

The Senate

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Select Committee on Job Security

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Second interim report: insecurity in  
publicly-funded jobs

October 2021

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## Terms of Reference

That a select committee, to be known as the Select Committee on Job Security, be established to inquire into and report on the impact of insecure or precarious employment on the economy, wages, social cohesion and workplace rights and conditions, with particular reference to:

- (a) the extent and nature of insecure or precarious employment in Australia;
- (b) the risks of insecure or precarious work exposed or exacerbated by the COVID-19 crisis;
- (c) workplace and consumer trends and the associated impact on employment arrangements in sectors of the economy including the 'gig' and 'on-demand' economy;
- (d) the aspirations of Australians including income and housing security, and dignity in retirement;
- (e) the effectiveness, application and enforcement of existing laws, regulations, the industrial relations system and other relevant policies;
- (f) accident compensation schemes, payroll, federal and state and territory taxes;
- (g) the interaction of government agencies and procurement policies with insecure work and the 'on-demand' economy; and
- (h) any related matters.

The resolution establishing the committee is available in the *Journals of the Senate No. 81*, 10 December 2020.



# List of Recommendations

## Recommendation 1

1.20 The committee recommends that the Senate adopt the following resolution:

That the time for the presentation of the final report of the Select Committee on Job Security be extended to the last sitting day in February 2022.

## Recommendation 2

1.47 The committee recommends that the Australian Government undertakes an audit of the job security of all workers engaged directly by the Australian Government, or who are working in jobs funded by the Australian Government. This audit should collect data on the type of employment arrangements, and on perceptions of job security held by people engaged in these roles.

## Recommendation 3

1.48 The committee recommends that the Australian Government introduces a policy stating that an objective of all public funding for employment, or the provision of goods and services, is to protect and promote secure employment.

The policy should require that all such recipients of Australian Government funding preference the direct, permanent employment of staff, rather than indirect arrangements including outsourced service providers or labour hire firms or temporary arrangements including casual or fixed-term employment, wherever practical.

The policy should recognise there is a legitimate role for contracting and subcontracting arrangements in the Australian Government's supply chain, but that workers engaged under these arrangements are entitled to pay and conditions no less than an employee would receive for the same job.

The policy should apply to funding provided to the Australian Public Service, Government Business Enterprises, and private organisations including but not limited to aged and disability care providers, universities, construction firms and service providers engaged to deliver public infrastructure projects such as the National Broadband Network.

The policy should require the Australian Government's procurement framework to prioritise firms that favour a permanent, directly-engaged workforce, and to consider the economic and social benefits of tenders.

The policy should also require the Australian Government to ensure that the funding for projects, goods and services is sufficient to enable the

organisation to hire its workforce in permanent, secure employment on rates at least compliant with the relevant Award and a living wage.

#### Recommendation 4

2.124 The committee recommends that the Australian Government conducts the Aged Care Workforce Census in 2021/2022, to ensure that this critical data is available for policy development. The survey should be distributed to labour hire, agency, on-demand platform and self-employed aged care workers, as well as directly-employed workers.

Along with the data collected in previous surveys, the survey should include:

- questions on contracted hours;
- questions on actual hours worked;
- questions on salary and/or wages earned;
- questions on multiple job holding, and working across multiple sites, and individuals' motivations for these; and
- diversity of the aged care workforce, including with respect to gender, cultural diversity, and visa status.

#### Recommendation 5

2.125 The committee recommends that the Australian Government includes labour hire, on-demand platforms and staffing agencies that provide workers to the aged care sector in future Aged Care Workforce Censuses, and distribute a specific census survey to these companies in 2021/2022 to capture this data.

#### Recommendation 6

4.118 The committee recommends that the Australian Government redesigns the single-site policy and Commonwealth grant to aged care providers so that they incentivise providers to offer *ongoing* full-time, and higher-hour part-time, positions to aged care workers—rather than the current temporary support.

#### Recommendation 7

4.120 The committee recommends that the Australian Government commits to fully funding two weeks of paid pandemic leave, and up to three days of vaccination-related leave, for all workers in the aged care sector, regardless of their role or employment contract.

## **Recommendation 8**

**4.124** The committee recommends that the Australian Government arranges in-reach vaccination for all aged care workers who remain unvaccinated, as a priority, and ensure future vaccination programs (such as for booster shots) are conducted via in-reach programs.

## **Recommendation 9**

**6.172** The committee recommends the Australian Government urgently responds to and supports the Aged Care Industry work value case lodged in the Fair Work Commission by the Health Services Union and the Australian Nursing and Midwifery Federation, to ensure that wages fairly reflect the work value provided by aged care workers.

## **Recommendation 10**

**6.173** The committee recommends that, as part of the Star Rating system, and any other relevant assessment or grading system, the Australian Government requires aged care providers to report on, not just their staffing levels, but also:

- the proportion of staff in direct, permanent employment arrangements;
- the staffing classification mix;
- hours of paid training provided to staff; and
- retention rates.

## **Recommendation 11**

**6.174** The committee recommends that the Australian Government requires, as an ongoing condition of holding an approval to provide aged care services, that aged care providers report on:

- the proportion of staff that are full-time, part-time, casual, on-demand platform and agency/labour hire workers;
- the number of contracted staff hours and rostered staff hours;
- the staffing classification mix;
- the proportion of spending on frontline staffing and employment costs, other operational expenses, profits and surpluses, and other key indices; and
- non-minimisation and non-avoidance of Australian tax laws.

## **Recommendation 12**

**6.175** The committee recommends the Australian Government develops an aged care provider procurement policy that actively promotes job security in the sector, recognises the benefits of secure, on-going permanent employment to the delivery of safe, high-quality aged care, and specifies that the

establishment of secure, direct, and fair-paid jobs is a key criterion of aged care investment.

#### **Recommendation 13**

**6.176** The committee recommends that the Australian Government adopts and extends Recommendation 87 of the Aged Care Royal Commission, requiring as a condition of holding an approval to provide aged care services that aged care providers have policies and procedures that preference the direct employment of all aged care workers. Aged care providers should be required to ensure all work, including through indirect work arrangements such as on-demand platforms, is paid in accordance with the relevant award, and this should also be enforced by the Aged Care Quality and Safety Commission and relevant unions.

#### **Recommendation 14**

**6.177** The committee recommends that, in accordance with Recommendation 85 of the Aged Care Royal Commission, the Australian Government ensures that increasing remuneration to support attraction and retention of employees is an explicit objective of all pricing authorities in the care sector.

#### **Recommendation 15**

**6.178** The committee recommends that the Australian Government implements a minimum staff time standard for residential aged care adequate to ensure high quality and support maximised hours rostering of staff.

#### **Recommendation 16**

**6.179** The committee recommends the Australian Government requires that all aged care providers in receipt of public funding are domiciled in Australia for tax purposes, and do not engage in tax minimisation or avoidance.

#### **Recommendation 17**

**6.180** The committee recommends the Australian Government considers a sector wide facilitated agreement making scheme to support fair wages and secure employment conditions, recognising the unique dynamics of the care sectors. The Fair Work Commission should be provided with the power to require the participation of relevant government/s as the economic employer/s in the sector.

#### **Recommendation 18**

**6.181** The committee recommends the Australian Government works with unions, service providers and employers to amend relevant Awards to ensure the



widespread practice of low minimum-hours part-time contracts is restricted, including consideration of:

- specifying a minimum number of part-time hours that can be included in standard contracts;
- requiring employers to pay over-time rates for hours worked over and above contracted hours;
- including automatic mechanisms for review—for instance, if after six months an employee is consistently working above contracted hours, they should be offered the opportunity for the contract to be amended to reflect the actual hours worked; and
- employees consistently working over 35 hours per week for 12 months or longer—regardless of the pattern of hours—should be offered full-time employment.

The committee also recommends that these provisions should be easily enforceable and include anti-avoidance mechanisms.

#### **Recommendation 19**

6.182 The committee recommends the Australian Government directs pricing authorities in the care sectors to consider all genuine costs required to provide high quality care when determining pricing, including wages and conditions that will attract and retain a skilled workforce, best practice skill mix, and paid training hours.

#### **Recommendation 20**

6.183 The committee recommends the Australian Government strengthen the powers of the Fair Work Commission so that it may order pay increases for workers to rectify gender-based undervaluation; including establishing a statutory Equal Remuneration Principle. For example, guiding principles making it clear that a male comparator is not required to assess whether workers in an industry are receiving equal pay for work of equal or comparable value.

#### **Recommendation 21**

10.33 The committee recommends that the Australian Government urgently develops a new National Higher Education Funding Strategy for the period 2021–2025. The new strategy should recognise and address:

- the real cost of delivering high quality tertiary education including administration, marking, and ensuring staff and student wellbeing;
- the role of research as a core university function;
- increasing casualisation in university workforces;

- revenue stabilisation and diversification, particularly with regard to the shift in international student enrolments;
- the role for government in mandating and enforcing secure and fair employment practices in tertiary education; and
- the need for an increase in government funding to the sector.

#### **Recommendation 22**

**10.34** The committee recommends that the Australian Government provides temporary additional annual funding universities to restore jobs and rectify the damage inflicted upon the sector as a result of the COVID-19 pandemic and funding cuts, until the new Higher Education Strategy has been developed and implemented.

#### **Recommendation 23**

**10.56** The committee recommends that the Australian Government Department of Education, Skills and Employment works closely with universities, workers, experts, the National Tertiary Education Union, and relevant sector bodies, to design a system of casual and fixed-term conversion that would be appropriate for the higher education sector.

This system should include sector-appropriate definitions of casual and fixed-term work, and limit the use of casual and fixed-term employment to genuinely non-ongoing work.

#### **Recommendation 24**

**10.63** The committee recommends that the Australian Government requires all universities to provide a more detailed report of their staffing composition to the Department of Education, Skills and Employment, including:

- annualised data on permanent, fixed-term and casual staff in terms of both headcounts and full-time equivalents;
- annualised data on the use of labour hire and other external contractors; and
- annualised detailed data around gender, cultural diversity, age, earnings, length of service and retention rates for casual staff, and compared with permanent staff.

#### **Recommendation 25**

**10.72** The committee recommends that the Australian Government requires, as a condition of receiving public funding, universities to set publicly-available targets for increasing permanent employment, and reducing casualisation, and report their progress against these targets on an annual basis. The

targets should be established in consultation with industry experts, workers and the National Tertiary Education Union (NTEU).

The Department of Education, Skills and Employment should review the impact of this measure after three years, and – if it has not been effective in reducing the level of casualisation – the Australian Government should then work with universities and the NTEU to impose meaningful but achievable funding-linked targets.

#### **Recommendation 26**

10.83 The committee recommends, in light of the widespread wage theft in the Australian Government-funded higher education sector, that the government legislates improved rights of entry for all registered trade unions. These rights should include a right to inspect the records of both current and former employees, a right to enter a site without providing 24 hours' notice, and the removal of restrictions on trade unions accessing non-member records directly.

#### **Recommendation 27**

15.11 The committee recommends that the Australian Government offers permanent employment opportunities to all long-term casual employees currently performing roles which relate to ongoing stable work.

#### **Recommendation 28**

15.12 The committee recommends that the Australian Government eliminates the utilisation of long-term casual employment across the Australian Public Service for roles which are not irregular or intermittent in nature, unless genuinely preferred by the employee.

#### **Recommendation 29**

15.20 The committee recommends that the Australian Government:

- removes the average staffing level cap;
- identifies skill gaps that have led to the regular engagement of external workers, and develops plans to eliminate these gaps and build in-house capabilities;
- internalises work of an ongoing and regular nature which is currently undertaken by contractors and consultants, including labour hire;
- encourages the transfer of skills and knowledge from external workers to internal Australian Public Service employees; and
- places an upper limit on the expenditure on consultants and contractors, and utilises savings to increase the capability and capacity of the Australian Public Service.

### **Recommendation 30**

**15.21** The committee recommends that the Australian Government introduces an APS-wide policy requiring all departments, agencies and Government Business Enterprises (GBEs) to directly employ staff in all circumstances other than where the work is genuinely short-term and not ongoing in nature. Where this exception is used, the department, agency or GBE should be required to identify the duration of the engagement, and the approximate additional cost that will be incurred by engaging a third party provider.

### **Recommendation 31**

**15.26** The committee recommends that the Australian Government requires:

- the Australian Public Service Commission to collect and publish agency and service-wide data on the Government's utilisation of contractors, consultants, and labour hire workers;
- the Department of Finance to regularly collect and publish service-wide expenditure data on contractors, consultants, and labour hire workers, including the cost differential between direct employment and external employment; and
- labour-hire firms to disclose disaggregated pay rates and employee conditions.

### **Recommendation 32**

**15.34** The committee recommends that the Australian Government finalises the regulatory and funding model for the national system for domestic commercial vessel safety. This will allow the Australian Maritime Safety Authority to determine its staffing model and offer enhanced job security to its workers.

### **Recommendation 33**

**15.35** The committee recommends that the Australian Maritime Safety Authority immediately offers permanent employment opportunities to all long-term labour-hire workers within the AMSA Connect call centre.

### **Recommendation 34**

**15.40** The committee recommends that the Australian Government enhances the Commonwealth Procurement Rules by introducing a social procurement framework. Such a framework would aim to leverage the significant procurement activities of the Government to achieve positive social, economic, and environmental outcomes for the benefit the Australian community.

### **Recommendation 35**

**15.41 The committee recommends that the Australian Government introduces a supplier code of conduct which would, amongst other things, provide minimum expectations around:**

- integrity and ethics;
- conflicts of interest;
- corporate governance;
- labour and human rights;
- job security and the utilisation of local workforces;
- occupational health and safety;
- environmental management;
- gender equality; and
- transparency, non-minimisation and non-avoidance of tax obligations.

### **Recommendation 36**

**15.42 The committee recommends that the Australian Government requires that entities engaged to deliver goods and services provide a demonstrable, and independently verified, track record of compliance with workplace laws, including *Workplace Gender Equality Act* reporting obligations. Such disclosures would also incorporate relevant subcontractors that these providers may utilise.**

### **Recommendation 37**

**15.48 The committee recommends that the Australian Government eliminates the technical capability gap resulting from an over-reliance on the use of external contractors and ensures that the Australian Public Service (APS) becomes a digital leader. In doing so, the committee suggests the Government:**

- commits to ongoing investment in information and communication technology (ICT) systems, staff, and skills;
- improves the standard of ICT systems to that of leading private sector companies;
- builds the expertise and knowledge of the APS to develop and deliver ICT solutions; and
- makes the APS an employer of choice for ICT and digital professionals by developing career pathways, learning and development programs, appropriate classifications, and competitive remuneration packages.

### **Recommendation 38**

**15.61 The committee recommends that the Australian Government amends the NBN Co Ministerial Statement of Expectations to explicitly state that NBN Co is responsible for conditions of work, exploitation and corruption**

that occurs in its supply chain, including for subcontractors engaged by Delivery Partners or Prime Contractors. NBN Co should be directed to prepare and publish a plan for how NBN Co will safeguard, monitor and enforce sustainable rates of pay and fair working conditions for NBN technicians.

The committee also recommends that the number of vertical subcontracting arrangements be limited to enhance transparency and accountability, to reduce the inefficient outlay of taxpayer funds and wage suppression that result when too many layers of subcontracting are in the delivery chain, and to promote secure ongoing direct employment by Delivery Partners as the preferred model of workforce engagement.

# Chapter 1

## Introduction

### Publicly-funded jobs

- 1.1 The public sector is a major employer in Australia and is traditionally associated with stable, high-quality jobs. Along with a significant number of *direct* jobs, governments fund many more *indirect* jobs, through their procurement of goods and services in the economy.
- 1.2 The Australian Bureau of Statistics (ABS) reported that there were 2 041 200 public sector employees at the end of June 2020, earning total cash wages and salaries of around \$174 139 million per annum. This included:
  - 246,000 employees in Commonwealth government;
  - 1,609,100 in state government; and
  - 186,000 in local government.<sup>1</sup>
- 1.3 The three largest sectors in which these people were employed were:
  - public administration and safety (637 400);
  - education and training (634 000); and
  - health care and social assistance (543 300).<sup>2</sup>
- 1.4 In addition, government spending across the economy funds significantly more jobs. Governments procure goods and services through contracts with private sector firms around the nation, supporting countless Australian jobs— from cleaning and gardening services, to military and construction contracts, and the purchase of office equipment and supplies.
- 1.5 Quantifying the number of private sector jobs created through government spending would be extremely challenging and is not the task of this inquiry. However, procurement statistics may provide a sense of the quantum. In 2019–20, at the Commonwealth government level alone, there were 81 174 contracts published on AusTender,<sup>3</sup> with a combined value of \$53.9 billion.<sup>4</sup>

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<sup>1</sup> Australian Bureau of Statistics (ABS), *Employment and Earnings, Public Sector, Australia*, [www.abs.gov.au/statistics/labour/employment-and-unemployment/employment-and-earnings-public-sector-australia/latest-release](http://www.abs.gov.au/statistics/labour/employment-and-unemployment/employment-and-earnings-public-sector-australia/latest-release) (accessed 16 September 2021).

<sup>2</sup> ABS, *Employment and Earnings, Public Sector, Australia*.

<sup>3</sup> AusTender is the Commonwealth Government's procurement information system. The Commonwealth Procurement Rules (CPRs) require Commonwealth entities to publish on AusTender: planned procurements, open requests for tender, standing offer arrangements and details of contracts that have been awarded. Non-corporate Commonwealth entities are required to report details of contracts awarded with a value of \$10,000 or more, and \$400,000 or more for prescribed corporate Commonwealth entities.

- 1.6 The majority of Commonwealth government contracts (58 per cent by number and 64 per cent by value) are for services rather than goods, and the five highest-value categories of Commonwealth procurement, as reported in 2020, were:
- Commercial and Military and Private Vehicles and their Accessories and Components, at 24.1 per cent of total contract value;
  - Management and Business Professionals and Administrative Services, at 18.7 per cent;
  - Engineering and Research and Technology Based Services, at 8.5 per cent;
  - Building and Construction and Maintenance Services, at 8.2 per cent; and
  - Information Technology Broadcasting and Telecommunications, at 7.6 per cent.<sup>5</sup>
- 1.7 This interim report looks at insecurity in publicly-funded jobs and is focussed primarily on those jobs where the Australian Government—also referred to as the Commonwealth—is the funder, or primary funder.

### **Progress of the inquiry to-date**

- 1.8 Appointed by resolution of the Senate on 10 December 2020, the Senate Select Committee on Job Security (the committee) was established to inquire into and report on the impact of insecure or precarious employment on the economy, wages, social cohesion and workplace rights and conditions in Australia.<sup>6</sup>
- 1.9 At the time of writing, the committee had held 18 public hearings—hearing a broad range of diverse evidence from workers and employers, unions, experts, sector organisations and industry bodies—and published 201 submissions. The committee also held six in-camera hearings, during which it heard evidence from workers on a confidential basis to protect their identities.
- 1.10 The committee notes that it is a possible contempt for any person to inflict a 'penalty or injury upon' another person for giving evidence as part of Parliamentary proceedings, including a Parliamentary inquiry.<sup>7</sup> Where Senate committees are made aware of any concrete threats, or actions taken against witnesses, such actions are treated with the utmost seriousness, and investigated.

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<sup>4</sup> Department of Finance, *Statistics on Australian Government Procurement Contracts*, 2019–20 FY, [www.finance.gov.au/government/procurement/statistics-australian-government-procurement-contracts-](http://www.finance.gov.au/government/procurement/statistics-australian-government-procurement-contracts-) (accessed 17 September 2021).

<sup>5</sup> Australian National Audit Office, *Australian Government Procurement Contract Reporting Update*, 11 March 2020, <https://www.anao.gov.au/work/information/australian-government-procurement-contract-reporting-update-2019> (accessed 17 September 2021).

<sup>6</sup> *Senate Journals*, No. 81—10 December 2020, pp. 2890–2891. The inquiry's full terms of reference are at page xi.

<sup>7</sup> Senate Privilege Resolution 6(11).



- 1.11 Notwithstanding the protections offered by Parliamentary Privilege, it was the committee's preference to avoid placing workers in a situation where they felt their livelihoods may be at risk. As such, some of the worker testimony in this report was received in-camera, and has been quoted anonymously, with the permission of those workers.
- 1.12 The committee has also collected a significant amount of data and information from government agencies, private companies and not-for-profit service providers in the form of answers to questions on notice. All of the public information is published on the committee's website.<sup>8</sup>
- 1.13 On 24 June 2021, the committee tabled its first interim report, *On-demand platform work in Australia*, which looked into employment arrangements in the gig economy and the adequacy of existing legislative and policy approaches, and proposed a number of reforms.<sup>9</sup>
- 1.14 The committee agreed to seek an extension of time to report until the last sitting day in February 2022 to allow time for further consideration of evidence and report drafting. On 25 August 2021, at the request of the committee's Chair, Senator Anne Urquhart moved general business notice of motion no. 1223, seeking the extension: the motion was not carried.<sup>10</sup>
- 1.15 The committee is currently due to present its final report by 30 November 2021.<sup>11</sup>

### **Extension of time to report**

- 1.16 At the time of writing, the committee has two additional hearings scheduled. These hearings will enable the committee to hear from workers, employers and other stakeholders in a few key sectors where job security is under threat—but the committee needs more time.
- 1.17 The pandemic is shedding light on the true nature and extent of insecure and precarious work in Australia. COVID-19 is altering the employment landscape—its impacts are playing out in real time, and its effects are still being understood.
- 1.18 Playing a vital role in this process of discovery, the committee's inquiry is also giving voice to the concerns of Australians affected by insecure work at this critical time. It has never been more important for the Parliament to hear these stories and give these matters due consideration.

