

THE CATHOLIC CHURCH,
EMPLOYMENT RELATIONS
AND THE
NOT FOR PROFIT SECTOR

A Discussion Paper

INTRODUCTION

Over the last fifty years, government has generally taken responsibility for and managed the provision of community services. To a varying extent, it has directly funded external bodies, such as not for profit religious and charitable organisations, to provide components of these services. Additionally, these religious and charitable organisations have provided services in circumstances where government has not provided any form of direct or indirect assistance.

More recently, the *market* has become a major factor in the development of public policy. Government is now requiring competitive approaches or is directing more closely the type of services to be provided. It also appears to be vacating the responsibility of directly assisting the disadvantaged and shifting this to the community. In this regard, government has commenced to contract out or outsource services to external providers, seeking efficient and cost-effective operations through the terms of the contract arrangements with the external provider. This has the potential to impact on government-funded services such as education, childcare, health care, aged care services, youth programs and employment training and placement.¹

At one level, this has seen commercial or for-profit organisations – *business* - enter some of the area of community services provision in direct competition with traditional religious and charitable providers.

As a consequence, significant changes in the delivery, financing and structure of services in some sectors challenge the traditional role of religious and charitable organisations.

These external requirements and pressures can create tension or conflict between the contractual terms of the service to be provided and the mission of the organisation and, in turn, the relationship between religious and charitable organisations and their employees as they endeavour to meet these terms.

This discussion paper seeks to identify the major employment relations issues confronting the Catholic Church (the Church) in the delivery of services within the Church and to the community.

WHAT IS THE CATHOLIC TRADITION IN THE NOT FOR PROFIT SECTOR?

Catholic Social Teaching affirms human life and dignity, it outlines responsibilities and rights, it supports the family, seeks the common good, and challenges all to put the needs of the poor and the vulnerable first in order to shape a just society.

In Catholic Social Teaching, work is more than a means of making a living. It is one of the principal ways in which people express themselves and contribute to the

¹ Letts, C.W., Ryan, W.P., Grossman, A. *High Performance Nonprofit Organisations* John Wiley & Sons, (1999), p.2

common good. Work is the predominant mechanism that allows people to meet their material needs. Accordingly, wages and conditions should be adequate to sustain workers and their families.

Historically, the mission of service provision by Catholic organisations in the health, education and welfare services sectors has been carried out within a moral framework set by Church teaching and within a political and economic framework shaped by public policy and available resources.

It has been suggested that the following principles - from the social tradition of the Church - assist in identifying a *Catholic* agency:

- Dignity of the Human Person - each person possesses an inherent dignity based on the Christian understanding of the human person as one who is both individual and social, and created in the image of God;
- Common Good - the good of each person is bound up with the good of the community. Social policy and practices should benefit the many as well as each one and should encourage broad participation in community life.
- Option for the poor - the Scriptures, the life of Christ and the tradition of the Church calls us to a preferential option for the poor. This imperative calls us to commit ourselves to those who are least well off:
 - By entering into relationships of solidarity with those who are disadvantaged;
 - By the direct provision of services to those in need;
 - Through social analysis, bringing to light situations of injustice;
 - By bringing about change to unjust structures, and developing new structures, through advocacy and action; and
 - Through empowering those who are disadvantaged.
- Centrality of Mission - the social mission is not peripheral but central to the life and identity of the Church.²

Historically, the Church, in terms of its business or financial orientation, has been placed within the *not for profit* group of organisations.

² Caddy, Father J., *Catholic Identity in the Provision of Welfare Services*, Catholic Social Services, Melbourne, (31 August 1999)

WHAT DOES THE COMPETITIVE PROVISION OF SERVICES MEAN FOR NOT FOR PROFIT ORGANISATIONS?

In 1996, a subsidiary of the Lockheed Martin aviation corporation submitted a \$563 million tender for the management of welfare-to-work operations in Texas. The Lockheed Martin tender offended the *not-for-profit* community, which created headlines by accusing the American corporation of 'poverty profiteering'.

While Lockheed Martin failed with this tender in Texas, it became the biggest provider of welfare-to-work projects in Florida and it gained more than 20 contracts in four other states.

In Dade County, Florida, Lockheed Martin now uses its management information systems to run the county's welfare-to-work program. It has hired more than 30 agencies - including *not for profit* organisations - to supply welfare-to-work services such as transportation, childcare and mental health services. It also provides job readiness, skill training and job placement services.

The development has caused debate about the roles of the *not for profit* organisations and the *for profits* in the provision of social services.

