Attachment A from ACT Council of Social Service Briefing: Equal Remuneration Order (ERO) and Indexation Policy (2019)

Current Position:

- The gap between baseline funding levels and increases in costs related to the ERO has been highlighted as one of the largest issues impacting the sustainability and responsiveness of community services in ACT. Organisations have cut back on learning and professional development and have or plan to reduce staffing and services.
- Many organisations have restructured, cut costs where possible and in some cases, have stopped providing services where they are no longer financially viable.
- Some organisations not previously eligible for supplementation will now be impacted as the ERO has exceeded enterprise agreement payment levels.
- Contracts negotiated with organisations since 2015 have not included the ERO supplementation or adequately covered the cost of service delivery due to the wage increases.
- Organisations are also anticipating a number of additional costs related to compliance obligations, such as the implementation of recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse, that will require financial investment in staff time and organisational infrastructure.

Impacts of Supplementation funding ceasing:

Many of the current contracts have been rolled-over a number of times, with no opportunity to renegotiate service levels or the price of the contract, so the baseline for funding has not kept up with increased costs associated with the ERO as demonstrated in the following table, Table 1.1.

Table 1.1 – Gap between Current Base funding and Current Wage costs

	Base Funding increase		Wage Increase			Gap between indexation and wage cost increase		
	Gov Indexation	CSR Levy	Annual Wage Review	ERO Increase 4.1	ERO Increase 6.1	4.1	6.1	Average Cumulative gap
July 2012	3.25%	-0.34%	2.90%					
Dec 2012				3.18%	4.44%	-3.17%	-4.43%	-3.80%
July 2013	2.85%	-0.34%	2.60%					
Dec 2013				3.09%	4.26%	-3.18%	-4.35%	-7.57%
July 2014	2.90%	-0.34%	3.00%					
Dec 2014				2.99%	4.08%	-3.43%	-4.52%	-11.54%
July 2015	2.70%	-0.34%	2.50%					
Dec 2015				2.91%	3.92%	-3.05%	-4.06%	-15.10%
July 2016	1.80%	-0.34%	2.40%					
Dec 2016				2.83%	3.77%	-3.77%	-4.71%	-19.34%
July 2017	2.00%		3.30%					
Dec 2017				2.75%	3.64%	-4.05%	-4.94%	-23.83%
July 2018	2.45%		3.50%					
Dec 2018				2.20%	3.51%	-3.25%	-4.56%	-27.74%

The blue columns in Table 1.1 outline the increase in income for organisations who receive government funding. Community Sector Indexation is provided to organisations as an annual increase in base funding. During 2012-2017 this indexation was effectively reduced due to the 0.34% levy imposed on contracts over $500,000 which is why these figures are presented as negatives.

The white columns in Table 1.1 outline the percentage increase in the cost of wages for organisations employing staff under the Social, Community, Home Care and Disability Services Award 2010. Wage increases have occurred twice per year since 2012, once as a result of the annual wage review from Fair Work and then additionally by the ERO increases. The ERO dictated different increases over the period for the different levels. In the table, we have selected level 4.1 and level 6.1 as examples to demonstrate the effects.

The orange columns in Table 1.1 calculate the difference between the increased income organisations receive through indexation and the increased expenditure due to wage increases, again using 4.1 and 6.1 as examples.

The calculation method is:

(Gov Indexation + CSR Levy) – (Annual Wage Review + ERO Increase)

= Gap between indexation and wage cost increase

The final column calculates an average of the difference under 4.1 and 6.1 in order to provide an estimate as organisations have a mix of staff and shows the cumulative effect of the gap. These numbers are negative as the expenditure outweighs the income.

Supplementation funding has been provided to some organisations over the period, based on the staffing profile of the organisation in 2012 to offset the impact outlined in the table. But contracts are yet to incorporate what has been supplementary into the base funding provided for services. When supplementary funding ceases in December 2019, contracts will effectively have approximately a 30% gap in funding which is the difference between cumulative indexation by the ACT Government and cumulative cost increases related to the ERO, as demonstrated in Table 1.1. The staffing mix will determine the scale of the actual impact for individual organisations.

Indexation for ACT Community Sector funding:

Indexation in the ACT is calculated on the CPI (Consumer Price Index) (20%) and WPI (Wage Price Index) (80%), which does not adequately capture the impacts of the ERO as demonstrated in the previous table. During 2012-17 the indexation was effectively reduced by 0.34%p.a. via the Community Sector Reform levy imposed on organisations.

ERO background:

- In 2012, the Fair Work Commission issued an ERO increasing the remuneration paid to staff falling under the Social, Community, Home Care and Disability Services Award (SCHCDS) 2010
- The ERO provides for ‘above Award’ pay increases for social and community service workers of between 23% and 45% over an eight-year period commencing December 2012, with half-yearly increases to December 2020. Pay rates in the Award are adjusted twice a year:
    - On 1 July following the Fair Work Annual Wage Review
    - On 1 December using a formula linked to the final ERO rates
- Future pay rises under the award after 2020 would be at the wage indexation rates set by the Commission

Historical ACT Government Position and Funding:

- The ACT Government has previously informed community services organisations that the impact of the equal remuneration case is considered to be a necessary cost increase outside the control of the organisation[1].

[1] R Gotts, Letter, *Advice on support arrangements for the Equal Remuneration Order*, 19 December 2013

- During 2010-11, the ACT Government established a project to 'ascertain the likely nature of the impact [of the equal remuneration case] and to advise the Government on ways to best manage that impact'[2]
- The project identified organisations that received government funding that would be affected over the course of the ERO implementation and outlined the financial support required for service quality and availability to continue during 2012-2020 at the current level.
- In February 2012, the ACT Government acknowledged that there would be an impact on community service organisations and committed to fully funding its share of the wage increases. This commitment was to provide supplementary payments to fund the difference between existing salaries and the salary level required by the decision for 'ACT Community sector organisations that employ workers who are both subject to the ERO and who deliver services funded by, or through ACT Government Service Funding Agreements (SFA)'[3]
- ACT Government support payments were calculated on the staffing profile of the identified organisations as at February 2012. There has been no review of eligible levels of support as staffing profiles have changed in the past 7 years.
- From 2012-13, the ACT Government support payments were extended to organisations that were paying 'above award' wages or had in place an enterprise agreement through a phased approach, when the ERO salaries exceeded those paid by the organisation.
- In 2013, through agreement with the Australian Services Union, the ACT Government agreed that support payments for organisations that would otherwise not receive payments until December 2015, or later, would be restructured to commence earlier, though the calculated amount of the support payments in total would not change.
- ACT Government estimates were that $60million in support payments would be provided to the sector over the life of the ERO from 2011-12 to 2019-20.

[2] B Overton-Clarke, Letter, 22 October 2010
[3] R Gotts, Letter, *Advice on support arrangements for the Equal Remuneration Order*, 19 December 2013