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<sup>8</sup> See: [www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Job\\_Security/JobSecurity](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Job_Security/JobSecurity)

<sup>9</sup> The report is available on the committee's website, here: [www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Job\\_Security/JobSecurity/Interim\\_Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Job_Security/JobSecurity/Interim_Report)

<sup>10</sup> *Senate Journals*, No. 116—25 August 2021, p. 3989.

<sup>11</sup> *Senate Journals*, No. 81—10 December 2020, p. 2891.

- 1.19 The committee is seeking to extend the inquiry until the last sitting day in February next year. This modest extension of time would allow the committee to hear from some important remaining witnesses, as well as providing critical additional time to consider and report on the substantial body of evidence the committee has collected.

### **Recommendation 1**

- 1.20 The committee recommends that the Senate adopt the following resolution:**

**That the time for the presentation of the final report of the Select Committee on Job Security be extended to the last sitting day in February 2022.**

### **The second interim report**

- 1.21 During the course of the inquiry, the committee has heard concerning evidence relating to precarious and insecure work in a number of publicly-funded employment sectors.
- 1.22 In particular, testimony from workers in aged care and higher education prompted the committee to look more deeply into these troubled sectors, bringing together experts, unions, industry and business representatives, and sector peak bodies, to look at possible solutions to the problem of widespread insecure work.
- 1.23 Evidence and analysis on insecure and precarious work in aged care and disability care forms Part 1 of this report; and Part 2 focusses on insecure work in higher education.
- 1.24 The committee also sought evidence from a number of Australian Public Service (APS) agencies to better understand how they structure their workforces. The committee looked at both *directly*-employed workers, and the use of casual and contract labour, including: changes over time, effects on workers, and impacts on service delivery.
- 1.25 Finally, the committee looked into the role of Commonwealth procurement in promoting job security, including through a case study into the workforce practices associated with the delivery of the National Broadband Network (NBN).
- 1.26 The committee's work on the APS, Commonwealth procurement, and the NBN make up Part 3 of this interim report.
- 1.27 These sector studies provided a powerful way for the committee to explore issues of insecurity in publicly-funded employment.
- 1.28 Throughout this report, the committee has sought to consider the role that regulation, government policy and program design can play in driving better workforce management practices, and promoting secure work in publicly-funded jobs.

### *Structure of the report*

- 1.29 This first chapter defines 'publicly-funded jobs', summarises the progress of the inquiry to-date, outlines the second interim report, and presents the committee's views and recommendations on the broader role of governments in investing in secure work.
- 1.30 **Part 1**, on insecure work in the aged and disability care sectors, includes five chapters:
- **Job security in the aged care sector**—presents data and discussion on the sector and its workforce arrangements;
  - **Impacts of employment arrangements in aged care**—on service providers, care workers, their families and communities, and on aged care recipients;
  - **COVID-19 and insecure work in aged care**—looks into the outbreaks during Melbourne's second wave, the impact of working across multiple sites, and the issue of vaccination;
  - **Insecure work in the disability care sector**—a brief introduction to the issue of insecure work in disability care under the National Disability Insurance Scheme; and
  - **Aged care and disability care: Proposals for reform**—discusses proposals for lifting wages and increasing 'working time security' for aged care workers, and increasing job security in the disability care sector.
- 1.31 **Part 2**, on insecure work in higher education, includes four chapters:
- **Job security in higher education**—presents data and discussion on the sector, its workforce arrangements, pay and earnings;
  - **Impacts of employment arrangements in higher education**—considers pros and cons of current workforce practices for universities, academics and teaching staff, their families and communities, and students;
  - **COVID-19 and insecure work in higher education**—outlines the dramatic impacts of COVID-19 on the sector, on universities, and on various categories of workers; and
  - **Higher education: Proposals for reform**—discusses the current problems in the sector, then considers proposals for increasing job security and reducing casual and precarious employment in the sector.
- 1.32 **Part 3**, on job security in the APS and Commonwealth procurement, includes five chapters:
- **Job security in the Australian Public Service**—presents data and discussion on the sector, its workforce arrangements, and the changes over time;
  - **Impacts of employment arrangements in the APS**—on workers, their families and communities, and service quality;

- **Job security and Commonwealth procurement**—looks at the role of Commonwealth procurement in promoting secure, high-quality work across the economy;
- **Case study: National Broadband Network workforce**—a review of the workforce practices associated with the NBN, a major Commonwealth procurement; and
- **APS and procurement: Proposals for reform**—considers proposals for increasing job security in directly-employed government jobs, as well as through Commonwealth procurement.

### *Acknowledgements*

1.33 The committee would like to acknowledge all submitters and witnesses who gave evidence at public hearings, including many via video or teleconference during COVID lockdowns. We particularly acknowledge the workers who shared their stories with the committee, sometimes under difficult circumstances.

### **'Nation building'—investing in secure jobs for the future**

1.34 This interim report was prepared over the months in 2021 that saw a number of states and territories in Australia go into—then begin to emerge from—lockdowns associated with COVID-19.

1.35 As jurisdictions take cautious steps out of lockdown, with minds firmly on rebuilding damaged economies and struggling industry sectors, there is a clear opportunity for governments to put job security at the heart of their strategies.

1.36 Numerous inquiry participants—from the Jesuit Social Services to the United Workers Union (UWU)—urged the committee to consider the critical role that governments can and should play in driving a recovery that promotes secure work and targets disadvantage.<sup>12</sup>

1.37 The UWU submitted that—as major employers and economic actors in the Australian economy—governments are uniquely-placed to leverage their significant investments towards improving 'the quality of jobs', 'promoting full employment', and incentivising and rewarding businesses that 'show a true commitment to secure jobs'.<sup>13</sup>

1.38 As Australia gradually emerges from the shadow of COVID-19, the Commonwealth Government will have 'an important and historic opportunity to tackle insecure work and deliver good jobs for our communities'. The Victorian Trades Hall Council (VTHC) contended that 'fairness' should be at the core of the Commonwealth's plans for a thriving post-COVID economy.<sup>14</sup>

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<sup>12</sup> Jesuit Social Services, *Submission 91*, p. 8.

<sup>13</sup> United Workers Union (UWU), *Submission 54*, p. 40.

<sup>14</sup> Victorian Trades Hall Council (VTHC), *Submission 31*, [p. 2].

- 1.39 As well as utilising 'fiscal and economic mechanisms to create new, secure jobs for workers in Australia', the Commonwealth Government can ensure secure jobs through its *own* employment practices, and can 'model best practice employment standards'.<sup>15</sup>
- 1.40 According to the VTHC, with spending of almost \$54 billion on procurement in 2020–21, the Commonwealth, arguably:
- ... has the power to transform Australia as we emerge from the COVID-19 crisis by not only delivering the infrastructure, goods and services that Australians need, but doing so in a way that also ensures workers and their communities have jobs they can count on. Australians across all industries and sectors need assurances that where public money is spent, there is public benefit.<sup>16</sup>
- 1.41 An example of the nation building opportunities inherent in publicly-funded jobs is the National Disability Insurance Scheme (NDIS). According to the government's estimates, the disability care workforce needed to increase from around 100 000 workers in 2019, to 190 000 workers by 2024. That would make the NDIS 'one of the largest job creation opportunities in Australian history'.<sup>17</sup>
- 1.42 The 'scale' of job creation as part of the NDIS is expected to *far exceed* a number of earlier nation-building projects, including:
- the NBN, which required around 25 000 full-time equivalent (FTE) personnel from 2017–2025;
  - the Building the Education Revolution (BER) School Building Program, which required around 22 971 FTE between 2009 and 2010;
  - the Snowy Hydro Scheme, which required around 22 500 FTE from 1950–1970; and
  - the China Free Trade Agreement, which requires around 5400 FTE from 2014–2035.<sup>18</sup>
- 1.43 Participants highlighted the Commonwealth's opportunity to use investments like the NDIS to promote secure, reasonably-paid and rewarding jobs for the future, and said the NDIS must not be allowed to lead to a proliferation of

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<sup>15</sup> VTHC, *Submission 31*, [pp. 8–9].

<sup>16</sup> VTHC, *Submission 31*, [p. 8].

<sup>17</sup> Department of Social Services, *Growing the NDIS Market and Workforce*, 2019, p. 4, [www.dss.gov.au/sites/default/files/documents/03\\_2019/220319\\_-\\_growing\\_the\\_ndis\\_market\\_and\\_workforce\\_2019-accessible.docx](http://www.dss.gov.au/sites/default/files/documents/03_2019/220319_-_growing_the_ndis_market_and_workforce_2019-accessible.docx) (accessed 7 October 2021).

<sup>18</sup> Department of Social Services, *Growing the NDIS Market and Workforce*, 2019, p. 4, [www.dss.gov.au/sites/default/files/documents/03\\_2019/220319\\_-\\_growing\\_the\\_ndis\\_market\\_and\\_workforce\\_2019-accessible.docx](http://www.dss.gov.au/sites/default/files/documents/03_2019/220319_-_growing_the_ndis_market_and_workforce_2019-accessible.docx) (accessed 7 October 2021).

insecure working arrangements, a race to the bottom on pay, and an erosion of conditions.<sup>19</sup>

- 1.44 This report looks at a number of key sectors where jobs that are publicly-funded are disappointingly insecure and precarious. The committee carefully considers how the Commonwealth Government could better promote secure employment and address the deeply-held concerns of workers in these sectors.
- 1.45 When the Commonwealth government is the lead employer in a sector—either *directly*, as in the APS, or *indirectly*, as in aged care and disability care—it is 'in the box seat' to address job insecurity in that sector. As Professor Sara Charlesworth from RMIT University said; 'You can't say that for retail and you can't say that for hospitality'.<sup>20</sup>
- 1.46 The committee makes recommendations specific to each sector throughout the report. Below are two overarching recommendations that capture the committee's approach to the principal subject of this interim report—the role and responsibility of governments, as employers and investors, in promoting secure employment.

## Recommendation 2

- 1.47 The committee recommends that the Australian Government undertakes an audit of the job security of all workers engaged directly by the Australian Government, or who are working in jobs funded by the Australian Government. This audit should collect data on the type of employment arrangements, and on perceptions of job security held by people engaged in these roles.**

## Recommendation 3

- 1.48 The committee recommends that the Australian Government introduces a policy stating that an objective of all public funding for employment, or the provision of goods and services, is to protect and promote secure employment.**

**The policy should require that all such recipients of Australian Government funding preference the direct, permanent employment of staff, rather than indirect arrangements including outsourced service providers or labour hire**

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<sup>19</sup> See for instance: Ms Natalie Lang, Secretary, Australian Services Union (ASU), *Proof Committee Hansard*, 12 April 2021, pp. 5–6; National Foundation for Australian Women (NFAW), *Submission 11*, p. 6; Dr Fiona Macdonald, *Submission 126*, p. 2.

<sup>20</sup> Professor Sara Charlesworth, Work, Gender and Regulation, School of Management, and Director, Centre for People, Organisation and Work, College of Business, RMIT University, *Committee Hansard*, 19 April 2021, p. 24.

firms or temporary arrangements including casual or fixed-term employment, wherever practical.

The policy should recognise there is a legitimate role for contracting and subcontracting arrangements in the Australian Government's supply chain, but that workers engaged under these arrangements are entitled to pay and conditions no less than an employee would receive for the same job.

The policy should apply to funding provided to the Australian Public Service, Government Business Enterprises, and private organisations including but not limited to aged and disability care providers, universities, construction firms and service providers engaged to deliver public infrastructure projects such as the National Broadband Network.

The policy should require the Australian Government's procurement framework to prioritise firms that favour a permanent, directly-engaged workforce, and to consider the economic and social benefits of tenders.

The policy should also require the Australian Government to ensure that the funding for projects, goods and services is sufficient to enable the organisation to hire its workforce in permanent, secure employment on rates at least compliant with the relevant Award and a living wage.





**Part 1**  
**Aged care and disability care**



## Chapter 2

# Job security in the aged care sector

- 2.1 The Australian Government is the major funder of aged care in Australia. Total spending on aged care in 2018–19 was \$27.0 billion. Of that figure, the Australian Government contributed \$19.9 billion. In 2019–20, the figure was \$21.2 billion, and rising. Older people contributed \$5.6 billion to the cost of their care and accommodation in 2018–19 on a means tested basis.<sup>1</sup>
- 2.2 An increasing focus on in-home care has seen the proportion of Commonwealth expenditure dedicated to residential care drop slightly in recent years—from over 65 per cent, to 63.3 per cent in 2019–20—though it still forms the majority of expenditure.<sup>2</sup>
- 2.3 This chapter looks at:
- the structure of the aged care sector;
  - the size and composition of the workforce, including:
    - role and occupation; and
    - employment status;
  - characteristics of aged care workers; and
  - earnings and wages of aged care workers.
- 2.4 The chapters that follow consider evidence on the nature and impacts of common employment arrangements, the relationship between job security and COVID-19 in aged care settings, and proposals for reforms that could deliver greater job security for aged care workers.
- 2.5 The aged care services industry is growing rapidly. In 2011 the Productivity Commission predicted that by 2050, 3.5 million Australians will need aged care services each year; requiring a workforce of 'almost one million direct care workers'.<sup>3</sup> Still, a full ten years later the workforce continues to face the same significant 'cultur[al] and operational barriers to change', including:

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<sup>1</sup> Royal Commission into Aged Care Quality and Safety (Aged Care Royal Commission), *A summary of the Final Report*, 1 March 2021, p. 63, [agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-executive-summary.pdf](https://agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-executive-summary.pdf) (accessed 11 August 2021).

<sup>2</sup> Aged Care Financing Authority (ACFA), *Ninth Report on the Funding and Financing of the Aged Care Industry*, July 2021, p. 19, [www.health.gov.au/resources/publications/ninth-report-on-the-funding-and-financing-of-the-aged-care-industry-july-2021](https://www.health.gov.au/resources/publications/ninth-report-on-the-funding-and-financing-of-the-aged-care-industry-july-2021) (accessed 11 August 2021).

<sup>3</sup> Aged Care Workforce Strategy Taskforce, *A Matter of Care: Australia's Aged Care Workforce Strategy*, June 2018, p. 1, [www.health.gov.au/sites/default/files/a-matter-of-care-australia-s-aged-care-workforce-strategy.pdf](https://www.health.gov.au/sites/default/files/a-matter-of-care-australia-s-aged-care-workforce-strategy.pdf) (accessed 20 August 2021).

- high employee turnover, including significant movement between organisations
- poor employee engagement and enablement
- difficulty in attracting talent
- ineffective and inefficient design of work organisation and jobs
- undervalued jobs with poor market positioning
- suboptimal workforce planning
- casualisation of the workforce, particularly in home-based care
- leadership effectiveness gaps
- key capability gaps and skills and competencies misalignment
- career progression bottlenecks
- ineffective recruitment, induction and on-boarding processes.<sup>4</sup>

2.6 This chapter concludes by examining how job security is linked to the future capacity of the workforce.

### **The aged care sector**

2.7 According to the Aged Care Financing Authority (ACFA), in 2018–19 there were more than 3000 providers of aged care services across Australia, including:

- 873 residential aged care providers;
- 928 home care providers; and
- 1458 Commonwealth Home Support Programme providers.<sup>5</sup>

2.8 The majority of aged care providers are owned by community, charity or religious organisations and are not-for-profit—though they may still be 'run like a commercial business'. Most of the others are privately owned and run; though there are also a small number of facilities owned and run by state, territory or local governments.<sup>6</sup> Even in Victoria, which has 'one of the largest numbers of state-run aged-care facilities ... over 40 per cent of [beds] are held by for-profit organisations ... 10 per cent are held by state governments, and the rest are held by not-for-profit organisations'.<sup>7</sup>

2.9 The Aged Care Royal Commission identified 'a shift towards consolidation' of the aged care sector into 'the hands of fewer large-scale operators':

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<sup>4</sup> Aged Care Workforce Strategy Taskforce, *A Matter of Care: Australia's Aged Care Workforce Strategy*, June 2018, p. 5.

<sup>5</sup> Aged Care Royal Commission, *A summary of the Final Report*, 1 March 2021, p. 64.

<sup>6</sup> Aged Care Royal Commission, *A summary of the Final Report*, 1 March 2021, p. 64.

<sup>7</sup> Professor Sara Charlesworth, Work, Gender and Regulation, School of Management, and Director, Centre for People, Organisation and Work, College of Business, RMIT University, *Committee Hansard*, 19 April 2021, p. 24.

In 2009–10, there were just two very large providers or groups in residential care, operating 16% of all places, whereas by 2018–19 this had grown to 10, operating 39% of all places.<sup>8</sup>

### *Residential aged care is under strain*

2.10 Aged care providers that participated in the inquiry argued that the residential aged care sector is under significant financial strain.<sup>9</sup> Ms Patricia Sparrow from Aged & Community Services Australia (ACSA) said that 64 per cent of aged care facilities are running at a loss—78 per cent in rural areas.<sup>10</sup>

2.11 The 2019–20 annual report from ACFA provides slightly different figures, but still demonstrates a sector under severe resourcing stress. According to ACFA, in 2019–20, the residential care sector did substantially *worse* than the previous year: 46 per cent of providers achieved a net profit—down from 58 per cent in 2018–19.<sup>11</sup> The ACFA report states:

- Residential care providers generated total revenue of \$20.5 billion in 2019–20 ... equating to revenue of \$296.64 per resident per day;
- Total expenses in 2019–20 were \$21.3 billion ... equating to \$307.27 per resident per day; and
- Residential care providers as a whole reported an overall **loss** of \$736 million in 2019–20, compared with a total profit of \$264 million in 2018–19.

Home and community care providers fared better: 72 per cent of home care providers achieved a net profit in 2019–20—up from 69 per cent in 2018–19.<sup>12</sup>

### **Size and composition of the workforce**

2.12 Inquiry participants, along with the Aged Care Royal Commission, were forced to rely largely on data from the 2016 *National Aged Care Workforce Census and Survey* (2016 Census) to understand the nature of the aged care workforce. Professor Sara Charlesworth from RMIT University noted that the 2016 Census data is 'not terrific'. The 2016 Census team only surveyed 'directly employed workers'; that is, 'pay as you go' (PAYG) employees.<sup>13</sup> While they did not

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<sup>8</sup> Aged Care Royal Commission, *A summary of the Final Report*, 1 March 2021, p. 64.

<sup>9</sup> Mr Luke Westenberg, Chief Executive Officer, Aged Care Industry Association (ACIA), *Committee Hansard*, 21 April 2021, p. 12.

<sup>10</sup> Ms Patricia Sparrow, Chief Executive Officer, Aged & Community Services Australia (ACSA), *Committee Hansard*, 19 April 2021, p. 20.

<sup>11</sup> ACFA, *Ninth Report on the Funding and Financing of the Aged Care Industry*, July 2021, p. 75.

<sup>12</sup> ACFA, *Ninth Report on the Funding and Financing of the Aged Care Industry*, July 2021, pp. 5–6.

<sup>13</sup> Professor Sara Charlesworth, Work, Gender and Regulation, School of Management, and Director, Centre for People, Organisation and Work, College of Business, RMIT University, *Committee Hansard*, 19 April 2021, p. 22.

survey agency, labour hire and self-employed workers, the 2016 Census team did include questions about the use of these workers in the provider Census.

- 2.13 On 2 September 2021, the Australian Government released the results of the *2020 Aged Care Workforce Census* (2020 Census). This report provides data from the 2020 Census, and compares it with the 2016 data, noting there are differences in survey methodology and reporting between the two census years.
- 2.14 Unlike in previous years, in 2020 the Department of Health (department) 'did not collect data from any individual aged care workers' for the Census, due to the 'impacts of COVID-19'. The department only conducted the provider Census.<sup>14</sup>
- 2.15 There was a significant reduction in the provider response rate between 2016 and 2020, with 76 per cent of residential care providers responding to the 2016 Census,<sup>15</sup> and only 49 per cent responding in 2020. Response rates for community and home care were even lower. As such, responses in 2020 were 'weighted to estimate results for all [residential aged care] facilities'.<sup>16</sup>
- 2.16 Finally, where the 2016 Census presented data in *two* categories—Residential Care, and Home and Community Care—the 2020 Census presents data in *three* categories—Residential Care, Home Care Packages, and the Commonwealth Home Support Programme. To facilitate meaningful comparisons between 2016 and 2020 data in this chapter, the second two categories have been added together for some of the comparisons.