In America, some *not for profits* have used their standing and expertise in social welfare provision to sub-contract to the commercial sector; other *not for profits* have decided not to compete with the commercial providers of services but to create a limited partnership when tendering for welfare work; and others have become commercial corporations.

Some commentators have argued that the real message of Lockheed Martin's move into *not for profit* work requires a deeper understanding of how much has changed over the last decade in the provision of social services, the political environment and the drive by government agencies to outsource work.

"To simply attribute these new developments to the entrepreneurial initiative (or breed) of a few companies misses the significance of the new competitive realities at hand".³ It is contended that the *not for profits* are no longer protected by their reputations, their church and community links, their social conscience and their commitment to the marginalised and underprivileged. Traditionally, governments have not considered commercial providers to undertake social service work because they were perceived as profit-takers and socially suspect. But now government no longer automatically considers that the *not for profits* are entitled - or even best qualified - to provide social services.

The same trend appears to be emerging in Australia, with commercial providers already established in the health and aged care sectors and now entering into the welfare sector. The contracting out of the *Job Network*, employment training and

³ Ryan, W., *The New Landscape for Nonprofits*, Harvard Business Review, January-February edition (1999).

placement services previously undertaken by government, is but one example of the national trend in which community sector organisations are being challenged to compete with commercial corporations for the provision of services. Interestingly, the traditional community services sector organisations fared better in the recent tender process than their commercially motivated competitors.

WHAT IS THE EMPLOYMENT RELATIONS FRAMEWORK?

The trend to competition in the provision of services in the *not for profit* sector is reflected in and is linked to a fundamental questioning of the historical presumptions that have underpinned the organisation of work.

Significantly, the focus of employment relations in Australia has shifted in the last decade. Historically, employment terms and conditions have been regulated through a centralised tribunal, based on collective bargaining and with regard to the public interest. This has moved over the past decade to an emphasis on labour market reform and the achievement of workplace flexibility and efficiency through enterprise bargaining, with a reduced role for centralised industrial tribunals.

The arguments for reduction in regulation of the labour market are based in the belief that "*reduced regulation contributes to greater productivity and competitiveness*" in the market.⁴ This is considered to be important for continuing economic and employment growth and increasing the living standards of Australians.

The belief that reduced regulation contributes to greater productivity and competitiveness is based on the assumption of a correlation between labour market flexibility and higher profits, which in turn should lead to greater business efficiency on the one hand and higher wages on the other.

In spite of their ideological differences, the two major political parties and the peak employer and union bodies still consider *enterprise bargaining* to be the primary industrial mechanism for the achievement of workplace change and improvements to wages and conditions of employment.

WHAT ARE THE EMPLOYMENT RELATIONS ISSUES FOR CHURCH ORGANISATIONS?

In Catholic Social Teaching, work is more than a means of making a living. It is one of the principal ways in which people express themselves and contribute to the common good. Work is the predominant mechanism that allows people to meet their material needs. Accordingly, wages and conditions should be adequate to sustain workers and their families.

⁴ Reith P., *The continuing reform of workplace relations: Implementation of More Jobs, Better Pay*. May (1999), pp.1

A fundamental principle of Catholic Social Teaching is that work affirms, enhances and expresses the human dignity of those that undertake it. Therefore, upholding the dignity of every person should be at the core of the employment relationship.

Further, work is considered to be one of the principal means by which people seek personal fulfillment, dignity and make their contribution to the common good. Therefore, people should not be treated like any other resource or commodity in the market place. Accordingly, the trend toward individualism in industrial relations practice and the emphasis upon achieving greater productivity, efficiency, flexibility, and competitiveness are of short-term benefit only if they are not underpinned by these principles.

Critically, many services offered by Church organisations rely to a greater or lesser degree on government funding, through one means or another. Further, Church organisations seek to provide not a *quantitative product*, but a service that is based on the dignity of each person, the common good, and the needs of the poor and disadvantaged. This cannot be neatly encapsulated as a *qualitative service* either.

In this context too, the notion of the *not for profit sector* appears to be increasingly irrelevant and is not useful in identifying the mission of Church organisations. Indeed, it may be simplistic to conceptualise this issue in terms of *commercial* and *not for profit* motivation. There are many differing types of *not for profit* organisation with which the Church would share very little common ground.

Therefore, at one level, Church organisations need to identify and understand what it is that makes their approach to the provision or delivery of services different to that of other service providers. At another level, this requires identification of those fundamental characteristics that underpin the reasons for the existence of Church organisations in the provision of such services. This requirement applies also where there is little or no apparent external competition. What is it that makes a Church organisation's internal financial or administrative service function different to that of a commercial corporation?

Ultimately, these characteristics should inform the approach of Church organisations to the employment practices required to undertake these services.

