employment arrangements (ongoing, fixed term, casual and labour hire staff).
	5. Consistent with the Service Agreement, [relevant government agency] may investigate suspected breaches of the CS Code, either by its own initiative or in response to a complaint. Where [relevant government agency] determines that a community services organisation has breached their obligations under the CS Code, it may take action, consistent with the Service Agreement and contract management frameworks. [Relevant government agency] will determine the appropriate compliance action, taking into account the nature, severity and frequency of the breach(es) and the impact of compliance action on the provision of services for Victorian individuals, families and communities.
2. Complaints
	1. Complaints regarding a community services organisation's compliance to the CS Code may be made to [relevant government agency].
	2. [Relevant government agency] will make an initial assessment of all complaints. If [relevant government agency] determines that a complaint lacks substance, or is frivolous, vexatious, or not made in good faith, [relevant government agency] may refuse to consider the complaint further.
	3. If [relevant government agency] determines that a complaint relates to a dispute that should more appropriately be resolved through a different process, dispute resolution body, regulator, or is aware that alternative dispute resolution processes or bodies have already been approached by the complainant, [relevant government agency] may, at its discretion, refuse to consider or take action in relation to the complaint.
	4. If a complaint concerns a failure to comply with a law, [relevant government agency] may refer the complaint or the complainant to the authority responsible for administering and/or enforcing the law.
	5. Where [relevant government agency] determines that a community services organisation has breached their obligations under the CS Code, it may take any compliance response consistent with the Service Agreement and contract management frameworks as outlined in Section 5.
	6. The complaint (or information disclosed in relation to a complaint) may form part of the materials used to determine any compliance actions under the CS Code.
3. Voluntary dispute resolution process
	1. Where a dispute between community services organisations and employee/s or unions arises relating to matters under the CS Code that are not covered by the *Fair Work Act 2009* or other industrial instruments or regulation, the parties to the dispute may (on the consent of both parties) make use of the following voluntary dispute resolution process.
	2. The role of [relevant government agency] in resolving disputes is limited to facilitating the voluntary dispute resolution process. [Relevant government agency] may participate in or support dispute resolution exercises. However, [relevant government agency] is not and would not be a party to the dispute or be responsible for facilitating resolution of the dispute. [Relevant government agency] will not adjudicate the dispute.
	3. The employer and employee must first attempt to resolve disputes utilising the community services organisation's internal policies and processes. The parties to the dispute must engage in these processes in good faith.
	4. Where the parties have failed to resolve the dispute, a party can request [relevant government agency] to provide access to the support of voluntary external mediation, conciliation or arbitration. [Relevant government agency] may request information about the dispute, including:
		1. the nature of the issue or dispute and how it is said to be inconsistent with the requirements of the CS Code;
		2. the steps taken to deal with the issue or dispute up to that point;
		3. the resolution sought; and
		4. why the party considers referral to this process is appropriate in the circumstances.
	5. If [relevant government agency] determines that a dispute lacks substance, is frivolous, vexatious, not made in good faith or should be dealt with by another legislative or workplace instrument, [relevant government agency] may decline the request.
	6. If [relevant government agency] approves the request, the parties can agree to participate in the voluntary dispute resolution process and to the type of process undertaken. All parties must consent to participate in the process and to the type of process undertaken.
	7. The Victorian Government will cover the costs associated with engaging external facilitators (such as independent mediators or arbitrators). Parties will be responsible for their own costs associated with the process.
	8. [Relevant government agency] will maintain an established panel of appropriate external facilitators, with experience in industrial mediation, conciliation and arbitration, to support this process.
	9. A successful resolution of a dispute via voluntary mediation, conciliation or arbitration will not preclude [relevant government agency] from undertaking compliance activity in relation to breaches of the CS Code.
	10. Where a matter cannot be resolved by this voluntary dispute resolution process, a party to the dispute may choose to exercise any other legal / industrial option available to them.
	11. At any stage of the process, parties to the dispute can nominate the people who will represent them in the process.

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In this document, ‘Aboriginal’ refers to both Aboriginal and Torres Strait Islander people. ‘Indigenous’ or ‘Koori/Koorie’ is retained when part of the title of a report, program or quotation.

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