### *Total workforce*

- 2.17 The 2020 Census estimated the current aged care workforce to be around 434 107 individuals:
- 277 671 people work in residential aged care facilities, representing 129 151 full time equivalent (FTE) positions—up 32 per cent since 2016;
  - 80 340 people work as part of the Home Care Packages Program; and
  - 76 096 employees work as part of the Commonwealth Home Support Programme<sup>17</sup>—a total home care workforce of around 156 436 individuals.
- 2.18 For comparison, in 2016 there were estimated to be around 366 000 paid workers, of which 240 000 (or 66 per cent) were engaged in 'direct care roles'.<sup>18</sup>

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<sup>14</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, p. 7, [www.health.gov.au/resources/publications/2020-aged-care-workforce-census](http://www.health.gov.au/resources/publications/2020-aged-care-workforce-census) (accessed 11 September 2021).

<sup>15</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 8.

<sup>16</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, p. 11.

<sup>17</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, p. 8.

<sup>18</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. xv.

## Role and occupation

### Residential care

2.19 According to the 2020 Census report:

- 208 903 residential aged care employees are 'direct care' workers—up from 153 854 in 2016;<sup>19</sup>
- the *vast majority* (70 per cent) are personal care workers (PCWs, referred to as PCAs in 2016)<sup>20</sup>—this is consistent with 2016, but up from 58 per cent in 2003;
- almost 16 per cent are registered nurses (RNs)—largely consistent with 2016 when it was 15 per cent, but down from 21 per cent in 2003; and
- almost 8 per cent are enrolled nurses (ENs)—down from 10 per cent in 2016, and 13 per cent in 2003.<sup>21</sup> See **Table 2.1** and **Figure 2.1** below.

**Table 2.1 Nurses in residential aged care, 2020**

Role	Full-time	Part-time	Casual/contract	Agency/sub-contract f/t	Agency/sub-contract p/t	TOTAL HEADCOUNT
Nurse practitioner	104	60	4	0	35	<b>203</b> ( <b>&lt;1% of total workforce</b> )
Registered nurse	4093	21 210	7147	40	236	<b>20 154</b> ( <b>15.7% of total workforce</b> )
Enrolled nurse	927	12 175	2802	4	91	<b>16 000</b> ( <b>7.7% of total workforce</b> )
<b>TOTAL</b> (100%)	<b>5125</b> ( <b>10%</b> )	<b>33 445</b> ( <b>68%</b> )	<b>9953</b> ( <b>20%</b> )	<b>44</b> ( <b>&lt;1%</b> )	<b>362</b> ( <b>1%</b> )	<b>48 929</b> ( <b>23.4% of total workforce</b> )

Source: Adapted from Department of Health, 2020 Aged Care Workforce Census Report, September 2021, p. 14. Percentage of total workforce is approximate.

<sup>19</sup> Of the remaining 68,768 staff, 52,801 worked in ancillary roles such as cleaners, cooks, and laundry assistants. The remaining staff were in management and administrative roles (14,021) and pastoral care and educational roles (1,946). Department of Health, 2020 Aged Care Workforce Census Report, September 2021, p. 12.

<sup>20</sup> Personal Care Assistants.

<sup>21</sup> Aged Care Royal Commission, *A summary of the Final Report*, 1 March 2021, p. 63.

**Figure 2.1 Direct care employees in the residential aged care workforce, by occupation: 2003, 2007, 2012 and 2016 (estimated headcount and per cent)**

<b>Occupation</b>	<b>2003</b>	<b>2007</b>	<b>2012</b>	<b>2016</b>
Nurse Practitioner (NP)	n/a	n/a	294 (0.2)	386 (0.3)
Registered Nurse (RN)	24,019 (21.0)	22,399 (16.8)	21,916 (14.9)	22,455 (14.6)
Enrolled Nurse (EN)	15,604 (13.1)	16,293 (12.2)	16,915 (11.5)	15,697 (10.2)
Personal Care Attendant (PCA)	67,143 (58.5)	84,746 (63.6)	100,312 (68.2)	108,126 (70.3)
Allied Health Professional (AHP)*	8,895* (7.4)	9,875* (7.4)	2,648 (1.8)	2,210 (1.4)
Allied Health Assistant (AHA)*			5,001 (3.4)	4,979 (3.2)
<b>Total number of employees (headcount)</b>	<b>115,660</b>	<b>133,314</b>	<b>147,086</b>	<b>153,854</b>
<b>(%)</b>	<b>(100)</b>	<b>(100)</b>	<b>(100)</b>	<b>(100)</b>

Source: Department of Health, 2016 National Aged Care Workforce Census and Survey, Canberra, 2017, p. 13.

Note: Census of residential aged care facilities (weighted estimates).\* In 2003 and 2007 both of these categories were combined under 'Allied Health'.

- 2.20 The residential direct care workforce has grown by over a third since 2016. While there was a substantial decrease in the proportion of the workforce that were RNs between 2003 and 2012, the proportion has remained relatively stable between 2016 and 2020. There has been a slight fall in the proportion of ENs in 2020, continuing the trend apparent in **Figure 2.1**.
- 2.21 Professor Kathy Eagar, Director of the Australian Health Services Research Institute, commented on the changing make-up of the direct care workforce in residential aged care since 2003, saying:

We don't have enough RNs and ENs and other allied health groups. We have seen a significant reduction year on year of that workforce and a substantial increase in a low-paid, low-skilled workforce of personal care workers.<sup>22</sup>

### Home care

- 2.22 In 2016, the total home care and home support workforce was estimated to be around 130 263—down 13 per cent since 2012. This compares to the current home care workforce of around 156 436—up around 20 per cent since 2016. In 2016, 86 463 workers were engaged in 'direct care roles' with the vast majority

<sup>22</sup> Professor Kathy Eagar, Director, Australian Health Services Research Institute, University of Wollongong (AHSRI), *Committee Hansard*, 19 April 2021, p. 37.



(84 per cent) being community care workers (CCWs). Eight per cent were RNs, and five per cent were allied health (AH) professionals.<sup>23</sup>

2.23 In 2020, of the 80 340 employees in the Home Care Packages Program:

- 64 019 are in direct care roles;
- 88 per cent are personal care workers (PCWs);
- 6 per cent are nurses; and
- 6 per cent are allied health professionals and assistants.<sup>24</sup>

2.24 Of the 76 096 employees in the Commonwealth Home Support Programme:

- 59 029 are in direct care roles;
- 80 per cent are PCWs;
- 12 per cent are nurses; and
- 8 per cent are allied health professionals.<sup>25</sup>

2.25 The occupational breakdown in the home care sector has remained fairly consistent since 2016.

### *Employment status*

#### **Residential care**

2.26 The 2020 Census reported in relation to current direct care workforce in residential care:

- 6 per cent are employed in permanent full-time positions;
- 71 per cent are permanent part-time—down from 78 per cent in 2016, and closer to the 2012 level of 72 per cent, and 2007 level of 69 per cent;
- 19 per cent are casuals or fixed-term contractors (mostly casuals)—*almost double* the 2016 figure of 10 per cent—and equal to the 2012 figure; and
- an estimated 4 per cent are 'employed as agency staff or sub-contractors'.<sup>26</sup>

2.27 **Figure 2.2** below shows the proportion of direct care staff in residential care by job role.

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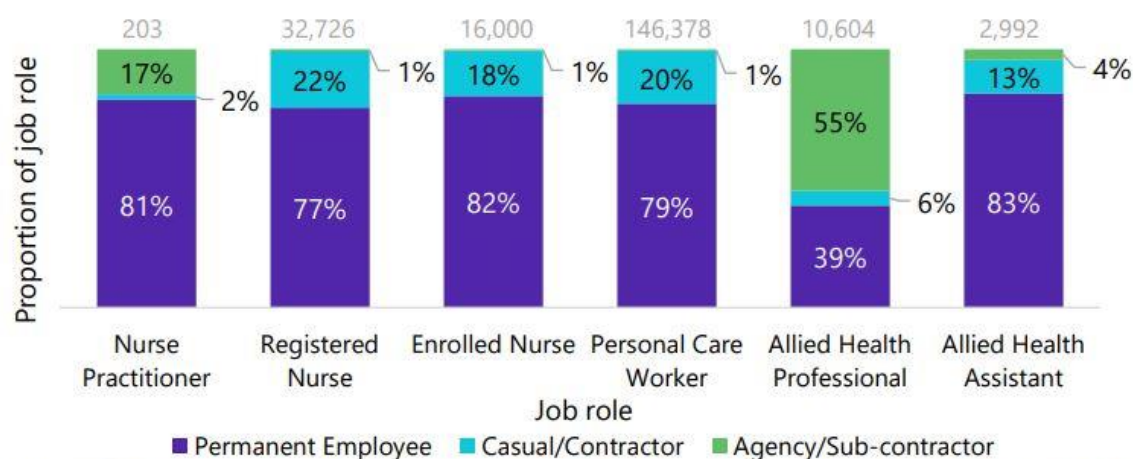
<sup>23</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, p. 14; Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 67.

<sup>24</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, pp. 25–26.

<sup>25</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, pp. 25–26.

<sup>26</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, pp. 14–15. 2016 data: Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 67.

**Figure 2.2 Proportion of direct care staff in residential care by job role**



Source: 2020 Aged Care Workforce Census. See Appendix 1: Job groups for roles considered allied health professionals. Note: As workers are reported at a facility level, they may work multiple part-time jobs and work a full-time capacity. In this chart, PCWs include PCWs (formal traineeship). Some columns may not add to 100 per cent due to rounding.

Source: Department of Health, 2020 Aged Care Workforce Census Report, September 2021, p. 15.

2.28 Despite hardly any direct care workers holding full-time positions, the 2016 Census reported that 44 per cent of the residential aged care workforce were working for 35 hours or more per week, which meets the Australian Bureau of Statistics (ABS) definition for full-time work.<sup>27</sup>

2.29 The 2020 Census noted a slight *decrease* in the already very low proportion of permanent direct care workers who work full time in residential aged care—with 93 per cent being part-time, which 'is higher than in 2016, when this figure was 87 per cent'.<sup>28</sup>

### Home care

2.30 The 2020 Census reported that, in relation to the current direct care workforce in the Home Care Packages Program and the Commonwealth Home Support Programme:

- 5 per cent and 4 per cent respectively are employed in permanent full-time positions;
- 50 per cent and 68 per cent respectively are permanent part-time—compared with 75 per cent across the home care sector in 2016;
- 41 per cent and 23 per cent respectively are casuals or fixed-term contractors (mostly casuals)—an averaged figure of 32 per cent—*almost double* the 2016 figure of 14 per cent, and an increase on the 2012 figure of 27 per cent; and

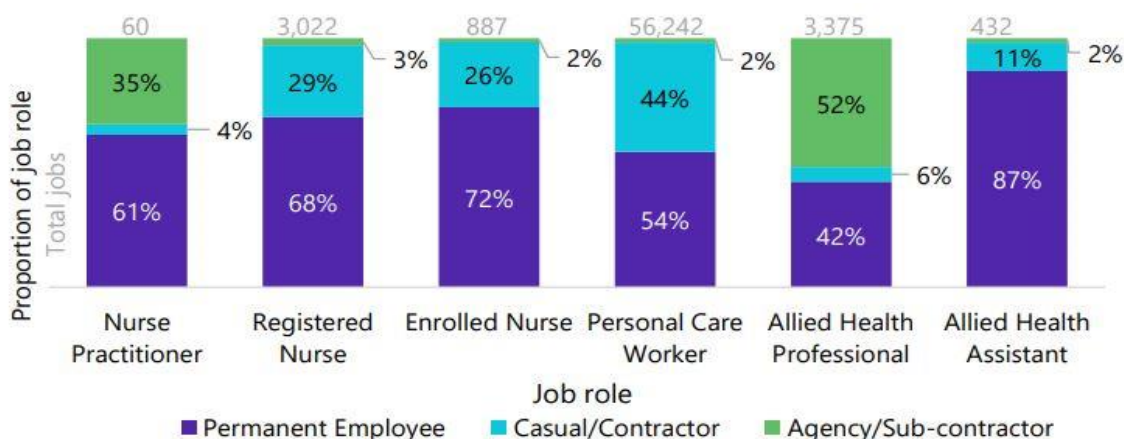
<sup>27</sup> Department of Health, 2016 National Aged Care Workforce Census and Survey, Canberra, 2017, pp. 24–25.

<sup>28</sup> Department of Health, 2020 Aged Care Workforce Census Report, September 2021, p. 15.

- an estimated 5 per cent and 2 per cent respectively are 'employed as agency staff or sub-contractors'.<sup>29</sup>

2.31 **Figure 2.3** below shows the proportion of direct care staff in the Home Care Packages Program by job role; and **Figure 2.4** shows proportion of direct care staff in the Commonwealth Home Support Programme by job role.

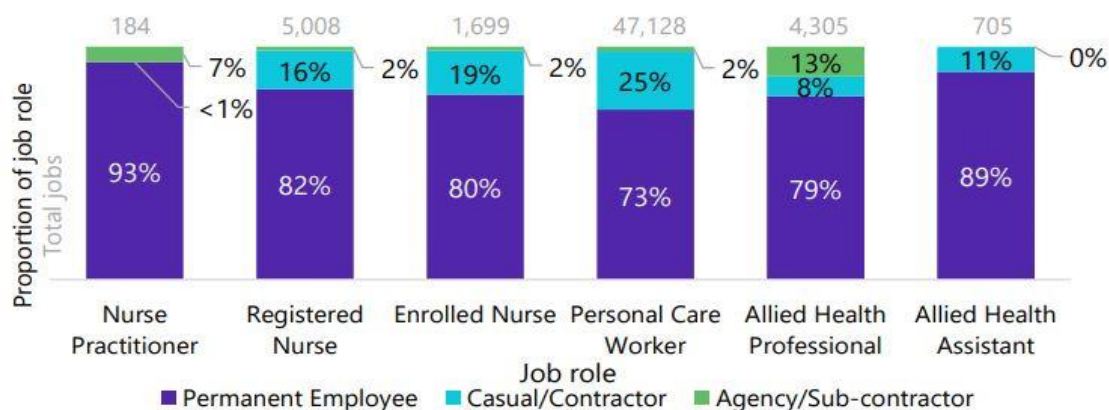
**Figure 2.3 Proportion of direct care staff in the Home Care Packages Program by job role, 2020**



Source: 2020 Aged Care Workforce Census. See Appendix 1: Job groups Note: PCWs include PCWs (formal traineeship)

Source: Department of Health, 2020 Aged Care Workforce Census Report, September 2021, p. 29.

**Figure 2.4 Proportion of direct care staff in the Commonwealth Home Support Programme by job role, 2020**



Source: 2020 Aged Care Workforce Census. See Appendix 1: Job groups Personal care workers includes personal care workers (formal traineeship). Some columns may add to 99 or 101 per cent due to rounding.

Source: Department of Health, 2020 Aged Care Workforce Census Report, September 2021, p. 40.

### Low-hours part-time work – dominant, but not increasing

2.32 Inquiry participants maintained that the aged care workforce is dominated by the use of minimum-hours contracts for permanent part-time workers.

<sup>29</sup> Department of Health, 2020 Aged Care Workforce Census Report, September 2021, pp. 25–27 and pp. 37–38. 2016 data: Department of Health, 2016 National Aged Care Workforce Census and Survey, Canberra, 2017, p. xvi, p. 10 and p. 67.

Professor Charlesworth said the sector has seen a steady 'erosion of the conditions of part-time work' since 2009, which had led to part-time work becoming 'effectively casualised':

There has been change after change in the relevant award. If we go back to the start of the modern award system and take the *Social, Community, Home Care and Disability Services Industry Award*, there were 132 state and federal awards smooshed into one award. In the course of that, the lowest common denominator prevailed. Where we had state and territory awards, we had, for example, provision for travel time for home-care workers. That was removed. Where there had been a casual conversion clause, that was removed. The lowest pay rates were chosen and the most compressed skill classifications were chosen. That was a major step back. Since the modern award system started back in 2009, we've seen a slow but absolutely progressive further erosion of the security of working time for permanent part-time workers.<sup>30</sup>

- 2.33 For the 2020 Census, the department did not survey workers *at all*, and the report does not include information about average hours worked by employees. In contrast, the 2016 Census did report on average hours worked. However, the reported ranges are so wide (1–15 hours; 16–34 hours; 35–40 hours; and >40 hours) that the data fails to provide a meaningful picture of 'low-hours' part-time work.<sup>31</sup>
- 2.34 The Department of Jobs and Small Business's *Survey of personal care workers in aged and disability care* (2018), (PCW Survey) provides more granulated data—though it is limited to personal care workers (PCW). The Survey found that PCW in the aged care sector worked an average of 21.9 hours, with permanent/ongoing PCW working an average of 27 hours per week, casuals working 17.9 hours per week, and contract staff working 15.2 hours per week.<sup>32</sup> (See **Figure 2.5**.)

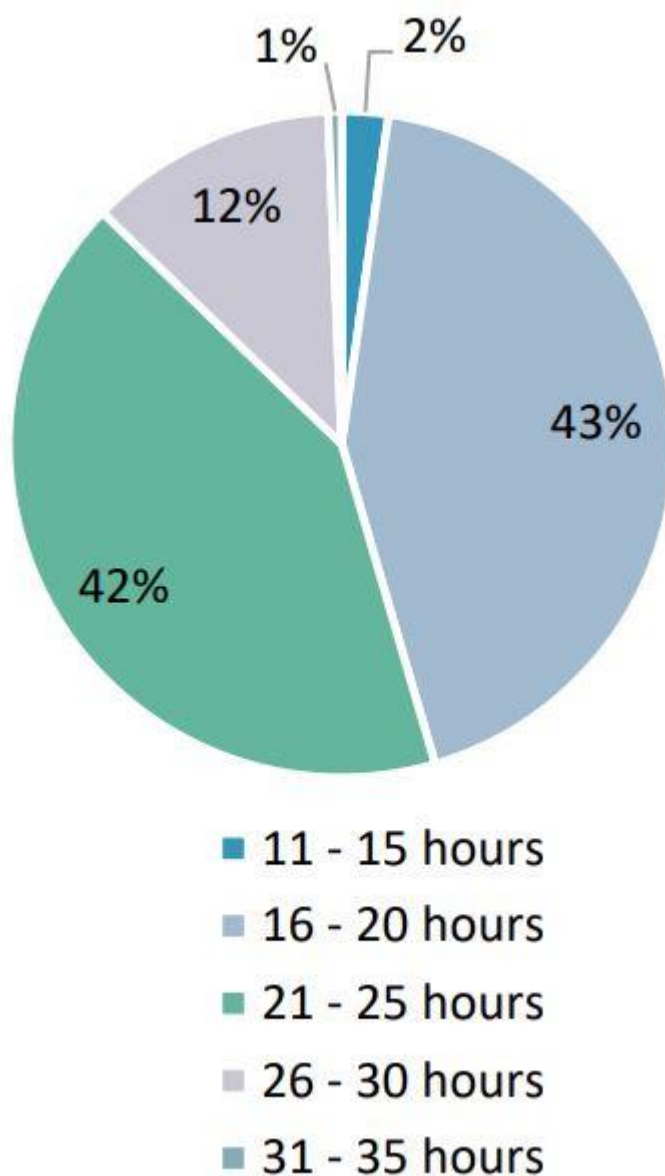
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<sup>30</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 24.

<sup>31</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 26.

<sup>32</sup> Department of Jobs and Small Business, 'Appendix B: Aged care sector', *Survey of personal care workers in aged and disability care* (2018), p. 6, <https://lmip.gov.au/PortalFile.axd?FieldID=3159625&.pdf> (accessed 31 August 2021).

**Figure 2.5 Average weekly hours worked by part-time personal care workers, 2018**



Source: Department of Jobs and Small Business, 'Appendix B: Aged care sector', *Survey of personal care workers in aged and disability care (2018)*, p. 6.

2.35 **Figure 2.5** shows that most (85 per cent) part-time care workers were working between 16 and 25 hours per week.

2.36 It is clear that part-time contracts are the dominant form of employment in aged care, especially for personal care workers, who make up an increasing majority of the workforce. It is also clear that most of these workers work less than 25 hours a week, with a significant proportion working for between 16 and 20 hours per week, and *at least* 30 per cent wanting more hours.<sup>33</sup>

<sup>33</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 67.

2.37 The 2016 Census noted a steady trend of increasing use of permanent part-time contracts over the last three collection periods.<sup>34</sup> However, data from the 2020 Census indicates that this growth has stopped, with the trend swinging away from increasing part-time employment, towards an increase in the use of casual workers.