On the surface, the challenges facing Church organisations should be different to those of the commercial world. For example, it is generally held that the employees and volunteers working for Church providers are “inspired by the possibility of ‘making a difference’ ”. Therefore, the challenge is “not to attract motivated people ... but to channel their energy so it advances the organisation's mission and goals.”⁵

To achieve this alignment of people and organisational goals, it has been suggested that organisations “aim not just to provide jobs for people committed to public service, but rather to get, keep, and motivate good people *specifically to advance the objectives and mission of the organisation*”.⁶ This is seen as a strategic integration of organisational and personal aspirations rather than a fragmented focus on individual

⁵ Letts, C. W., Ryan, W. P., op.cit. pp.107 – 108.

⁶ Letts, C. W., Ryan, W. P., op.cit. p.108

matters such as pay, conditions of employment, resources, career paths, performance, hours of work and workload.

In advancing this approach, it is argued that while good salaries may be needed to attract people to an organisation, “and important in helping to prevent *dissatisfaction*”, they are not necessarily able to motivate employees and support performance.⁷

However, this does not discount the effect of ‘poor pay’:

“Poor pay creates job dissatisfaction, which is then often compounded by the burnout that comes from working from long periods on difficult social problems.”⁸

For Church organisations, there has been a tradition of making a commitment to personal sacrifice as an integral part of contributing to the needs of the disadvantaged. However, this intrinsic motivation should not be taken for granted. For example, where the commercial providers of services undertake similar work to Church organisations, they may be able to attract church employees who have become discouraged or resentful about the level of pay.

Furthermore, the use of enterprise agreements can present serious difficulties as a model of determining the wages and conditions of the workplace and improving productivity and efficiency. Employers in the community services sectors do not necessarily accept that they are in competition with each other or that increased efficiency and productivity is to be achieved only through negotiations over wages and conditions of employment.

For some employers, also, there are strong reservations about the adversarial nature of enterprise bargaining, especially when one party may use its industrial strength to intimidate the other party. Generally speaking, the language and industrial mechanisms of *bargaining periods* and *protected industrial action* have the potential to engender outcomes that consist of short-term trade-offs and lingering dissatisfaction.

However, Church organisations need to identify what alternative to enterprise bargaining would be appropriate for their sectors. Otherwise, there is an imperative to deal with the realities of enterprise bargaining. That is, Church employers need to determine a strategic approach based on the objectives of each organisation, so that the enterprise agreement supports those goals while providing fairness to employees. In this sense, Church employers need to examine what it is they seek to achieve through the bargaining process that will promote their mission while providing fair and just conditions of employment to their employees.

In any event, there needs to be appropriate funding of the outcomes to be reached in an enterprise agreement. In this context, neither Church nor government funding is necessarily available to underpin enterprise agreements, let alone basic award terms and conditions of employment. Within the Church this variation in levels of funding of Church organisations - especially at a diocesan or parish level - can create

⁷ Letts, C. W., Ryan, W. P., op.cit p.109

⁸ Letts, C. W., Ryan, W. P., ob cit, p.122

inequities or anomalies between the conditions of employees performing work of similar skill and responsibility. This can lead to a sense of unfair treatment and exploitation among those relatively lower paid employees, which can affect their performance and their support for the work of the Church.

Movements in remuneration are generally resolved within each discrete organization. In the main, remuneration reviews appear to be based on changes in labour market salaries and/or internal relativity settings; occasional rewards; and irregular reassessments of roles and responsibilities. However, with the evolution of financial accountability mechanisms - through the requirements of government contracts and the development of internal financial systems - the issue of corporate governance is emerging as a matter of priority for not only the corporate world but also the not for profit sector and religious and charitable organisations.

In this respect, the Church needs to examine its organisational structures to ensure that it is able to ensure proper objectivity and accountability in decision-making on such matters. It is to be noted that even where a Board of Management may exist for each particular organisation, it still might be possible for a lack of transparency to occur, especially if there is not an adequate structure of accountability to the hierarchy of an organisation.

The proper administration of remuneration serves also to assist and protect those managers who are currently responsible for the review of subordinate employees, at either a senior or other level, within each organisation. Without an external accountability in place perceptions of bias or manipulation can arise if the structures and ultimate authorities are not properly placed. For example, if the remuneration of management is based on a direct relativity with the base salary of subordinate positions, this could expose the senior manager to undue pressure and a possible perception of a conflict of interest when negotiating the salaries of those subordinate positions. Furthermore, even where this salary nexus does not exist, but senior managers are involved in setting the salaries of their subordinate positions, they may still be left open to other perceptions of bias in the absence of external approval and accountability processes.