### Casual work has increased

2.38 The 2016 Census recorded a substantial *decrease* in casual employment in the aged care sector since 2012; with the proportion of casual employment having 'halved between 2012 and 2016 for all occupations, with the exception of [allied health professionals] where it was reduced to a third (from 15 per cent to 5 per cent)'. The report stated that these roles 'appear to have shifted to permanent part-time employment'.<sup>35</sup>

2.39 However, the 2020 Census data confirmed what a number of inquiry participants asserted—that there has been *an increase* in the use of casual workers across the aged care sector since 2016—especially in the for-profit residential sector, and by home care providers. This data is in line with ABS data from August 2019, which indicated that 17.2 per cent of workers in residential care services were casuals (much higher than the 2016 Census figure of 10 per cent).<sup>36</sup>

2.40 Similarly, the Department of Jobs and Small Business's PCW Survey found, among care workers, 'the proportion of [personal care workers] on casual contracts in the aged care sector was 38 per cent'.<sup>37</sup> The Australian Nursing and Midwifery Federation (ANMF) provided similar figures for casual work across relevant nursing and care professions.<sup>38</sup>

2.41 The Queensland Nurses and Midwives' Union (QNMU) submitted that, in May 2020, when there were 80 200 Aged and Disabled Carers *without* paid leave (casuals), there were 122 700 Aged and Disabled Carers *with* paid leave (mostly permanent part-time staff). In other words, around 40 per cent were casual, and 60 per cent were permanent.<sup>39</sup> The QNMU observed: 'Alarminglly,

<sup>34</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 24.

<sup>35</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 24.

<sup>36</sup> Geoff Gilfillan, 'COVID-19: Impacts on casual workers in Australia—a statistical snapshot', *Parliamentary Library Research Paper Series*, 2019-20, p. 6, [https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/7262636/upload\\_binary/7262636.pdf](https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/7262636/upload_binary/7262636.pdf) (accessed 5 February 2021).

<sup>37</sup> Department of Jobs and Small Business, 'Appendix B: Aged care sector', *Survey of personal care workers in aged and disability care* (2018), p. 4, <https://lmip.gov.au/PortalFile.axd?FieldID=3159625&.pdf> (accessed 31 August 2021).

<sup>38</sup> ANMF, *Submission 27*, p. 4.

<sup>39</sup> Queensland Nurses and Midwives' Union (QNMU), *Submission 15*, [p. 9].



the aged care and disability care workforce without paid leave entitlements has increased by 10,100 between 2019 and 2020'.<sup>40</sup>

- 2.42 Professor Eagar maintained casualisation rates in aged care have 'waxed and waned' over the years,<sup>41</sup> and ACSA, which represents not-for-profit aged care providers, stated that casualisation is increasing.<sup>42</sup>
- 2.43 The ANMF said two reasons for increasing casualisation are the growth of the National Disability Insurance Scheme (NDIS), and impacts of COVID-19. Federal Secretary, Ms Annie Butler, explained:

Unfortunately, across the country, we did see quite a lot of dismissal of staff in the aged-care sector during the pandemic. The height of the COVID in aged-care was in New South Wales primarily and then of course in Victoria. But, because most of the states used a process of locking down their facilities, it was very difficult for our members at the time. They actually got rid of staff. Then staff had to try to come back into the sector, particularly personal care workforce staff ... and seek casual employment.<sup>43</sup>

### **Labour hire/agency work decreasing?**

- 2.44 The 2020 Census report provides limited data on agency and sub-contractor staff in its report, and the data relies solely on aged care provider responses. This is particularly problematic when less than 50 per cent of providers responded to the survey.
- 2.45 Noting these limitations, the 2020 Census reported a total of 11 761 agency or sub-contract staff used by providers in the survey period:
- 7360 in residential aged care—4 per cent of workers;
  - 2787 in the Home Care Packages Program—5 per cent; and
  - 1614 in the Commonwealth Home Support Programme—2 per cent.<sup>44</sup>
- 2.46 While the 2016 Census *did not* collect survey data on non-PAYG staff (which includes agency, labour hire and self-employed workers), it did survey providers on their use of these workers, and estimated these workers to number around 28 000 at that time. The Census noted that about 27 per cent of

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<sup>40</sup> QNMU, *Submission 15*, [p. 8].

<sup>41</sup> Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, p. 36.

<sup>42</sup> Ms Sparrow, ACSA, *Committee Hansard*, 19 April 2021, p. 32.

<sup>43</sup> Ms Annie Butler, Federal Secretary, Australian Nursing and Midwifery Federation (ANMF), *Committee Hansard*, 19 April 2021, p. 4.

<sup>44</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, p. 14, p. 26 and p. 38.

- home care and home support outlets, and 50 per cent of residential care providers, had engaged non-PAYG workers in the fortnight of the survey.<sup>45</sup>
- 2.47 If we add the department's estimated 28 000 labour hire and agency care workers to the 240 000 'direct care' PAYG workers reported in the 2016 Census, it suggests that around 10 per cent of the direct care workforce in 2016 was made up of labour hire or agency staff.<sup>46</sup>
- 2.48 It seems doubtful that the actual number, and relative proportion, of aged care workers employed through agencies, labour hire or sub-contractors would have more than halved in four years. Particularly as, during 2020, COVID-19 reportedly led to an *increase* in the need for agency and labour hire staff to replace furloughed workers.<sup>47</sup>
- 2.49 Indeed, some participants suggested that non-PAYG roles in the aged care sector have been increasing. The HSU submitted that the use of in-direct employment is 'increasingly common', particularly in home and community care.<sup>48</sup>
- 2.50 According to the Recruitment, Consulting and Staffing Association (RCSA) there are around 360 000 labour hire workers in Australia, with around 10 per cent employed in healthcare roles.<sup>49</sup> RCSA maintained that, in aged care and other care sectors:
- Australian Job Agencies provide qualified and credentialed staff at short notice to ensure that our community's care needs can continue to be met when the permanent workforce is unable to perform a function due to surge demand, illness, annual leave or for other reasons.<sup>50</sup>
- 2.51 RCSA submitted that labour hire employment has been critical in helping Australia meet 'the surge workforce needs in aged care, health and in vaccine delivery over the last 12 months', including through replacing staff stood down during aged care outbreaks.<sup>51</sup>
- 2.52 The Department of Health's weekly COVID-19 aged care report published 27 August 2021 provides data on the 'significant surge workforce assistance' provided across Australia during the pandemic. It notes that the surge

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<sup>45</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. xvi and p. 10, [www.gen-agedcaredata.gov.au/Resources/Reports-and-publications/2017/March/The-aged-care-workforce,-2016](http://www.gen-agedcaredata.gov.au/Resources/Reports-and-publications/2017/March/The-aged-care-workforce,-2016) (accessed 11 August 2021).

<sup>46</sup> See: Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. xvi and p. 10.

<sup>47</sup> RCSA, *Submission 73*, p. 6.

<sup>48</sup> Health Services Union (HSU), *Submission 84*, p. 4.

<sup>49</sup> Recruitment, Consulting and Staffing Association (RCSA), *Submission 73*, p. 4.

<sup>50</sup> RCSA, *Submission 73*, p. 10.

<sup>51</sup> RCSA, *Submission 73*, p. 6.



workforce response includes State and National Aged Care Emergency Response (NACER) teams, and that many workers have been 'deployed from interstate'. (See **Figure 2.6**.)

**Figure 2.6 Workforce resources supplied to residential aged care facilities**

Agency	Resources Supplied (as at 20 August 2021)
State and NACER (National Aged Care Emergency Response) Teams	Tasmanian Government: 7 clinical and 2 support staff. Western Australian Government: 19 clinical personnel and 4 support staff. South Australian Government: 18 clinical personnel and 4 support staff. 12 NACER teams (70 personnel) have been deployed. The deployment of State and NACER teams is now complete.
Recruitment, Consulting, and Staffing Association (RCSA)	Staff supplied to fill 27,243 shifts.
Healthcare Australia	Staff supplied filled 5,332 shifts for workforce surge and 2,295 shifts for NACER teams.
Mable	Supplied 130 staff to fill 2,711 shifts.
Aspen Medical	Supplied 283 staff to fill 847 roles including clinical first responders.
Health X	Supplied 43 staff to fill 2,144 shifts.
Torrens Health	Supplied 1,248 shifts in surge workforce roles and 1,270 shifts as Residential Aged Care visitation Assistants (RACVAs).
Residential Aged Care Visitation Assistant (RACVA)	RACVAs completed 1,270 shifts.

Source: Department of Health, 'COVID-19 outbreaks in Australian residential aged care facilities' (weekly report), 27 August 2021, p. 4, [www.health.gov.au/sites/default/files/documents/2021/08/covid-19-outbreaks-in-australian-residential-aged-care-facilities-27-august-2021.pdf](http://www.health.gov.au/sites/default/files/documents/2021/08/covid-19-outbreaks-in-australian-residential-aged-care-facilities-27-august-2021.pdf) (accessed 30 September 2021).

2.53 Issues associated with COVID-19 and the aged care workforce are detailed in Chapter 4.

### On-demand platforms

- 2.54 Some participants expressed concern that 'a growing number' of workers in aged care are now sourcing work as independent contractors through online platforms.<sup>52</sup>
- 2.55 Professor Charlesworth said workers may work in a residential aged care facility and subsidise their income by working for Mable, as a 'so-called self-employed contractor', or for Hireup, 'as an employee'.<sup>53</sup> While this may provide additional income, and may seem like a quick fix to workforce shortages, the professor was concerned that gig work is ultimately detrimental to continuity of relationships and quality of care: 'I don't think it's a solution myself. I think that you would find that most aged-care providers will go to those care platforms when they're actually stuck for workers, but they often won't go back again'.<sup>54</sup>
- 2.56 The HSU was concerned about quality of care, and also that workers engaged via labour hire agencies or online platforms, as independent contractors or sole traders may lack access to:
- ... collegiate and managerial support and supportive environments; safe work practices and safety training; access to ongoing and paid professional development opportunities; and access to fair and adequate industrial and legal representation.<sup>55</sup>
- 2.57 While ACSA said it does not 'have a firm position' on platforms like Mable, it believes it is important to have 'different ways' to attract workers into the sector and can see a benefit for *some* workers in Mable-style platforms.<sup>56</sup>
- 2.58 Mr Luke Westenberg from the Aged Care Industry Association (ACIA) indicated that online platforms are not a major focus for the ACIA or its members. However, if members expressed interest in using these platforms to engage workers, he would 'highlight the importance' of complying with regulation and quality standards, and ensuing 'obligations are being met and understood by the staff and the provider'.<sup>57</sup>
- 2.59 Asked about the potential role of on-demand platforms to encourage more entrants into the aged care sector, Ms Butler commented that the ANMF believed there are 'preferable models':

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<sup>52</sup> See for instance: Australian Nursing and Midwifery Federation (ANMF), *Submission 27*, p. 4; Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 27; HSU, *Submission 84*, p. 4.

<sup>53</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 27.

<sup>54</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 27.

<sup>55</sup> HSU, *Submission 84*, p. 4.

<sup>56</sup> Ms Sparrow, ACSA, *Committee Hansard*, 19 April 2021, p. 31.

<sup>57</sup> Mr Westenberg, ACIA, *Committee Hansard*, 21 April 2021, p. 11.

We would not want to see a platform like Mable used to get our young nurses, the future of our healthcare system, into the sectors. What would be much more preferable would be secure employment through reliable employers that can offer them the support they need to get through their first year and then to be full practising nurse professionals.<sup>58</sup>

2.60 Ms Butler added that platforms like Mable don't offer 'a genuine employee relationship', which, in the ANMF's view, is critical to ensuring quality of care, suitability of staff for roles allocated, and adequate support and supervision.<sup>59</sup>

2.61 A further concern raised by the ANMF in relation to on-demand platforms was their potential to play a role in 'driving down wages and conditions for nurses and personal care workers who might choose to seek some work through on-demand services'—ultimately leading to a decrease in the quality of care.<sup>60</sup>

2.62 The HSU added that platforms such as Mable are 'a combination of Tinder and Uber':

You put your profile out there and people with disabilities or their carers then make a decision based on the information that is provided. What you don't see is that those workers themselves often don't have access to workers compensation. They certainly don't have access to any form of leave. The arrangements in terms of their pay are often pretty dodgy.<sup>61</sup>

### **Multiple job holding is probably increasing**

2.63 Sometimes workers hold positions with more than one employer and/or at more than one facility. This is commonly referred to as 'multiple job holding'.<sup>62</sup>

2.64 The 2016 Census reported that:

- 56 per cent of the residential care workforce were 'happy with their current hours of work', but:
  - 14 per cent wanted to reduce their hours; and
  - 30 per cent wanted to increase their hours of work;
- around 10 per cent of the directly-employed residential care workforce reported working more than one job;<sup>63</sup> and
- 16 per cent of the home care and home support workforce reported having 'more than one current job'.<sup>64</sup>

<sup>58</sup> Ms Butler, ANMF, *Committee Hansard*, 19 April 2021, p. 5.

<sup>59</sup> Ms Butler, ANMF, *Committee Hansard*, 19 April 2021, p. 5.

<sup>60</sup> Ms Butler, ANMF, *Committee Hansard*, 19 April 2021, p. 5.

<sup>61</sup> Ms Lauren Hutchins, Aged Care Division Secretary, Health Services Union NSW/ACT/QLD (HSU), *Proof Committee Hansard*, 14 July 2021, p. 28.

<sup>62</sup> See for instance: Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 28.

<sup>63</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. xvi and p. 10.

- 2.65 The 2020 Census report acknowledges multiple job holding and its potential impacts on the accuracy of data, but does not provide any statistics or significant commentary on the practice.<sup>65</sup> This is probably attributable to the fact that the department did not conduct the usual survey of individual workers that it conducted in previous census years, and most providers do not routinely collect this information about their workers.<sup>66</sup>
- 2.66 It is unfortunate not to have comparative workforce census data for 2020. However, inquiry participants provided evidence to indicate an increase in the instance of multiple job holding among aged care workers. In 2019, the HWU surveyed 1645 current and former aged care workers from across the sector (the 2019 HWU Survey). Approximately 21 per cent of respondents reported working multiple jobs (compared with 10 per cent of residential care workers, and 16 per cent of home care workers in the 2016 Census).<sup>67</sup>
- 2.67 This trend appears to be in line with increases across the broader economy — and in health care and social assistance particularly. Mr Ryan Batchelor from the McKell Institute Victoria said:
- The rate of multiple job holdings has been increasing in the economy. Over a five-year period, it's increased across the board from about 14½ per cent to about 15½ per cent, but you see that, in certain industries, there has been rapid growth... [For] women in health care and social assistance, the rate of multiple job holding ... has increased by about 17 per cent in the last five years.<sup>68</sup>
- 2.68 ACSA said the reason for workers holding multiple jobs across multiple sites 'is multifactorial'; 'a mix of business requirements plus personal preference'. Ms Sparrow said some people do it because 'they can't get enough hours in one site', some people 'quite like doing it'; and for those who work across multiple not-for-profit providers, there may be a tax advantage.<sup>69</sup> The tax advantage provided by working across multiple not-for-profit providers comes from salary packaging. ASCA submitted:

Public Benevolent Institutions (PBIs) are exempt from Fringe Benefits Tax, subject to a cap. Many Not For Profit Aged Care homes are PBIs. This

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<sup>64</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 67.

<sup>65</sup> See for instance: Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, p. 12.

<sup>66</sup> See for instance: Bolton Clarke, Answers to written questions on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), pp. 1–2.

<sup>67</sup> Health Workers' Union (HWU), *Aged Care Survey Final Report*, July 2019, p. 6, [www.hwu.org.au/aged-care-survey-report/](http://www.hwu.org.au/aged-care-survey-report/) (accessed 18 August 2021).

<sup>68</sup> Mr Ryan Batchelor, Executive Director, McKell Institute Victoria, *Committee Hansard*, 19 April 2021, pp. 54–55.

<sup>69</sup> Ms Sparrow, ACSA, *Committee Hansard*, 19 April 2021, p. 31.

exemption allows the PBI to provide salary packaging arrangements to attract employees. Employees of PBIs can salary package up to \$30,000 grossed up for expenses such as home mortgages or rent, household expenses, and petrol. Such arrangements apply to permanent, casual, full time and part time employees. Employees with multiple PBI employers can utilise these arrangements.<sup>70</sup>

- 2.69 Large not-for-profit provider, Bolton Clarke conducted a consultation with its residential aged care workforce in 2020 to determine the extent of working across multiple sites, which found 10 per cent of its staff were doing so. Some chose to do this because they enjoyed 'a variety of work', but many did it to 'supplement income':

That might be to do with the different shifts and the different shift penalties that were available. Many people were looking for that weekend work because of the penalty rates. If they work across multiple not-for-profits, they can access the salary sacrifice caps across multiple employers, which means there is a better take home dollar benefit for them.<sup>71</sup>

- 2.70 Director of Aged Care for the United Workers Union (UWU) Western Australia (WA), Ms Carolyn Smith said workers are telling the UWU they would *prefer* to work for one employer if they could afford to: 'They don't want to have to run around and do, as you say, four or five different shifts across two, three or four facilities'.<sup>72</sup>
- 2.71 Testimony from workers on this issue is provided in Chapter 3, and the impacts of the practice on public safety are discussed in Chapter 4.

### **Characteristics of aged care workers**

- 2.72 This section looks at demographic characteristics of the aged care workforce, including: gender and age composition; migration status; socio-economic status; and typical education and skill levels.

#### *Gender and age*

- 2.73 In 2016 the aged care direct care workforce was 'older than the national average, generally in good health and ha[d] high levels of post-school education and training'. The 2016 Census reported that the workforce was 'relatively stable, with only a small minority indicating an intention to leave the sector within 12 months', and that the 'residential workforce [was] getting younger and the home care and home support workforce [was] getting older'.<sup>73</sup>

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<sup>70</sup> Aged and Community Services Australia (ACSA), Answers to questions taken on notice, Melbourne 19 April 2021 (received 4 May 2021), [p. 4].

<sup>71</sup> Ms Melissa Leahy, Chief People Officer, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 25.

<sup>72</sup> Ms Smith, UWU, *Proof Committee Hansard*, 28 July 2021, p. 17.

<sup>73</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, pp. xvi-xvii.

- 2.74 Today's residential direct care workforce is slightly younger again than it was in 2016, but still as dominated by women. The figures below provide a comparative analysis—noting that labour hire and agency staff were *not included* in the 2016 data.
- 2.75 According to the 2020 Census:
- 86 per cent of the workforce are female—compared with 87 per cent in 2016;
  - the workforce is still slightly older than the average, but it is getting younger: half of all workers are under 40—up from one third in 2016.<sup>74</sup>
- 2.76 In relation to the home care sector:
- 33 per cent of direct care workers in the Home Care Packages Program, and 28 per cent in the Commonwealth Home Support Programme, are under 40; and
  - 50 per cent of PCWs and ENs are aged 40–49 years or younger.<sup>75</sup>
- 2.77 While direct comparisons between the 2016 and 2020 data are difficult, the 2020 Census report stated, 'the median age for PCWs and ENs in both HCPP and CHSP is younger than in 2016 and lies between 40–49 years'. Further, the estimated 'median ages for Registered Nurses in HCPP and CHSP appear to be in line with 2016 figures'.<sup>76</sup> This would suggest that workers in the home care sector are not getting older, and may in fact be getting slightly younger; though the sector remains significantly older than most sectors, and older than residential aged care.
- 2.78 Aged care 'is predominantly a female service',<sup>77</sup> and many participants suggested the low rates of pay in the sector reflect a historical undervaluing of the work as 'women's work'. Professor Charlesworth said caring for the old is traditionally seen as 'something women do for free', as 'unskilled', and 'not quite work'. This historical legacy is responsible for both 'disgracefully low wages' and 'insufficient hours of work', creating 'income insecurity' for many.<sup>78</sup>
- 2.79 Ms Emma Dawson from Per Capita said aged care workers are 'predominantly older women' and 'at least one in five of them desperately need more hours than they're getting'.<sup>79</sup>

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<sup>74</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, pp. 16–17.

<sup>75</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, pp. 29–30 and pp. 41–42.

<sup>76</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, p. 41.

<sup>77</sup> Ms Sparrow, ACSA, *Committee Hansard*, 19 April 2021, p. 29.

<sup>78</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 22.

<sup>79</sup> Ms Emma Dawson, Executive Director, Per Capita, *Committee Hansard*, 19 April 2021, p. 21.

- 2.80 With 66 per cent of 'residents and clients' being women, and almost 90 per cent of the staff,<sup>80</sup> the aged care sector generally doesn't 'attract men', because the jobs fail to offer 'the status, the pay, the job security and all the other things that men are looking for'.<sup>81</sup>
- 2.81 Mr Williams argued the 'emotional labour' aged care workers provide as part of their work 'is not valued',<sup>82</sup> and Dr Katherine Ravenswood, from the Auckland University of Technology, said aged care work is not seen 'as integral to a public health system, which then leads to it being outsourced in order to achieve labour cost efficiencies'.<sup>83</sup>

### *Cultural diversity and migration status*

2.82 The following data compares the cultural diversity of the current aged care workforce (based on 2020 data) with 2016—noting that labour hire and agency staff were *not included* in the 2016 Census. According to the 2020 Census:

- In residential aged care:
  - 1.9 per cent of direct care workers identify as Aboriginal or Torres Strait Islander—up from one per cent in 2016;
  - Indigenous staff levels were higher in facilities with higher Indigenous client populations;
  - 35 per cent identify as being from a culturally or linguistically diverse (CALD) background—up from 26 per cent in 2016; and
  - CALD staff are significantly more likely to work in facilities that service CALD clients.<sup>84</sup>
- In home care:
  - 2 per cent of direct care workers in the Home Care Packages Program, and 1.8 per cent in the Commonwealth Home Support Programs, identify as Aboriginal or Torres Strait Islander—consistent with 2016 figures;<sup>85</sup>
  - Indigenous staff levels were higher for providers that service higher Indigenous client populations;
  - 21 per cent of direct care workers in the Home Care Packages Program, and 16 per cent in the Commonwealth Home Support Programs, are from CALD backgrounds (provider reported)—in 2016, providers reported 18 per cent of their workers were from CALD backgrounds;<sup>86</sup>

<sup>80</sup> Ms Sparrow, ACSA, *Committee Hansard*, 19 April 2021, p. 29.

<sup>81</sup> Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, p. 40.

<sup>82</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 12.

<sup>83</sup> Dr Katherine Ravenswood, Private capacity, *Proof Committee Hansard*, 28 July 2021, p. 8.

<sup>84</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, pp. 17–19.

<sup>85</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 77.

<sup>86</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 76.

- CALD staff are significantly more likely to work in facilities that service CALD clients.<sup>87</sup>
- 2.83 The proportion of migrant and CALD workers has gone up slightly in residential aged care between 2016 and 2020, and gone down slightly in the home care sector. However, these figures would have been impacted by COVID-19 and associated travel restrictions and falling migration levels. It is possible that the proportion of workers who were migrants and temporary residents would have been higher if the Census was conducted in, for instance, 2019.<sup>88</sup>
- 2.84 Mr Ray Collins from the HWU Victoria said many workers in the aged care sector today are from migrant backgrounds, and many are on working visas:<sup>89</sup>
- ... these people are at the bottom end of the income stream, and they will take the work when they can. In the aged-care sector, the majority of the workers in our membership base are Indian, Filipino, Nepalese and Sri Lankan. They are here often on student visas, as well as other visas, doing the minimum hours, and they are, as a result of that, able to be exploited.<sup>90</sup>
- 2.85 Professor Charlesworth said she had conducted a detailed analysis of the data from the 2016 Census, looking at the 'high rates of underemployment', and found migrant workers were more heavily-impacted:
- What we know is that, if you're a migrant worker from a non-English speaking background, you're much more likely to be underemployed than if you're either from a country with an English-speaking background or from Australia.<sup>91</sup>
- 2.86 Migrant workers also make up a significant proportion of the care workforce in New Zealand. According to Dr Ravenswood, the work is seen as hard, workloads are high, and migrant workers have traditionally been 'willing to do work for less money'. Recently, due to COVID-19, New Zealand has struggled to secure migrant workers 'to fill current low-wage jobs', which has

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<sup>87</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, pp. 30–31 and pp. 42–43.

<sup>88</sup> The 2020 Census report notes: 'Services completed the census predominantly online on behalf of their workers over the period from 7th December 2020 to 23rd January 2021'. Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, p. 7.

<sup>89</sup> Mr Ray Collins, Industrial Organiser, Health Workers Union (HSU), *Committee Hansard*, 19 April 2021, p. 6.

<sup>90</sup> Mr Collins, HWU, *Committee Hansard*, 19 April 2021, p. 8.

<sup>91</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 23.



led to a public discussion around lifting the 'quality' of these jobs so more locals will want to apply.<sup>92</sup>

2.87 The UWU reported similar problems in Australia, including increasing pressure on the current workforce during COVID due to travel restrictions preventing migrants and international students from taking up jobs in aged care.<sup>93</sup>

### *Levels of education and skills*

2.88 In 2020, facilities who responded to the Census reported that:

- 66 per cent of their PCWs held a Certificate III or higher in a relevant direct care field, and another two per cent were studying for a Certificate III or higher.
- PCWs without a response are assumed not to hold or not currently be studying for a Certificate III in a relevant direct care field and account for 26 per cent of all PCWs.
- The qualifications of the remaining seven per cent were reported as unknown by their employer.<sup>94</sup>

2.89 While any direct comparison should be made with caution (as the 2016 Census excludes agency staff), in 2016, 67 per cent of PCWs held a Certificate III in Aged Care.<sup>95</sup>

2.90 In 2016:

- the proportion of PCAs with a Certificate IV in Aged Care had 'steadily increased from 8 per cent in 2003 to 20 per cent in 2012 and 23 per cent in 2016'; and
- a high proportion of aged care nurses held qualifications in health-related areas, 'with RNs having mostly degree-level qualifications', and ENs holding mostly a Certificate IV or diploma.<sup>96</sup>

2.91 Fifty-three per cent of residential aged care facilities reported 'skill shortages, most commonly for Registered Nurses (RN)'. However, this was down from 76 per cent in 2012.<sup>97</sup>

2.92 According to the 2016 Census, at that time, 88 per cent of home care and home support workers held post-secondary qualifications. Forty five per cent of

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<sup>92</sup> Dr Ravenswood, *Proof Committee Hansard*, 28 July 2021, p. 12. 'Quality' in this context suggests better pay and conditions.

<sup>93</sup> Ms Carolyn Smith, Aged Care Director, United Workers Union (Western Australia) (UWU), *Proof Committee Hansard*, 28 July 2021, p. 15.

<sup>94</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, p. 19.

<sup>95</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, p. 20.

<sup>96</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 21.

<sup>97</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. xvi.

outlets 'reported that more than three-quarters of their CCWs held a Certificate III in an aged-care related field';<sup>98</sup> and 42 per cent reported skill shortages, most commonly for CCWs—down from 49 per cent in 2012.<sup>99</sup>

- 2.93 Professor Charlesworth commented that people often 'refer to [aged care] as a low-skill sector', but that's 'simply not the case':

We know the majority of workers, between 70 and 80 per cent, have at least a certificate III. In order to perform the work of care, you need time to do it. You might have, off your own bat, done a certificate IV in dementia care. I come across numerous aged-care workers who've done this because they want to have the skills to deal with people who have dementia.<sup>100</sup>

- 2.94 It was suggested that aged care work is becoming more complex, with an increasing expectation on personal care workers today to complete 'quasi-nursing duties'. Professor Charlesworth said people would be surprised to see care workers 'doing PEG feeding', 'changing catheters', 'monitoring ... for skin integrity': 'These are skills that have been based on education but also, importantly, by gaining knowledge on the job'.<sup>101</sup>

## Earnings and wages

- 2.95 In 2011, an Australian Productivity Commission report identified the need for 'improved wage rates ... to improve the attractiveness of the sector to current and future workers'. Despite 'inadequate' wages being recognised as 'a significant problem in 2012', in 2016, the Aged Care Workforce Census noted the issue of low wages remained 'pertinent'.<sup>102</sup>
- 2.96 The Australian Government's Labour Market Information Portal provides an average figure of \$1265 a week weekly full-time equivalent wages for Aged and Disabled Carers.<sup>103</sup> However, inquiry participants noted disabled carers tend to be paid more highly than those working in aged care.
- 2.97 The 2020 Census report does not include any information on wages. However, **Figure 2.7** below shows median weekly earnings for residential aged care

<sup>98</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 67.

<sup>99</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. xvii.

<sup>100</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 24.

<sup>101</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 26.

<sup>102</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 27.

<sup>103</sup> Australian Government, 'Aged and Disabled Carers', *Labour Market Information Portal*, [joboutlook.gov.au/occupations/occupation?occupationCode=4231](http://joboutlook.gov.au/occupations/occupation?occupationCode=4231) (accessed 6 September 2021). Note: Earnings are median for full-time non-managerial employees paid at the adult rate, before tax, including amounts salary sacrificed. These figures are a guide only and should not be used to determine a wage rate. Source: ABS Survey of Employee Earnings and Hours (cat. no. 6306.0), Customised Report.

workers in 2016. Inquiry participants indicated that wages have not risen meaningfully since that time.

**Figure 2.7 Median weekly\*\* earnings (gross) of the residential direct care workforce, by occupation and working hours: 2016 (\$ per week)**

Occupation	Hours per week				All hours
	1–15	16–34	35–40	>40	
Nurse Practitioner	*	*	*	*	1,000
Registered Nurse	525	1,050	1,493	1,600	1,352
Enrolled Nurse	355	800	1,050	1,000	946
Personal Care Attendant	389	689	860	850	750
Allied Health Professional	340	692	969	942	820
Allied Health Assistant	310	627	855	868	750
All occupations	400	709	940	1,000	800

Source: Survey of residential aged care workers.

\*Because the numbers of Nurse Practitioners are small, the wages earned have not been reported for individual categories.

\*\*As in 2012, the calculation is undertaken within each occupation group. Workers are asked in the survey about the dollar amount of their most recent pay (before tax and other deductions), and over what period those wages were for (week, fortnight, month). The amount is divided by the relevant number to calculate a weekly wage variable (divide by 2 for fortnightly pay, by 4 for monthly).

Source: Department of Health, 2016 National Aged Care Workforce Census and Survey, Canberra, 2017, p. 28.

2.98 Mr Collins said aged care sector workers, 'particularly in the private sector', are 'amongst the lowest paid Australians, averaging around \$23 an hour in Victoria'.<sup>104</sup>

2.99 Professor Charlesworth described the wages as 'appallingly low':

A grade 1 personal care worker, for example, in the Aged Care Award, is paid just \$2 more than the national minimum wage, which is the lowest legal wage allowed to be paid to workers in Australia. When you marry that together with insufficient and unpredictable hours of work that creates income insecurity ... and in terms of career insecurity, the skill classifications in the *Aged Care Award*; which covers residential aged-care workers and the *Social, Community, Home Care and Disability Services Industry Award*, which covers homecare workers, are rudimentary and compressed. There are few differences between levels in the award. There are 27 cents between some of the levels. So they not only fail to provide meaningful progression in terms of pay rates, but also lack any relevant description and specification of the skills that are actually required in frontline aged-care jobs, including at different skill levels.<sup>105</sup>

2.100 Aged care workers—especially those who are casuals—often hold multiple jobs. The McKell Institute reported that 'overall rates of remuneration' for women who work multiple jobs 'are substantially lower than they are for men working similar multiple jobs'—a gap of \$10 000 per year—and that the more jobs a person works, the less they earn overall:

<sup>104</sup> Mr Collins, HWU, *Committee Hansard*, 19 April 2021, p. 6.

<sup>105</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 23.

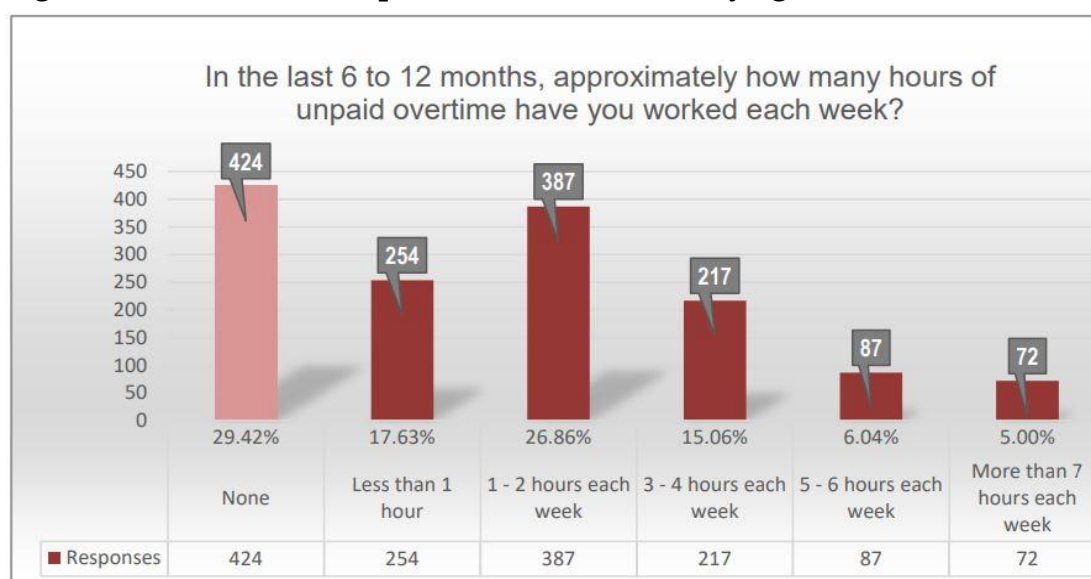
That's because it's about people trying to stitch together work rather than knowing and having the security of what's in front of them. So, we do see those trends right across the labour market ... there are more female dominated industries across the board, women are more likely to be casuals and more likely to have multiple jobs, and, when they do have multiple jobs, they are more likely to earn less.<sup>106</sup>

2.101 Workers report being expected to undertake training in their own time. The 2019 HWU Aged Care Survey found over 23 per cent of respondents attended unpaid training at the workplace in the preceding 12 months, and almost 28 per cent attended unpaid staff meetings.<sup>107</sup>

2.102 Aged care worker, Ms Tracey Colbert said, while she is paid to complete mandatory training, 'a lot of it is not mandatory'. Nevertheless, if she does not participate in the unpaid training, employers 'say they'll take our shifts away'.<sup>108</sup>

2.103 Respondents to the 2019 HWU Aged Care Survey identified the following rates of unpaid overtime:

**Figure 2.8 Amount of unpaid overtime worked by aged care workers**



Source: Health Workers' Union (HWU), *Aged Care Survey Final Report*, July 2019, p. 12.

2.104 Workers reported that they performed this unpaid overtime 'to support resident's basic and emotional needs' or to complete administrative tasks, including:

- showering, toileting, dressing or feeding residents;

<sup>106</sup> Mr Batchelor, McKell Institute, *Committee Hansard*, 19 April 2021, p. 54.

<sup>107</sup> HWU, *Aged Care Survey Final Report*, July 2019, p. 14.

<sup>108</sup> Ms Tracey Colbert, Member, United Workers Union (UWU), *Committee Hansard*, 19 April 2021, p. 14.

- talking to residents, making tea, or keeping residents company; or
- completing paperwork and administration, including conducting 'handover'.<sup>109</sup>

2.105 Seventy-eight per cent of respondents to the 2019 HWU Aged Care Survey indicated that, considering the hours they work, the pay they receive, and the work they perform, they 'feel exploited working in the aged care industry'.<sup>110</sup>

### Concerns about the future of the workforce

2.106 Participants in the inquiry agreed there are serious concerns around the future of the aged care workforce. Ms Smith said:

I think we are about to hit a second crisis of care. We're going to be in a royal commission in another five years. I've been around aged-care workers now for a number of years. I have never seen the level of concern and agitation. ... The real abuse of elderly Australians is that every day we have to say no to them. Every day we don't give them the quality care they deserve ... I'm really concerned about where we're heading...<sup>111</sup>

2.107 Professor Eagar said the workforce 'is very low paid', 'highly casualised', and 'has a substantial turnover':

People don't want to work there. So we have to attend to the two basic ideas of attraction and retention. We have to attract a workforce that we want to work in aged care, and then we have to build systems to retain them. Unless we do those, aged care will continue to lurch from crisis to crisis, as it has done for the last 10 years.<sup>112</sup>

2.108 Australia needs to recruit 500 000 workers into aged care over the next 10 years—a task Mr Williams said he believes will be impossible 'if we are seeking to attract those workers to casualised and part-time work'.<sup>113</sup>

2.109 Providers agreed that attraction and retention are major challenges. Ms Leahy said, while the challenges have been known for some time, COVID has created a 'rapid onset of that need for workforce':

We have seen a 60 per cent reduction in applicants over the last 12 months. That's 60 per cent fewer people applying for every role that we advertise than we had pre-COVID. We're also seeing our turnover increase. Our voluntary turnover has increased from 16 per cent pre-COVID to 25 per cent. We currently have over 500 vacancies that we are struggling to fill. ... One is that we don't have any immigration coming into Australia because our borders are closed. ... We're seeing the student and graduate pipelines dry up, for two reasons. Students are unable to get placements.

<sup>109</sup> HWU, *Aged Care Survey Final Report*, July 2019, p. 12.

<sup>110</sup> HWU, *Aged Care Survey Final Report*, July 2019, p. 20.

<sup>111</sup> Ms Smith, UWU, *Proof Committee Hansard*, 28 July 2021, p. 17.

<sup>112</sup> Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, p. 38.

<sup>113</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 9.

... We're also seeing a surge in other health sectors. For example, the COVID vaccination clinics are pretty much taking up all of the nurses around the country. At the moment, they're getting offered higher wages to do the COVID vaccination clinics. We're also definitely losing workers to the NDIS because of higher wages.<sup>114</sup>

2.110 Workers may also leave the sector for jobs in the disability care sector, which pays higher wages. Witnesses suggested higher wages in the disability care sector is related to particular awards and a 'higher funding model than aged care', which providers can 'pass through as wages'.<sup>115</sup>

2.111 The ANMF said policy-makers should be 'very concerned' about the entrance of the on-demand platform model into the caring profession, 'particularly in the aged-care sector, at a time when we know that we're going to have to grow the aged-care workforce'. Assistant Federal Secretary, Ms Lori-Anne Sharp argued that attracting and retaining aged care workers into future would require government to put in place 'a sound structure and secure work' that retain people who want to do this 'difficult work'.<sup>116</sup>

2.112 Professor Charlesworth said the key to building a more sustainable workforce is genuine professionalisation:

The Royal Commission into Aged Care Quality and Safety made a number of really important recommendations ... a wholesale revision of the classifications of the occupations, which I think necessarily then raises issues around work value. If, indeed, the government is proposing to take up the mandated care hours in residential aged care, we're going to need more workers and we're going to need more workers with more recognised skills.<sup>117</sup>

2.113 ACSA said the not-for-profit aged care providers are 'supportive' of the recommendations from the Aged Care Royal Commission, and 'really want to focus on addressing the workforce'.<sup>118</sup>

## Committee view

2.114 The *2020 Aged Care Workforce Census Report* is disappointing. The 62-page report is significantly less detailed and comprehensive than the 2016 report, which included 248 pages of high-quality data and analysis.

2.115 The committee understands that COVID-19 put the Department of Health, and the aged care sector under increased pressure during 2020. However, the choice not to conduct the usual worker survey appears to have led to a report

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<sup>114</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 23.

<sup>115</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 23.

<sup>116</sup> Ms Lori-Anne Sharp, Assistant Federal Secretary, ANMF, *Committee Hansard*, 19 April 2021, p. 5.

<sup>117</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 25.

<sup>118</sup> Ms Sparrow, ACSA, *Committee Hansard*, 19 April 2021, p. 29.

that is thin, lacks critical data fields, and provides significantly less value than in previous years.

2.116 Noting serious concerns raised by workers and their representatives, the sector, the Aged Care Royal Commission, academics and others, about the future of the aged care workforce, the committee considers it critical that the aged care workforce survey is conducted urgently.

2.117 Some of the important categories of information that are entirely absent from the 2020 Census report include:

- contracted hours and actual hours of work;
- pay rates and average earnings;
- over-time and rostering information;
- length of time in current position;
- job satisfaction; and
- intention to remain in the sector.

2.118 While some of this information would require an employee survey, a lot of it could have been gathered and reported on using the provider census, which *was* conducted.

2.119 The department could also have included aged care labour hire and agency worker providers in the Census, and reported separately on their workforces, to provide a realistic figure of the number of aged care workers who are engaging in employment through these services.

2.120 Nevertheless, a comparison of the data from 2016 and 2020 allows us to see plainly that the workforce is low-paid and under-recognised for its education and skill-levels, and is characterised by insecure work with unpredictable hours, and unreliable income.

2.121 We can also observe that:

- casual employment has *almost doubled since 2016*—in both residential and home care settings—now exceeding the levels recorded in 2012;
- around 19 per cent of residential and 32 per cent of home care workers are casuals; and
- at least 4-5 per cent are labour hire or agency staff—though there is reason to suggest these figures may be underreported.<sup>119</sup>

2.122 Low hours part-time contracts are still the dominant form of work in aged care, but even this may be being slowly eroded by casual work. Secure, full-time jobs remain virtually unattainable, despite the fact that many staff *do* work full-time hours, and many others would like to.

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<sup>119</sup> See the 'Employment Status' section of this chapter above for details and references.

2.123 Chapter 5 of this report considers *why* the aged care workforce is structured as it is, and explores proposals for reforms that would address insecurity in aged care work.

#### **Recommendation 4**

2.124 The committee recommends that the Australian Government conducts the Aged Care Workforce Census in 2021/2022, to ensure that this critical data is available for policy development. The survey should be distributed to labour hire, agency, on-demand platform and self-employed aged care workers, as well as directly-employed workers.

Along with the data collected in previous surveys, the survey should include:

- questions on contracted hours;
- questions on actual hours worked;
- questions on salary and/or wages earned;
- questions on multiple job holding, and working across multiple sites, and individuals' motivations for these; and
- diversity of the aged care workforce, including with respect to gender, cultural diversity, and visa status.