Another strategic issue for the motivation of employees is that difficult work not only can lead to burnout but it does not always appear to produce results. It has been observed that many young employees have been “discouraged early in their *not for profit* careers because they felt they were not advancing the organisation’s mission, much less challenging society. Nor could they see any career ladder that would offer them more results-generating work in the near-term”.⁹ In this respect, Church employers need to consider the professional development and training of employees as a priority for the future and to allocate budget provisions accordingly.

The nature of the contract or funding arrangement between government and Church providers could also lead to circumstances where these arrangements put pressure upon the Church provider to deliver services at a lower employment cost, thereby compounding the issues of low pay, burnout and retention of employees.

⁹ Letts, C. W., Ryan, W. P., ob cit, p.124

Certainly, Church agencies endeavour to pay appropriate standards of wages and other conditions of employment. Indeed, in these times, many if not most Church agencies are formally subject to the terms and conditions of awards, either at the federal or state and territory level. But not all programs are fully funded by governments or able to be directly subsidised by Church money. In these times, traditional sources of income such as donations and bequests have also decreased or have become subject to competition among Church and charitable institutions. Church employers need to question the basis upon which funding is being allocated and develop their own objective data about what it requires to fairly and justly employ those required to deliver services.

At another level, this shortfall in funding has led invariably to the use of *salary packaging* as a panacea where shortfalls occur in the money available for the payment of salaries, especially now that bequests and donations have declined as an alternative source of financial support.

However, the recent changes to the national taxation system have reduced the level of concessions available to agencies through *salary packaging* by introducing limits on the amount of salary able to be packaged by an employee. This can have an adverse impact on the real salary of some employees who have entered into *salary packaging* arrangements above the new limits. At the immediate level, some Church organisations have discovered that the real or true value of the salary packaging arrangements was never identified or that they have not established clear policy in the event of changes to the legislation.

It is suggested that the real lessons to be learned about the changes to salary packaging might be in the long-term vulnerability of such indirect funding mechanisms and in the need for a consistent strategic approach to the use of such concessions. Be it accepted or not, the advocates for a reduction in the concessions were able to paint a picture of abuse and privilege, and that the concessions were not being utilised in the manner intended (to reduce the cost of employment to the Church employer). Further, some commercial providers of services have contended that they are put at a disadvantage when tendering against Church agencies because of these concessions.

Another issue based on a concession or exemption concerns the interaction between Church employment practices and anti-discrimination legislation. In recent years, Australian industrial tribunals and other employment-related bodies have made decisions or recommendations regarding a number of situations where an employee of a Church has by their conduct or manner of life put themselves in public conflict with the teachings of that Church.

Where inconsistency or lack of clarity about the expectations of employees can be demonstrated, the tribunals and courts may enforce the relevant industrial or anti-discrimination provisions against the Church employer. Furthermore, a recent industrial tribunal proceeding examined the use of the phrase 'Catholic ethos' in a proposed enterprise agreement. The tribunal found great difficulty in understanding what was meant by such an expression. There is a danger then that such phrases may appear ambiguous to the tribunals and courts. Therefore, they may not be enforceable at law. Critically, the "ethos" may mean very little to Church employees if it is not articulated in some tangible sense.

This matter of religious purpose is being challenged on another level where public works are being undertaken by Church organisations with government funding. In other words, the right of Church organisations to proclaim any distinctive religious identity is being challenged in some areas where they accept contract work from government. In essence, it is alleged that Church organisations forfeit their moral and spiritual dimension when they enter into such arrangements, as the work is alleged to be "secular" in nature and outside of the "core" focus of the activities of Church organisations.

This questioning of the right of Church to exemptions under anti-discrimination legislation may come under further pressure from those groups who believe that the Church should not have a "privileged" position outside of the majority of employers. Alleged instances of inconsistency or abuse of the exemptions can discredit the Church in this area. Accordingly, Church employers will need to carefully examine and understand why these exemptions have been put in place and how they are to be appropriately utilised. Otherwise, they may unwittingly create the circumstances that lead to the removal of these exemptions from the legislation.

Another emerging issue of relevance - especially for many smaller Church organisations - will be in this area of compliance with relevant legislation. Apart from general employment and industrial relations legislation, occupational health and safety and workers' compensation are emerging as vital concerns. Additionally, the development of employment relations policies and procedures, such as job descriptions, contracts of employment, performance management, disciplinary counselling and termination of employment, and ethical and professional standards codes of conduct, are increasing demands upon managers and supervisors in all areas of Church activity. If not appropriately attended to, these matters can have significant financial repercussions.¹⁰ Furthermore, new requirements under Privacy Legislation come into force at the end of this year. This legislation will regulate the way in which private sector organisations can collect, use, keep secure and disclose personal information.