#### **Recommendation 5**

2.125 The committee recommends that the Australian Government includes labour hire, on-demand platforms and staffing agencies that provide workers to the aged care sector in future Aged Care Workforce Censuses, and distribute a specific census survey to these companies in 2021/2022 to capture this data.



# Chapter 3

## Impacts of employment arrangements in aged care

- 3.1 Employment arrangements common across the aged care sector are negatively impacting individual workers, their families and communities, and older people receiving care. While the arrangements appear to provide some benefits for aged care providers, evidence suggests the positive aspects are largely outweighed by impacts on workforce retention and morale, and quality of care.
- 3.2 Ms Melissa Leahy from major aged care provider, Bolton Clarke, explained the paradoxical situation:
- [W]hile aged care work is secure insofar as it is dependable, it doesn't provide for the level of financial security necessary to meet the needs of frontline workers and their families, which consequentially impacts on employee engagement and stability. Resulting high turnover within the industry directly contributes to higher employment costs with a subsequent potential risk to resident and client care.<sup>1</sup>
- 3.3 This chapter describes the most common employment arrangements in aged care and details evidence on their positive and negative impacts, for:
- not-for-profit, public, and private aged care providers;
  - care workers and their families; and
  - older people receiving care.

### Common employment arrangements

- 3.4 Evidence from workers and their representatives, *and* aged care providers, supported the assertion that the predominant form of employment in the aged care sector is low-hours permanent part-time contracts, followed by casual and agency work, with permanent full-time positions rare in the sector.
- 3.5 The Australian Nursing and Midwifery Federation (ANMF) described the sector as dominated by 'insecure work', saying 'what is referred to as part-time employment' is in fact characterised by 'zero- or low-hour contracts' in which workers are guaranteed a small number of hours, then 'flexed-up' or down at the employers' convenience.<sup>2</sup>
- 3.6 Unions including the ANMF said their members reported needing to work multiple jobs 'because they cannot get the hours of work at one facility or even

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<sup>1</sup> Ms Melissa Leahy, Chief People Officer, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 21.

<sup>2</sup> Ms Annie Butler, Federal Secretary, Australian Nursing and Midwifery Federation (ANMF), *Committee Hansard*, 19 April 2021, p. 1.

two facilities'. Some ANMF members reported working 'four jobs to try and get enough income to survive'.<sup>3</sup>

- 3.7 Recent bargaining conducted by the UWU in Western Australia (WA) with WA's largest aged care provider confirmed this assertion:

They have about 2,500 staff, and we asked them as part of bargaining how many workers were full-time workers. I can't remember the exact number, but it was fewer than 10. That is across enrolled nurses, care workers and support staff. I think that shows that this isn't just a few workers; this is the predominant employment model.<sup>4</sup>

- 3.8 Inquiry participants also suggested that the use of casual and agency workers is increasing. Data submitted by both private and not-for-profit aged care providers during the inquiry supports the argument that part-time workers are being used as a 'quasi-casual' workforce. This evidence is presented below.

### **Box 3.1 A look at two providers—Bolton Clarke and TriCare**

#### **Bolton Clarke**

Bolton Clarke is a large not-for-profit provider of aged care services that employs 5700 people across Queensland, NSW and Victoria.

#### *Contracted hours and actual hours worked Employment type and length of service of non-managerial staff (as at 30 July 2021)*

In Queensland (where its residential services are located):

- 70 per cent of part-time employees in residential aged care; and
- 90 per cent of part-time employees in community and home care are on 20-hour per fortnight minimum hours contracts.

In NSW, 67 per cent of community and home care workers are on 20-hour minimum hours contracts.

In Victoria, only 3 per cent of home care workers are on low-hours contracts.

Importantly, despite the majority of the workforce being on low-hours contracts:

- 90 per cent of non-managerial staff work 'in excess of their contracted hours';
- the average number of 'above contract' hours worked per fortnight is 26 hours; and
- the average number of actual hours worked for part-time employees on minimum hour contracts is 23 hours per week.

#### *Employment type and length of service of non-managerial staff (as at 30 July*

<sup>3</sup> Ms Butler, ANMF, *Committee Hansard*, 19 April 2021, p. 1.

<sup>4</sup> Ms Carolyn Smith, Aged Care Director, United Workers Union (UWU), *Proof Committee Hansard*, 28 July 2021, p. 15.

**2021)**

- 521 are full-time (approx. 12 per cent);
- 3344 are part-time (approx. 79 per cent);
- 375 are casual (approx. 9 per cent);
- 62 agency workers were utilised by Bolton Clarke on 30 July 2021.
- The average length of service by employment type is:
  - full-time employees = 6.37 years;
  - part-time employees = 6.38 years;
  - casual employees = 4.57 years.
- Retention rates are:
  - 75 per cent for full-time employees;
  - 71 per cent for part-time employees;
  - 41 per cent for casual employees.<sup>5</sup>

**TriCare**

TriCare is a private owner and manager of aged care residences and retirement villages employing 1700 staff, with 90 per cent working in residential care.<sup>6</sup>

*Contracted hours and actual hours worked Employment type and length of service of non-managerial staff (as at 30 July 2021)*

Of TriCare's 1026 part-time workers:

- 56 (approx. 5 per cent) are contracted for between less than 15 to 25 hours per fortnight (f/n);
- 270 (approx. 23 per cent) are contracted for 25.5 to 45 hours f/n;
- 448 (approx. 44 per cent) are contracted for 45.5 to 65 hours f/n;
- 252 (approx. 25 per cent) are contracted for 65+ hours f/n;
- Personal Care Workers make up 56 per cent of all part-time workers and their average contracted hours is 27 hours per week;
- TriCare does not 'track or report hours worked above contracted hours'. However:
  - the average number of hours worked per week by part-time employees (excluding managerial staff) is 26.5 hours per week; and
  - the average number of hours worked by casual staff per week is 19.58 hours.

*Employment type and length of service of non-managerial staff (as at 30 July 2021)*

<sup>5</sup> Bolton Clarke, Answers to written questions on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), pp. 1–2.

<sup>6</sup> TriCare, Answers to written questions on notice, Senator Sheldon, 9 August 2021 (received 23 August 2021), p. 1.

- 32 are full-time (approx. 2 per cent);
- 1001 are part-time (approx. 66 per cent);
- 492 are casual (approx. 32 per cent);
- TriCare reports that agency workers make up 'less than 2% of all worked hours in any fortnight period'.
- The average length of service by employment type is:
  - full-time employees = 5 years;
  - part-time employees = 5.2 years;
  - casual employees = 1.6 years.
- Retention rates are:
  - 82 per cent for full-time employees;
  - 70 per cent for part-time employees;
  - 63 per cent for casual employees.<sup>7</sup>

### *Permanent part-time*

- 3.9 The Health Services Union (HSU) submitted that there is 'an increasing trend by employers to misappropriate part-time arrangements'. The union reported 'a marked increase' in the use of low and zero-hour part-time contracts, which allow employers to roster part-time staff on 'additional hours'—paid at their ordinary part-time rates.<sup>8</sup> This allows aged care providers to essentially use permanent part-time employees as a casual workforce without paying casual rates, and is not in keeping with the intention of part-time work which should be predictable.<sup>9</sup>
- 3.10 Mr Lloyd Williams, National Secretary of the HSU, said employers 'expect workers to be on demand for additional hours', meaning the relationship is not genuinely 'voluntary'.<sup>10</sup>
- 3.11 Assistant Federal Secretary of the ANMF, Ms Lori-Anne Sharp said the model is ubiquitous, having 'become an employment model for many providers because it makes it easy for them to flex up and down'. ANMF members are commonly contracted to work 16 hours per fortnight 'but routinely work above 32 hours and will do so for years'.<sup>11</sup>

<sup>7</sup> TriCare, Answers to questions on notice, public hearing, Canberra, 28 July 2021 and answers to written questions on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), pp. 1–3.

<sup>8</sup> Health Services Union (HSU), *Submission 84*, p. 4.

<sup>9</sup> HSU, *Submission 84*, p. 4.

<sup>10</sup> Mr Lloyd Williams, National Secretary, HSU, *Committee Hansard*, 13 April 2021, p. 10.

<sup>11</sup> Ms Lori-Anne Sharp, Assistant Federal Secretary, ANMF, *Committee Hansard*, 19 April 2021, p. 3.

3.12 Professor Sara Charlesworth of RMIT University said standard industry practice is to require employees on engagement to permanent part-time contracts to 'state that [they will] be available for more hours':

So, if you're going to get 16 hours, you have to be available for 20 to 24 hours. Technically, you're supposed to be asked if you're prepared to work those hours, but I've sat with rostering clerks in large aged-care facilities when somebody calls in sick. If they know someone's available for that hour, they ring up: 'Mary, you're on. We need you at so-and-so's home in half an hour's time.' It's used as though these workers are available.<sup>12</sup>

3.13 The United Workers Union (UWU) recently surveyed 5000 aged care workers and found 60 per cent 'wanted more hours—they wanted more hours and couldn't get them'.<sup>13</sup>

3.14 The ANMF submitted that its members report rostering is sometimes used as 'a disciplinary measure', with shifts 'offered' or 'pulled back' depending on relationships, disputes or disagreements.<sup>14</sup>

3.15 The HSU said there is no minimum-hours requirement for part-time contracts in the federal awards, and 'employees are effectively casualised but called part-time',<sup>15</sup> and the ANMF concluded that low-hour part-time contracts represent 'another form of casualisation'—one that is not reflected in employment data collected by the ABS: 'because the ABS data, as you're aware, only reflects those with any absence of any leave entitlements'.<sup>16</sup>

3.16 Mr Williams noted that these arrangements keep workers in a state of continual desperation, saying: 'I don't think the relationship becomes one of a voluntary nature, because of the financial circumstances that that worker is placed in'.<sup>17</sup>

### *Casual and agency work*

3.17 Casual employment has grown across the sector, and COVID-19 may have exacerbated this trend.

3.18 In 2016, 14 per cent of community and home care workers were casuals who reported 'an irregular work schedule', and less than half (46 per cent) of the

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<sup>12</sup> Professor Sara Charlesworth, Work, Gender and Regulation, School of Management, and Director, Centre for People, Organisation and Work, College of Business, RMIT University, *Committee Hansard*, 19 April 2021, p. 23.

<sup>13</sup> Ms Ffion Evans, Coordinator, Member Power, United Workers Union (UWU), *Committee Hansard*, 19 April 2021, p. 12.

<sup>14</sup> Ms Butler, ANMF, *Committee Hansard*, 19 April 2021, pp. 1–2.

<sup>15</sup> Mr Lloyd Williams, National Secretary, Health Services Union (HSU), *Committee Hansard*, 13 April 2021, p. 9.

<sup>16</sup> Ms Sharp, ANMF, *Committee Hansard*, 19 April 2021, p. 4.

<sup>17</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 10.

workforce 'were happy with their hours of work'—40 per cent of community care workers wanted to increase their hours.<sup>18</sup>

3.19 Considering that almost double (around 32 per cent) of home care workers are now casuals, along with 19 per cent of residential aged care staff, and around another 4–5 per cent are agency or labour hire,<sup>19</sup> it is reasonable to assume that the number of aged care workers wanting more hours is likely to have increased.

3.20 Ms Butler said casual workers in community and home care are highly concerned with irregular and unpredictable hours, and with 'not being paid properly for their time in terms of travel to see a client or travel between clients'.<sup>20</sup>

3.21 Professor Charlesworth argued that current awards allow 'fractured scheduling' through 'broken shifts', which include gaps of 'unpaid working time and dead time'. Casual and agency workers have no predictability:

What on demand work does is really create working time insecurity through dislocation of your daily life, underemployment and an increase in unpaid work and unproductive working time. I've interviewed many home-care workers who sit in their cars waiting for the next appointment because they don't have time to drive home—that's dead time. They are not available to get on with the rest of their lives. Yet that's the way that their work is organised.<sup>21</sup>

3.22 Professor Charlesworth said it is 'hard to think of' another occupation in Australia where travel between jobs is 'not legally recognised as paid time'. The professor noted that this issue is the subject of a 'long-running' review in the Fair Work Commission, which has yet to be determined.<sup>22</sup>

3.23 Aged and Community Services Australia (ACSA) submitted that the additional 'choice and control' provided by the increase in community and home care options has seen benefits for older people, but has led to detriments for workers—especially underemployment and underutilisation: 'So we're going to have to work as providers, as unions and as workers to make sure that we can address those challenges...'<sup>23</sup>

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<sup>18</sup> Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, pp. 67–68.

<sup>19</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, pp. 14–15, pp. 25–27 and pp. 37–38.

<sup>20</sup> Ms Butler, ANMF, *Committee Hansard*, 19 April 2021, pp. 1–2.

<sup>21</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 23.

<sup>22</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 22.

<sup>23</sup> Ms Patricia Sparrow, Chief Executive Officer, Aged and Community Services Australia (ACSA) *Committee Hansard*, 19 April 2021, p. 30.

3.24 Asked if ACSA believes the rates of casualisation are too high in the aged care workforce, Ms Sparrow said: 'Certainly that's a concern'. The situation in Victoria during the second wave of COVID-19 revealed 'there were large numbers of people who were working casually across sites'. Imposing single-site mandates would have led to many workers losing crucial income, so the Commonwealth Government provided funding to specifically subsidise those workers. Ms Sparrow concluded that this proves 'there is a lot of casualisation, and ultimately that's not really desirable'.<sup>24</sup>

### Impacts on aged care providers

3.25 Aged care providers were ambivalent about the benefits of workforce models that are currently dominant across the sector. The use of part-time and casual workers provides flexibility in rostering, and the ability to 'flex' the workforce up or down to meet tight budgetary constraints. However, providers were also concerned about negative impacts on their workers and care recipients, as well as the difficulty in attracting and retaining staff.

3.26 Provider associations cited a number of reasons why aged care facilities need a flexible workforce. Mr Luke Westenberg from the Aged Care Industry Association (ACIA) explained the need for *operational* flexibility in aged care:

The care needs of residents can vary quite dramatically from one person to another. No real surprise here—older people are people, people are very different and care needs are very different. But the concomitant of that is that the staffing requirements for a particular facility will change if the resident cohort changes. ... It's very difficult to have [a] staffing mix that will meet any given resident cohort's needs.<sup>25</sup>

3.27 Workforce flexibility is also needed to cover planned and unplanned absences. Mr Westenberg said higher than usual levels of unplanned absence generally results in an increase in the use of labour hire or agency staff. He added that some providers 'have a preference to minimise the use of agency staff', but must 'face the reality' that agency staff are often required to meet basic care requirements.<sup>26</sup>

3.28 Aged & Community Services Australia (ACSA) said flexible employment arrangements are often used to help providers balance staff requests for more hours, with the care needs of residents and clients.<sup>27</sup>

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<sup>24</sup> Ms Sparrow, ACSA, *Committee Hansard*, 19 April 2021, p. 31.

<sup>25</sup> Mr Luke Westenberg, Chief Executive Officer, Aged Care Industry Association (ACIA), *Committee Hansard*, 21 April 2021, pp. 10–11.

<sup>26</sup> Mr Westenberg, ACIA, *Committee Hansard*, 21 April 2021, p. 11.

<sup>27</sup> Ms Patricia Sparrow, Chief Executive Officer, Aged & Community Services Australia (ACSA), *Committee Hansard*, 19 April 2021, p. 30.

- 3.29 However, the ANMF suggested the primary reason for the dominance of part-time and casual roles in aged care work is that this model helps providers keep staffing costs as low as possible. Assistant Federal Secretary, Ms Lori-Anne Sharp argued the model creates a 'power imbalance ... at the expense of the employee', who is unable to plan their life, and 'cannot rely on a stable income'.<sup>28</sup>
- 3.30 There was some evidence that the use of casual and agency staff may have direct negative impacts on providers as employers. The Queensland Nursing and Midwives' Union (QNMU) said the use of casuals damages working relationships, decreases staff loyalty, harms employee morale, and creates retention issues: 'Casual nurses can often experience marginalisation through practices that affect team membership and clinical performance ... an "us and them" mentality between casual and full-time workers [can] engender a culture of ineffective communication'.<sup>29</sup>
- 3.31 The role of providers is explored in more depth in Chapter 6, which presents proposals for reform.

### Impacts on care workers and their families

- 3.32 Evidence presented during the inquiry demonstrated that workforce management practices common in aged care are impacting on workers, their families, and their communities. Impacts range from economic and social, to physical, mental and even philosophical.
- 3.33 Along with the financial and health-related impacts of insecure work, the committee heard that many aged care workers are *deeply passionate* about providing care to vulnerable older people. Ms Melinda Vaz, an enrolled nurse from WA said:
- Every Australian should recognise the need to look after these elderly people. We're all going to be there one day. We want the best that we can provide. That's why I've stayed there. Yes, I had contemplated leaving at certain times, but I always came back to the fact that these people need people that love to be there, that want to be there and that want to provide the best care for these residents.<sup>30</sup>
- 3.34 Employment practices that reduce the ability of these workers to provide care that is adequate—let alone quality care—has detrimental impacts on workers' mental and physical health, as well as job satisfaction.
- 3.35 Evidence from unions, workers, aged care providers, academics and others is discussed in this section.

<sup>28</sup> Ms Lori-Anne Sharp, Assistant Federal Secretary, ANMF, *Committee Hansard*, 19 April 2021, p. 3.

<sup>29</sup> Queensland Nurses and Midwives' Union (QNMU), *Submission 15*, [p. 8].

<sup>30</sup> Ms Melinda Vaz, Aged Care Member, United Workers Union (Western Australia) (UWU), *Proof Committee Hansard*, 28 July 2021, p. 17.



### *Economic and social impacts*

- 3.36 Many aged care workers are affected by income stress, housing stress and/or an inability to plan their lives because of insecure and unpredictable working hours.
- 3.37 According to the HSU, because of the 'historical model' in place across the sector, most permanent part-time workers in aged care are effectively casual without the benefits of a 'casual loading'. HSU Aged Care Division Secretary, Ms Lauren Hutchins said:
- You have people on four-hours-a-fortnight contracts who work well in excess of that, as Gerard said, who are deeply fearful that, with seven days notice, their rosters will change and they will go from 40 hours a fortnight back to four. We have seen that.<sup>31</sup>
- 3.38 Mr Kevin Crank from the QNMU said that union's aged care members are 'typically' engaged on contracts for 16 to 20 hours per fortnight, but often work 'close to full-time hours'. However, their hours may 'drop occasionally without warning', leaving members unexpectedly short on income and unable to pay their bills.<sup>32</sup>
- 3.39 National Secretary, Mr Lloyd Williams said this employment model has 'devastating' impacts, making it difficult for the predominantly female workforce 'to build financial security or plan life outside of work'.<sup>33</sup> Issues include: not getting 'enough work', being 'unable to get a home loan', or being unable to 'properly plan their lives' or manage caring responsibilities—such as 'picking up and dropping off their children at school'.<sup>34</sup>
- 3.40 Aged care workers who gave evidence attested to these impacts firsthand. Enrolled nurse, Ms Vaz—who has worked in residential aged care for 14 years—said:
- I have seen firsthand colleagues working two to three jobs to pay rent and their bills at home as well as their difficulties getting loans. This affects facilities as often there is not a consistent workforce or continuity of care for the customer. Colleagues have stated to me that they want more hours at one facility, not to have to work at multiple sites. This is inadequate staffing and lack of hours.<sup>35</sup>
- 3.41 Professor Charlesworth said the discussion about job security in aged care needs to be focussed *less* on 'casual versus permanent status' (as a large

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<sup>31</sup> Ms Lauren Hutchins, Aged Care Division Secretary, Health Services Union NSW/ACT/QLD (HSU), *Proof Committee Hansard*, 14 July 2021, p. 28.

<sup>32</sup> Mr Kevin Crank, Industrial Officer, QNMU, *Proof Committee Hansard*, 14 July 2021, p. 35.

<sup>33</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 9.

<sup>34</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 13.

<sup>35</sup> Ms Vaz, UWU Member, *Proof Committee Hansard*, 28 July 2021, p. 14.

percentage of the workforce hold permanent positions), and *more* on the issue of 'working time insecurity'. Working time security:

... goes to insufficient hours; underemployment; fractured scheduling of hours; lack of predictability; on-demand work, which is having to be available for work which you may or may not be allocated; income insecurity; and career insecurity, which I think we often forget, which is about limited options for progression or long-term job security.<sup>36</sup>

3.42 A lack of investment in individual worker training and development, along with unclear paths for career progression, further disadvantage workers in the sector. The QNMU said 'lack of career progression' is a 'critical issue' for agency nurses in particular, as 'their work is focused on completing tasks rather than improving knowledge and skills'.<sup>37</sup>

3.43 Aged care workers were asked why they stayed in the sector, despite the low wages and challenging conditions. The responses of Ms Clarke and Ms Mashford—below—are both typical responses, but present an interesting contrast.

3.44 Ms Clarke replied that she feels it is an 'absolute honour and privilege' to care for elderly Australians, including giving them 'dignity in death':

I have had the honour and privilege of looking after our World War II veterans, World War I veterans, the ones who built this country. They've been just as much victims of this system as anyone else, and I believe that they deserve better quality care and they need people passionate in the industry standing up and advocating for them.<sup>38</sup>

3.45 Aged care worker, Ms Virginia Mashford said she shares Ms Clarke's motivations, and 'really' loves her job and enjoys doing what she does. However, Ms Mashford added another reason *she* stays in the industry is because it:

... is all I know. I don't have skills and abilities in other areas. In today's world, one needs to be fairly computer literate and agile, and I'm reaching the end of my working career, and I don't have that agility or that kind of literacy to move into different employment.<sup>39</sup>

### **Box 3.2 Economic and social impacts—testimony from workers**

The committee heard evidence directly from a number of care workers as part of the inquiry. A few of those workers were concerned about their employment—or

<sup>36</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 22.

<sup>37</sup> QNMU, *Submission 15*, [p. 10].

<sup>38</sup> Ms Sherree Clarke, Member, QNMU, *Proof Committee Hansard*, 14 July 2021, p. 37.

<sup>39</sup> Ms Virginia Mashford, QNMU Member, *Proof Committee Hansard*, 14 July 2021, p. 37.

future employment prospects—and gave their evidence in private session.

The following quotes are from worker sessions during the inquiry.

Referenced quotes are from witnesses who appeared in public session. Quotes from in camera sessions have been reproduced with the agreement of the participants, have been de-identified to protect the identities of these workers, and are not referenced.

### *Low wages and unpredictable earnings*

'We only get \$22 an hour, so I have to work weekends, for low money. I do 11-hour days on a weekend, away from my family, to be able to support them. I've had a lot of friends that have left the sector because they just can't afford to make a living, and some of them had two or three jobs.' —Ms Tracey Colbert, aged care worker<sup>40</sup>

'For me, personally, that insecure work has led to insecure housing. Because I've only got a 16-hour contract, I can't sign a lease. My anxiety levels wouldn't allow me to go to a higher rent, so I found myself living in a caravan park. That's insecure and temporary as well. In my park, I have met up to seven or eight other aged-care workers who can't get secure accommodation with a 16-hour contract, especially if they're single.' —Ms Sherree Clarke, aged care worker<sup>41</sup>

'There is no family time and no social life. After doing all this, we just get our daily expenses, with not even a single penny to save—no savings at all.' — Ms Anu Singh, former aged care worker<sup>42</sup>

### *Variable hours*

'A lot of the causals at work are lucky to get 12 hours a week in work. I don't know how you'd pay your bills on that.' —care supervisor

'You can't plan anything because you don't know what your roster is going to be from one fortnight to the next. When my mother went through cancer, I couldn't tell her that I would support her to her cancer appointments, because, if you're not available to pick up a shift, they don't offer you that shift the next time. So it's as if you're a casual worker. You're relying on that phone call to pick it up, especially if they've only given you four shifts on the roster. You have to pick up

<sup>40</sup> Ms Tracey Colbert, Member, United Workers Union (UWU), *Committee Hansard*, 19 April 2021, p. 11.

<sup>41</sup> Ms Clarke, QNMU Member, *Proof Committee Hansard*, 14 July 2021, p. 36.

<sup>42</sup> Ms Singh, UWU Member, *Committee Hansard*, 19 April 2021, p. 12.

the shifts that they offer, or else you're not called in next time.' —Ms Clarke, aged care worker<sup>43</sup>

'They can cut our hours any time. So we always depended on casual shifts. To get those casual shifts and look for a second job, sometimes I woke up at 2am or 5am. There were tiring days plus sleepless nights. How do we cope with that?' —Ms Anu Singh, former aged care worker<sup>44</sup>

### *Working across multiple sites*

'Currently I am working in two different aged-care facilities. In my contracts, I have 16 hours per fortnight in one workplace and 20 hours per fortnight in the other one. If my employer gives me enough contracted hours, I don't need to find a second job. If I have to find a second job, I need to manage the time; sometimes the shifts overlap. So it is very hard to have a family life and a personal life.' —aged care catering staff

'Sometimes someone rings in sick and we are called by one workplace. Then someone also rings in sick in the other workplace and there are calls from the other workplace. It's very hard to manage.' —aged care catering staff

### *Casualisation*

'I've been in aged care for almost 12 years, and I've seen the workforce become progressively more casualised. They're not offering permanent part-time or permanent shifts anymore. I'm not sure what their reasoning for that is, but that seems to be how they are going in my facility. ... We [recently] lost three absolutely brilliant registered nurses who knew the residents. Now we are working with agency registered nurses. They don't know the background. They don't know anything about the residents when the doctor comes...' —care supervisor

'When you come into work and you've got a casual girl on and she doesn't look to have the experience of your normal partner, you've got to train her for every single resident. ... You have to go into detail: whether she's one assist and what she likes et cetera. It's a full explanation of every resident before that girl can go into the room. I don't know why they're doing that casualisation thing and not offering more hours. I really don't.' —care supervisor

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<sup>43</sup> Ms Clarke, QNMU Member, *Proof Committee Hansard*, 14 July 2021, p. 36.

<sup>44</sup> Ms Singh, UWU Member, *Committee Hansard*, 19 April 2021, p. 11.

*Physical, mental and emotional impacts*

3.46 Insecure and precarious employment in the aged care sector is impacting workers' physical, mental and emotional wellbeing. The QNMU submitted that academic research from 2016 found nurses who perceived their employment to be under 'threat' also reported:

... higher levels of burnout, less job and career satisfaction, more job stress, lower levels of work engagement, greater intentions to quit, more exhaustion and psychosomatic symptoms, and less life satisfaction (Burke & Singh, 2016).<sup>45</sup>

3.47 Unions reported that many of their members in aged care report high levels of stress in relation to their working hours, workloads and financial pressures, but feel 'powerless' to do anything about it. The QNMU submitted:

Nurses and midwives often hold the genuine fear that if they raise workplace safety issues, safety and quality concerns, workload issues, engage in union activity, or do not attend work when they are called up, their hours will be reduced or they will not be offered any work. This sense of powerlessness can also be reflected in the growing incidence of wage theft in Australian workplaces, where there is little recourse for unscrupulous employers who underpay and exploit workers.<sup>46</sup>

3.48 The QNMU cited 2018 research by the Australian Council of Trade Unions which found people 'trapped in a cycle of insecure work ... are more likely to suffer physical and mental health issues'. This places a financial strain on the medical system.<sup>47</sup>

3.49 Aged Care Director of the UWU in WA, Ms Carolyn Smith highlighted the psychological and philosophical stress experienced by aged care workers when they feel they cannot provide the care that residents need, due to inadequate staffing, saying: 'our members take very seriously their role as ambassadors fighting for quality care in aged care'.<sup>48</sup>

3.50 Ms Vaz agreed that current staff-to-patient ratios do not provide 'enough time to care', and the 'stress involved and the physical impact on the body is just overwhelming'.<sup>49</sup>

3.51 There were also concerns raised about potential mental health impacts on agency or platform workers brought in to unfamiliar situations. The QNMU submitted that agency nurses can 'experience feelings of anxiety' if they are

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<sup>45</sup> QNMU, *Submission 15*, [p. 6].

<sup>46</sup> QNMU, *Submission 15*, [p. 7].

<sup>47</sup> QNMU, *Submission 15*, [p. 7].

<sup>48</sup> Ms Carolyn Smith, Aged Care Director, United Workers Union (Western Australia) (UWU), *Proof Committee Hansard*, 28 July 2021, p. 14.

<sup>49</sup> Ms Vaz, UWU Member, *Proof Committee Hansard*, 28 July 2021, p. 14.

'compelled to work in inappropriate settings', or complete tasks they not trained for, or familiar with.<sup>50</sup>

### **Box 3.3 Physical, mental and emotional impacts—testimony from workers**

#### *Emotional impact of providing inadequate care*

'The worst thing that I've gone through is that, at the workplace where I used to work, we used to have two carers for 15 to 20 residents, and they just gave us a time frame of 20 minutes. In those 20 minutes, we used to wake up our residents, who were about 90 years old, and do showering, toileting, dressing and undressing; tidy up their rooms; make their beds; and then take them slowly to their dining. Can you imagine doing all this just for yourself in 20 minutes? Well, we did that with our residents. We had to push ourselves. We don't just push ourselves physically. We are mentally stressed and emotionally broken.' —Ms Anu Singh, former aged care worker<sup>51</sup>

'I love my job. I absolutely love hearing the stories of those people. It's just such a humbling job, to care for fellow Australians who have done the hard yards for our country. To go in there and say: 'I've only got one staff member on the floor at the moment, sweetie. I know you need your pad changed, but I can't do it until she comes back from her break'—it's heartbreaking, to have to say that to somebody, but it's the truth. It's not just my facility, either; you'll find it throughout the whole aged-care sector.' —care supervisor

'I'm very passionate about aged care. I work every day with them. I see them crying. I see them missing their families. I see all those things. We're the next step from their families, and we treat them like they're our mothers or grandmothers. When I can't do something that I should be doing, that hurts me too.' —care supervisor

## **Impacts on care recipients**

3.52 Inquiry participants highlighted a number of impacts of insecure and precarious work on the recipients of aged care services. These were primarily related to:

- the safety of residents and home care clients, and the quality of care provided in these settings; and
- the impacts of job security on continuity of care.

<sup>50</sup> QNMU, *Submission 15*, [p. 10].

<sup>51</sup> Ms Anu Singh, Member, United Workers Union (UWU), *Committee Hansard*, 19 April 2021, p. 12.

### *Safety and quality of care*

3.53 The structure of the workforce is one of a number of factors that determines the quality of care in aged care facilities. Professor Kathy Eagar from the Australian Health Services Research Institute summarised international evidence, identifying 'four factors that drive quality and safety' in aged care:

- the first is 'total staffing'—in Australia, 'fifty-eight per cent of residents are in homes that have unacceptably low levels of total staffing';
- the second is 'staff mix'—Australian aged care does not have 'enough registered nurses or allied health workers [and is] overly reliant on personal care workers';
- the third is 'casualisation'—'the higher the rate of casualisation—this is in the international literature—the higher the rate of adverse events and the poorer the quality of care'; and
- the fourth is 'clinical governance'—'how well the home is actually run'.<sup>52</sup>

3.54 The American five-star rating system is considered 'the most robust of all the international standards' for rating aged care facilities. Professor Eagar provided the following data in relation to aged care facilities in Australia:

- 58 per cent of residents are in one or two-star facilities;
- 27 per cent of residents are in three-star facilities;
- 14 per cent of residents are in four-star facilities; and
- only one per cent of aged care residents in Australia are in five-star facilities.

According to the professor, this means 58 per cent of residents in Australian aged care are currently in homes with 'unacceptably low total staff hours'.<sup>53</sup>

3.55 Short-staffing can make it difficult to provide even *adequate* care. Ms Annie Butler said that ANMF members report being 'rushed' and unable to meet basic requirements for the residents:

They just know they can't get to their residents—not even for nurses to meet high level needs such as medication or wound care. Wounds don't even get looked at for days. We know that, on some occasions, people don't get fed. The royal commission reports that up to 68 per cent of residents in nursing homes are at risk of malnutrition.<sup>54</sup>

3.56 Aged care worker, Ms Sherree Clarke said, unlike many of her colleagues, she has chosen to limit herself to working at one facility—despite the financial 'struggle' it causes her. She does this to protect the residents, because:

... even before COVID, there was a risk of bringing influenza and gastro viruses. But, the more time I spend with my residents and the more shifts I

<sup>52</sup> Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, p. 37.

<sup>53</sup> Professor Kathy Eagar, rector, Australian Health Services Research Institute (AHSRI), University of Wollongong, *Committee Hansard*, 19 April 2021, p. 36.

<sup>54</sup> Ms Butler, ANMF, *Committee Hansard*, 19 April 2021, p. 2.

do with them, the more I know what they like and when they like it, so I can provide the best possible care for them.<sup>55</sup>

- 3.57 According to Professor Eagar, research demonstrates 'the best quality care is relationship based, not transaction based'—continuity of staffing not only makes residents *feel* safer, it makes them *objectively* safer. Professor Eagar explained:

Part time is better than casual in terms of fewer adverse events, fewer falls, less poorly managed continence, fewer pressure injuries, et cetera. But if you want relationship based care, then the more full-timers you've got, the better ... It's very difficult to see how you could have a competent workforce in a home that was overly dependent on casuals or part-timers. That's not to say there isn't a place for them, but they shouldn't be the dominant workload model in a home.<sup>56</sup>

### *Continuity of care*

- 3.58 Casual and insecure work negatively impact continuity of care. The HSU highlighted the importance of 'relationships ... to the care outcomes' in the sector. Mr Williams said the Aged Care Royal Commission proved that 'you get better outcomes, get more continuity of care, more continuity of support and more continuity of relationships when you have secure employment across this sector'.<sup>57</sup>

- 3.59 Inquiry participants pointed out the potential trauma for elderly people in being cared for by a constantly-changing string of workers. Mr Williams said: 'Can you imagine what it would be like to have a different person coming into your home and showering you every day?'<sup>58</sup>

- 3.60 Similarly, Dr Katherine Ravenswood from Auckland University of Technology, who appeared in a private capacity, emphasised the detrimental effects of casualisation on home care recipients:

[I]magine we are ill, frail and vulnerable in our home. Imagine having a different person you've never met turn up to your door every day. That's what a casual workforce would do, so immediately the quality of care, just in terms of personal security, in a way, would be lower.<sup>59</sup>

- 3.61 The HSU said, as well as exposing 'terrible things' occurring in aged care, the Royal Commission has 'identified some of the root causes that bring them about'. One of these, Mr Williams argued, is insecure work:

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<sup>55</sup> Ms Clarke, QNMU Member, *Proof Committee Hansard*, 14 July 2021, p. 36.

<sup>56</sup> Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, p. 37.

<sup>57</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 11.

<sup>58</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 12.

<sup>59</sup> Dr Katherine Ravenswood, Private capacity, *Proof Committee Hansard*, 28 July 2021, p. 13.



... lack of training, lack of supervision and lack of other risk protections that can occur as a consequence of a churning workforce—a different person every day; someone who has insecure work and may come into the sector for a short period of time and then leave. All of these things are connected.<sup>60</sup>

### **Box 3.4 Impacts on care recipients—testimony from workers**

#### *Anxiety for residents*

'I spoke with one of the residents this afternoon and asked her what does it mean for her to have new staff coming to her every day. She said it creates anxiety for her. They don't know her routine. It's unsettling. She said she cries. She gets depressed... Residents become frightened. You're 90 years old and a new person comes in every day to do your personal hygiene. It's confronting. They like the same people all the time. But in our facility people are leaving. It's a constant tum over of staff because people can't survive on the hours that they're offering.' —care supervisor

#### *Job security and quality of care*

'Working with an agency, you get thrown into the deep end. You have to look after all these residents that sometimes you haven't seen before and you're expected to take on the role of a nurse and look after these people. That can be quite daunting—the pressures of doing that work with so many residents. I'm finding the ratios are just too high in aged care and ... things do get missed—for example, wounds don't get looked at for days. It creates a snowball effect in a way with the care that's being missed with others.' —Mr Paul Bott, agency nurse<sup>61</sup>

'I work in the dementia wing, and every day with different staff I have to explain the same care needs to them, which is sometimes overwhelming to them because they've never worked in that wing before.' —Ms Vaz, enrolled nurse, WA<sup>62</sup>

#### *The future of the workforce*

'The retention rate in aged care is not there. One of my jobs in aged care is to train and mentor new nurses, new carers, coming in. You can see some potentially great carers there that you build and train up, but they don't last. They can't build

<sup>60</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 14.

<sup>61</sup> Mr Paul Bott, Member, Australian Nursing and Midwifery Federation (ANMF), *Committee Hansard*, 19 April 2021, p. 2.

<sup>62</sup> Ms Vaz, UWU Member, *Proof Committee Hansard*, 28 July 2021, p. 14.

a family. They can't build a secure life. So they leave for a better-paying job, a more secure job.' —Ms Clarke, aged care worker<sup>63</sup>

'Full-time hours provide job security in the workplace. Knowing who you're working with provides fulfilment in their jobs. The customers also need continuity, regular staffing who know their exact care needs to provide a supportive environment with staff management to give the best quality of care in a dignified way and professional manner. This is what the elderly deserve. We need to change now urgently. If we don't, the future is very bleak.' —Ms Vaz, enrolled nurse, WA<sup>64</sup>

3.62 The next chapter looks at COVID-19 and aged care, and Chapter 6 of this report considers how the issues raised in this chapter can be addressed, by looking at proposed reforms to the aged care workforce.

### Committee view

3.63 The evidence provided to the committee by aged care providers, aged care workers, unions and academics support the findings of the Aged Care Royal Commission that:

Australia's aged care system is understaffed and the workforce underpaid and undertrained ... Inadequate staffing levels, skill mix and training are principal causes of substandard care in the current system. The sector has difficulty attracting and retaining well-skilled people due to: low wages and poor employment conditions; lack of investment in staff and, in particular, staff training; limited opportunities to progress or be promoted; and no career pathways.<sup>65</sup>

3.64 Just six per cent of the residential aged care workforce in Australia is employed in permanent full-time positions. By contrast, the proportion of aged care workers employed as casuals has almost doubled in the last five years to 19 per cent.

3.65 The predominant form of employment—permanent part-time, is often offered with extremely low minimum hours. The actual hours worked under these arrangements can fluctuate wildly, leaving the actual arrangement more closely resembling casual employment, but without the casual loading, overtime or penalty rates.

3.66 The aged care workforce is among the lowest paid in Australia, with Award wages barely above the National Minimum Wage. This reflects an ignorant

<sup>63</sup> Ms Clarke, QNMU Member, *Proof Committee Hansard*, 14 July 2021, p. 37.

<sup>64</sup> Ms Vaz, UWU Member, *Proof Committee Hansard*, 28 July 2021, p. 14.

<sup>65</sup> Royal Commission into Aged Care Quality and Safety, *Final Report—Volume 1: Summary and Recommendations*, p. 76, <https://agedcare.royalcommission.gov.au/publications/final-report-volume-1> (accessed 8 October 2021).

and grossly unjust perception that caring work is "women's work" and is inherently less valuable.

- 3.67 The consensus evidence of aged care providers, aged care workers, unions and academics is that the vast majority of aged care workers are in insecure and underpaid work arrangements, and that this negatively impacts upon the quality of care for aged care recipients, and quality of life of aged care workers.
- 3.68 The neglect uncovered by the Aged Care Royal Commission is a direct product of an exploited, insecure and underpaid workforce, and will continue until aged care jobs are secure and fairly paid.



# Chapter 4

## COVID-19 and insecure work in aged care

- 4.1 By 29 August 2021, Australia had lost 999 people to COVID-19. Just over 70 per cent (702) of these deaths—were linked to aged care services and the vast majority occurred in Victoria during Melbourne's 'second wave' of COVID-19 infections.<sup>1</sup>
- 4.2 Experts believe that the way the aged care workforce is structured and managed, including the fact that a significant percentage of staff work across multiple sites, contributed to the spread of COVID-19 in aged care.<sup>2</sup>
- 4.3 This chapter considers the relationship between insecure and precarious work in aged care, and the spread of COVID-19 and its impacts on residents and staff. It looks at the health and safety implications of employment arrangements in aged care, specifically:
- how casual, agency and labour hire, and low-hours part-time employment models contributed to COVID-19 outbreaks during Melbourne's second wave;
  - the issue of staff working across multiple sites; and
  - the relationship between job security and staff vaccination in aged care.
- 4.4 The chapter concludes with the committee's views and recommendations.

### COVID-19 in aged care—cases and fatalities

- 4.5 According to Professor Kathy Eagar from the Australian Health Services Research Institute:
- Aged care was a crisis just waiting to happen, with COVID. It was already on the cusp of a disaster before COVID struck, and COVID really consolidated what a mess it was. It was the most vulnerable place to be in Australia. Older people in Australia were more at risk in aged care than in any other part of the country.<sup>3</sup>
- 4.6 Of the 702 people who tragically lost their lives due to COVID-19 acquired in or around an aged care service (as at 29 August 2021), 693—almost

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<sup>1</sup> Department of Health, 'Cases in aged care services', data current on 29 August 2021, [www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/coronavirus-covid-19-case-numbers-and-statistics#cases-in-aged-care-services](http://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/coronavirus-covid-19-case-numbers-and-statistics#cases-in-aged-care-services) (accessed 30 September 2021).

<sup>2</sup> Professor Catherine Bennett, Chair in Epidemiology, Deakin University, *Committee Hansard*, 19 April 2021, pp. 42–43; Professor Kathy Eagar, Director, Australian Health Services Research Institute, University of Wollongong (AHSRI), *Committee Hansard*, 19 April 2021, pp. 38–40.

<sup>3</sup> Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, pp. 38.