Many Church agencies do not possess the "in-house" services to assist them to be informed about their obligations under the many different pieces of employment related or other legislation. Nor do they have the funding to engage external providers of specialist services to develop for them the necessary training and skills to support and maintain their managers and employees. Accordingly, they will find it difficult to effectively manage the complex issues found in employment related legislation, as well as to attract, motivate and retain employees.

Finally, the origin of many Church agencies is in the voluntary provision of services to the community, either through the vocational work of clergy and religious or through the generosity of laypersons. While there has become a greater emphasis upon the engagement of paid employees to carry out the work of Church agencies, volunteers still play a vital role in the delivery of services and in the culture of organisations. Indeed, the overall governance and management of many Church agencies is in the hands of volunteers on boards or committees of management.

¹⁰ Letts, C. W., Ryan, W. P., ob cit, p.154

It has been identified that "different volunteers have different motives [to paid employees] and are therefore more suited to some jobs rather than others."¹¹ It has been suggested that the strategic integration of paid employees and volunteers is vital to the health of Church agencies, not only at a resource level but also in terms of the fair and just treatment of all who contribute to the organisation. Further, the actions of volunteers are subject to laws that may cause the organisation to be vicariously liable, be this in respect of workplace accidents, discrimination, or abuse of vulnerable persons.

¹¹ Lyons, M. *Third Sector*, Allen Unwin; (2001), p.154

CONCLUSION

Market based and performance focused approaches are slowly influencing the activity of both external and internal service provision, either directly or indirectly. There is a greater emphasis on financial accountability and outcomes emerging in the consideration of administrators, as internal Church and traditional means of funding for diocesan and parish works diminish and more stringent government funding and accountability mechanisms are established.

In some cases, the need for other avenues of funding has therefore become a driving force, which can be in effect self-fulfilling. The growing resort to company sponsorships, joint ventures and "user pay" principles increases the market component of these services. That is, market activity that began as an addition to public funding can become a substitute for it.

The manner in which Church organisations receive their funding may directly influence their incentive and focus, thereby affecting their internal organisational behaviour and the content of the services they provide.

The issues of *identity* and *purpose* in the provision of such services becomes more problematic as Church organisations become dependent upon market driven funding regimes, be it competitive tendering for government funded programs, outsourced government or private sector services or partnerships with private sector providers.

A survey of organisations in America identified five basic designs or models in which organisations were considered to be religious or spiritual:

- the religious-based organisation is positive toward religion and spirituality or positive toward spirituality;
- the evolutionary organisation begins as strongly associated or identified with a particular religion and moves toward a more ecumenical position;
- the recovering organisation adopts the principles of Alcoholics Anonymous as a way to foster personal growth, development and spirituality;
- the socially responsible organisation is led by someone guided by strong spiritual principles or values aligned directly to the business for the betterment of society; and
- the values-based organisation is guided by general philosophical principles or values that are not aligned to a particular religion or even with spirituality.¹²

"The question of identity is worth asking as the answer may serve to remind us of who we are and what we are doing."¹³

¹² Mitroff, Ian I., Denton, Elizabeth A. *A Study of Spirituality in the Workplace*, Sloan Management Review Massachusetts Institute of Technology Summer (1999) Vol. 40/4.

¹³ Caddy, Father J, op.cit. p.1

In this context, it is suggested that Church organisations engaged in the delivery of diocesan and parish administration and pastoral care, health, education, and community services need to develop a vision, agenda and strategy for the future, especially as regards the funding of their services, so that they are able to provide not only fair and just pay and conditions of employment but are able to develop comprehensive approaches to employment relations that ensure the identity and purpose of their organisations.

As a group within each sector, Church organisations will need to develop a process that allows consideration of national issues and dissemination of information while preserving the capacity, authority and integrity of individual employers to meet local needs and objectives.

Therefore, a strategic understanding or approach to employment relations will be required so that employment practices and strategies support the objectives of Church organisations in each state and territory.

In the absence of a coherent framework of identity and purpose, the approaches to the organisation of work and the delivery of services within Church organisations will be determined in most instances by the commercial and industrial relations philosophies and practices of other groups.

Among other issues, this has the capacity to create conflict in many different ways between the actual employment practices of Church organisations and the principles of Catholic Social Teaching.

In other words, Church organisations will be playing *follow the leader* in a game that has little relevance to their mission as Church organisations and that has little sense of fulfilment for their employees.



Further information on this discussion paper may be
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