99 per cent—were linked to residential aged care facilities, with just nine linked to home care services.<sup>4</sup>

- 4.7 Fatalities due to influenza among elderly people in accommodation settings provide a useful comparison. The numbers vary year-by-year depending on the dominant strain of the virus:
- The 2017 influenza calendar year data recorded the highest levels of influenza activity since 2009 swine flu pandemic with over 1,064 older Australians dying from influenza.
  - In 2018, 115 older Australians died from influenza.
  - In 2019, 839 older Australians died from influenza.
  - In 2020, 28 older Australians died from influenza.<sup>5</sup>
- 4.8 As at 27 August 2021, there had been 2152 aged care residents and 2328 staff infected with COVID-19. (See **Figure 4.1.**)
- 4.9 Most of the fatalities in aged care in Australia occurred in Victoria between July and September 2020, during Melbourne's second wave of infections, where around 655 deaths occurred as a result of outbreaks in residential care homes.<sup>6</sup>

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<sup>4</sup> Department of Health, 'Cases in aged care services', data current on 29 August 2021.

<sup>5</sup> Department of Health, COVID-19 outbreaks in Australian residential aged care facilities (weekly report), 5 February 2021, pp. 3–4, [www.health.gov.au/sites/default/files/documents/2021/02/covid-19-outbreaks-in-australian-residential-aged-care-facilities-5-february-2021\\_0.pdf](http://www.health.gov.au/sites/default/files/documents/2021/02/covid-19-outbreaks-in-australian-residential-aged-care-facilities-5-february-2021_0.pdf) (accessed 30 September 2021).

<sup>6</sup> Melissa Davey and Christopher Knaus, 'From blame game to dog's breakfast: how Australia's aged care homes were left open to Covid again', *The Guardian Australia*, 5 June 2021, [www.theguardian.com/australia-news/2021/jun/05/from-blame-game-to-dogs-breakfast-how-australias-aged-care-homes-were-left-open-to-covid-again](http://www.theguardian.com/australia-news/2021/jun/05/from-blame-game-to-dogs-breakfast-how-australias-aged-care-homes-were-left-open-to-covid-again) (accessed 30 September 2021).

**Figure 4.1 Aged Care COVID-19 data as at 0800 on 27 August 2021<sup>7</sup>**

Active outbreaks	19
Active resident cases	71
Active staff cases	44
Deaths this calendar year	8 <sup>2</sup>
Total number of residential aged care facilities that have had an outbreak	260
Total number of outbreaks at residential aged care facilities	269 <sup>3</sup>
Number of residential aged care facilities with resolved outbreaks	233 (252 outbreaks closed)
Number of residential aged care facilities with resolved outbreaks with only one case (resident or staff member) of COVID-19	115
Total resident cases	2,152
Recovered resident cases	1,383
Total staff cases	2,328
Recovered staff cases	2,285

Source: Department of Health, *COVID-19 outbreaks in Australian residential aged care facilities (weekly report)*, 27 August 2021, p. 4, [www.health.gov.au/sites/default/files/documents/2021/08/covid-19-outbreaks-in-australian-residential-aged-care-facilities-27-august-2021.pdf](http://www.health.gov.au/sites/default/files/documents/2021/08/covid-19-outbreaks-in-australian-residential-aged-care-facilities-27-august-2021.pdf) (accessed 30 September 2021).

4.10 The Department of Health emphasised that COVID-19 has impacted aged care in every country, and that Australia has fared better than many countries:

- The Australian death rate is 0.38 per cent (3.8 in 1,000) against the total number of residential aged care beds across the country.
- By comparison, Canada has experienced more than 22 times the number of deaths in care homes than Australia as at 23 August 2021.
- As at 23 August 2021, Canada had experienced 26,747 deaths. This includes 15,240 deaths at residential in care homes (or 57 per cent).

<sup>7</sup> Notes: Includes transition care. '2'—In New South Wales, COVID-19 death is defined as a death in a confirmed case unless there is a clear alternative cause of death that cannot be related to COVID-19. There should be no period of complete recovery from COVID-19 between illness and death. '3'—This includes two historical cases in transition care services that have been added from previous updates. Source: Department of Health, *COVID-19 outbreaks in Australian residential aged care facilities*, 27 August 2021, p. 1.

- 47 per cent of all aged care homes in Canada have had reported cases of COVID-19 in residents or staff (compared to 10.2 per cent in Australia).<sup>8</sup>

- 4.11 While Australia may have done better than some countries, its performance was far behind countries like Hong Kong, Singapore, South Korea and Taiwan. These countries benefitted from 'previous pandemic experiences', had 'emergency plans' which incorporated detailed plans for aged care facilities, and had immediate access to personal protective equipment [PPE].<sup>9</sup>
- 4.12 It is arguable that many of the deaths in Australian aged care facilities could have been avoided, and that insecure work played a significant role in spreading the virus. This chapter considers evidence from: epidemiologists; academics who are experts in quality of care, safety, and the aged care workforce; workers and their representatives; peak bodies; and aged care providers.

### Outbreaks in residential care

- 4.13 Evidence indicates that the proliferation of casual and insecure work in the aged care sector was a major contributor to the outbreaks that led to the majority of aged care-related COVID fatalities, which occurred during Melbourne's second wave.
- 4.14 According to the Australian Nursing and Midwifery Federation (ANMF), which has over 43 000 members working in aged care, workers in aged care—especially nursing assistants and personal care workers—are 'more likely to be casually employed or working in multiple jobs' than other health care workers. The 'extent' of insecure work in aged care only became 'fully apparent' when it was revealed during Melbourne's second wave of COVID-19 infections. According to the ANMF:

... aged-care workers, forced to have more than one job just to put food on the table, became unwitting transmitters of the virus, with devastating outcomes.<sup>10</sup>

- 4.15 Ms Patricia Sparrow, Chief Executive Officer (CEO) of Aged & Community Services Australia (ACSA) said that 'casual arrangements' in aged care 'certainly increased the risk of spread', which had 'a terrible outcome in Victoria'. Ms Sparrow explained that the sector 'was on to' this 'quickly',

<sup>8</sup> Department of Health, *COVID-19 outbreaks in Australian residential aged care facilities*, 27 August 2021, p. 4.

<sup>9</sup> Susan C. Reinhard and Jane A. Tilly (AARP Public Policy Institute), 'International Review of Innovations to Protect Nursing Home Residents from Infectious Diseases Such as COVID-19', *LTSS Choices*, May 2021, p. 6, [www.aarp.org/content/dam/aarp/ppi/2021/05/international-review-of-innovations-to-protect-nursing-home-residents-from-infections-diseases.doi.10.26419-2Fppi.00139.001.pdf](http://www.aarp.org/content/dam/aarp/ppi/2021/05/international-review-of-innovations-to-protect-nursing-home-residents-from-infections-diseases.doi.10.26419-2Fppi.00139.001.pdf) (accessed 6 September 2021).

<sup>10</sup> Ms Annie Butler, Federal Secretary, Australian Nursing and Midwifery Federation (ANMF), *Committee Hansard*, 19 April 2021, p. 1.

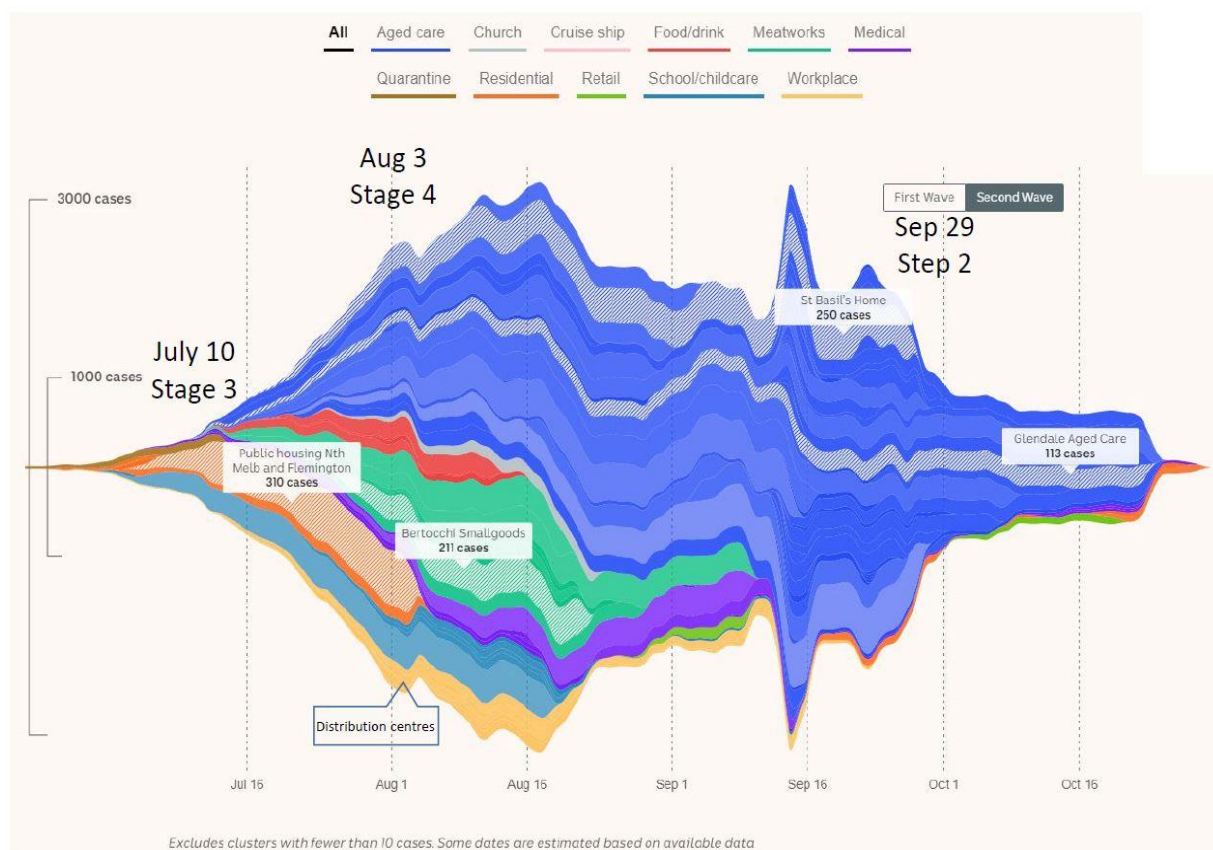


moving to create 'single-site arrangements' to prevent further spread. However, it was 'a very difficult time for ... workers', residents and all people affected.<sup>11</sup>

*Melbourne's second wave*

4.16 According to Deakin University epidemiologist, Professor Catherine Bennett, infection through workplaces drove the second wave of COVID-19 infections in Victoria. Professor Bennett told the committee that two thirds of the total cases were associated with health care, and 'in health care alone, which includes aged care ... a third of cases were in workers or directly in residents and another third were the direct household contacts of workers'.<sup>12</sup> See **Figure 4.2**—aged care outbreaks are represented by the upper blue sections.

**Figure 4.2 COVID-19 clusters during Victoria's second wave**



Source: Professor Catherine Bennett, Chair in Epidemiology, Deakin University, *COVID-19 and the Casual Workforce* (tabled at the public hearing held in Melbourne on 19 April 2021), p. 9.

4.17 Casual workers in every sector were more at risk of contracting and spreading COVID-19 than those with more secure jobs, and those who worked multiple

<sup>11</sup> Ms Patricia Sparrow, Chief Executive Officer, Aged & Community Services Australia (ACSA), *Committee Hansard*, 19 April 2021, p. 35.

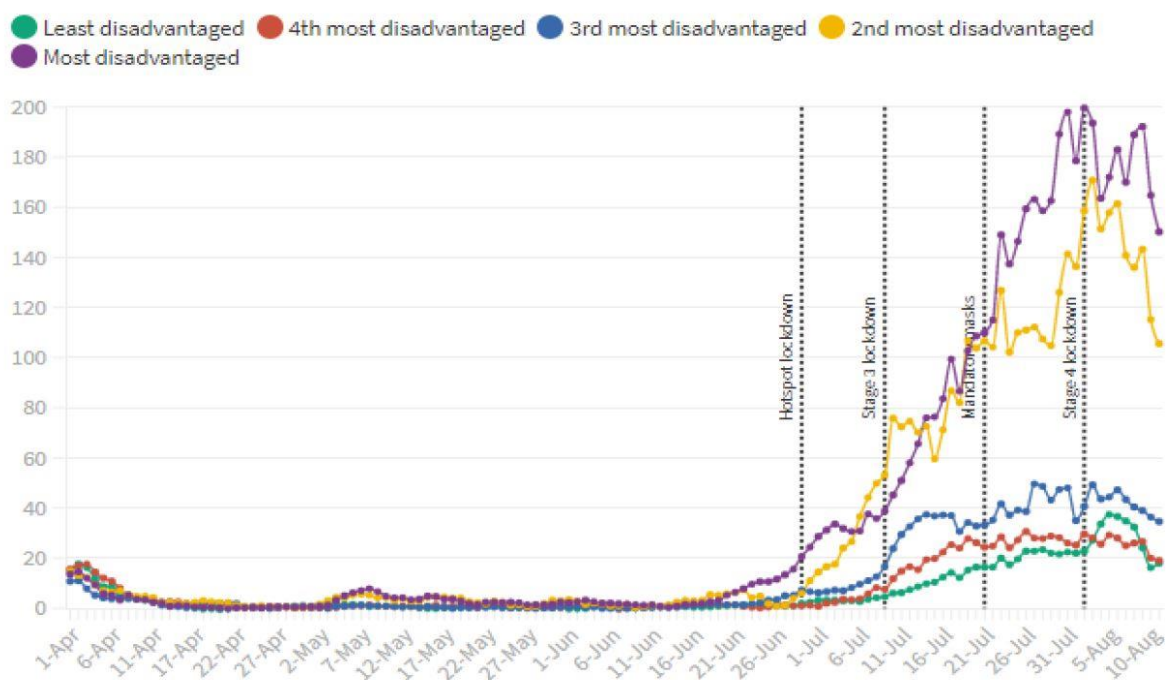
<sup>12</sup> Professor Bennett, Deakin University, *Committee Hansard*, 19 April 2021, p. 42.

jobs, and/or could not work from home, were especially at risk. Casual workers were also less likely to be tested. Professor Bennett said:

In terms of case identification, if people couldn't afford to take time off work, they weren't tested; they weren't identified. That put themselves and their immediate contacts at risk but also their workplaces, and of course that impacts the ability to contain the outbreaks. So, linked workplaces was a critical and recognised challenge.<sup>13</sup>

4.18 The impact of financial disadvantage on COVID-19 infection rates is captured in Figure 4.3.

**Figure 4.3 5-day rolling average of new cases in Melbourne's local government areas by socio-economic disadvantage**



Source: Professor Bennett, Deakin University, *COVID-19 and the Casual Workforce*, p. 7.

4.19 One feature of Victoria's outbreaks in aged care was that they were long-lasting. According to Professor Bennett some facilities had 'a continual outbreak, in effect, for three months'. This situation was exacerbated by a number of workforce management practices, 'including the casualisation of the workforce and the potential risk across workplaces, particularly if people weren't being tested and identified'.<sup>14</sup>

4.20 Professor Eagar also highlighted the unfortunate role played by the aged care sector in spreading COVID throughout the community:

Although most of the media coverage was about the amount of COVID that went into homes, what I think didn't come out very well in the media

<sup>13</sup> Professor Bennett, Deakin University, *Committee Hansard*, 19 April 2021, p. 43.

<sup>14</sup> Professor Bennett, Deakin University, *Committee Hansard*, 19 April 2021, p. 43.

was the amount of COVID that left homes. In Victoria there were something like over a thousand cases where aged-care workers, visitors and family members also got COVID.<sup>15</sup>

### **Outbreaks largely limited to private aged care facilities**

4.21 Health Workers Union (HWU) Victoria Industrial Organiser, Mr Ray Collins, said despite there being a significant state-owned aged care sector in Victoria, with over 5000 beds, all the outbreaks in Victoria during the second wave were in private and not-for-profit aged care, rather than in state-owned homes.<sup>16</sup> Mr Collins attributed this, in part, to lower staffing levels in private facilities, and in part to a greater reliance on casual and agency workers:

... if you work a business model that relies on casuals and they don't turn up to work, you've got a problem on the day. At seven o'clock in the morning, you've got a problem if you don't have enough personal care workers because the casuals didn't turn up and forgot to ring in. The agency staff can't supply people for the first morning shift of an aged-care facility. Whilst you roust in more staff, you've got a problem.<sup>17</sup>

4.22 Professor Eagar said that a workforce with more casuals and agency staff is at a disadvantage in infection control, because:

[T]here are different work routines, equipment, IT, et cetera, in every facility, so the more facilities that workers are going to and the more casuals and part-timers you've got coming in, the less likely they are to be familiar with those work routines, equipment, IT, et cetera.<sup>18</sup>

4.23 Executive Director of Per Capita, Ms Emma Dawson also observed that residential aged care homes 'in the private for-profit and not-for-profit space' were the ones 'most vulnerable to the virus', while 'state-run homes in Victoria actually did very well at keeping the virus at bay'.<sup>19</sup>

4.24 Professor Eagar confirmed that the reason state-run facilities avoided outbreaks is because they have 'a higher level of staffing, a better-balanced skill mix, less reliance on casuals and better govern[ance] systems'.<sup>20</sup>

4.25 The HWU argued that COVID-19 'exposed the profiteering nature of the private aged-care sector and its treatment of the workforce'. Mr Collins, pointed to the outbreaks at Epping Gardens and St Basils, where he claimed:

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<sup>15</sup> Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, p. 37.

<sup>16</sup> Professor Eagar supported this evidence, saying only two residents in state-run aged care facilities contracted COVID-19 in total, and none died. Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, p. 40.

<sup>17</sup> Mr Ray Collins, Industrial Organiser, Health Workers Union (HWU), *Committee Hansard*, 19 April 2021, p. 10.

<sup>18</sup> Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, p. 37.

<sup>19</sup> Ms Emma Dawson, Executive Director, Per Capita, *Committee Hansard*, 19 April 2021, p. 20.

<sup>20</sup> Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, p. 40.

[A]t Epping Gardens ... our members informed us that only two carers were rostered for 150 residents—that is, there were two carers for 150 residents on the eve of the outbreak. [And at] St Basil's aged care in Victoria, where the federal government supplied PPE was not made available. These two facilities had the highest recorded outbreaks during the second Victorian wave. Their business model is based on a casualised workforce.<sup>21</sup>

- 4.26 The awareness generated by the tragic deaths in aged care during Melbourne's second wave represented a 'tipping point' for many Australians, and a further 'loss of faith' in the aged care system, Ms Dawson said:

[A] lot of Australians went, 'I'm not putting my parents in that situation.' There was a great loss of faith in our aged-care system and its ability to do the most basic job, which is to protect the health of its residents.<sup>22</sup>

### **Inadequate oversight, preparation and supplies**

- 4.27 Expert witnesses provided evidence suggesting many aged care facilities in Victoria—and other states that experienced outbreaks—were under-prepared and under-resourced to deal with an outbreak of COVID-19.
- 4.28 Professor Eagar said many homes had 'little or no training in infection control and [inadequate] access to PPE'.<sup>23</sup> Professor Sara Charlesworth from RMIT University provided similar evidence, saying it was a 'failure of the federal government to provide adequate PPE' in both residential aged care and home care, where it was 'almost impossible ... to get hold of PPE', and workers 'had to buy their own'.<sup>24</sup>
- 4.29 Ms Dawson described inadequate hygiene standards 'at some private homes'; unsuitable PPE, and infection control that was 'slow to get off the mark'. However, it was Per Capita's view that holding multiple jobs across multiple sites due to insecure casual work was the key factor in the spread of the virus:

[workers] were spreading the virus as they moved between those jobs and were unable to take time off because they were not covered by sick leave or adequate compensation to be able to isolate at home. It exposed not only a crisis in the quality of care provided in many of those privatised care facilities but also a crisis in the workforce that showed that their precarity was actually a public health threat to the community.<sup>25</sup>

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<sup>21</sup> Mr Collins, HWU, *Committee Hansard*, 19 April 2021, p. 6.

<sup>22</sup> Ms Dawson, Per Capita, *Committee Hansard*, 19 April 2021, p. 21.

<sup>23</sup> Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, p. 37.

<sup>24</sup> Professor Sara Charlesworth, Work, Gender and Regulation, School of Management, and Director, Centre for People, Organisation and Work, College of Business, RMIT University, *Committee Hansard*, 19 April 2021, p. 28.

<sup>25</sup> Ms Dawson, Per Capita, *Committee Hansard*, 19 April 2021, p. 21.

4.30 There were similar problems in other jurisdictions. HSU NSW/ACT/QLD surveyed 500 aged care workers during the pandemic—a number of whom indicated they did not 'feel safe at work'. When asked 'what *best* describes how you feel about working in aged care right now', the highest-scoring response was 'overworked', at over 35 per cent of workers, followed by 'stressed', at over 20 per cent, with 'unsafe' coming in at around 6 per cent of workers.<sup>26</sup>

4.31 Workers were asked 'what would make their jobs safer'. They replied:

- More staff
- Greater access to PPE (masks, gloves, hand sanitisers)
- Compulsory testing of staff and residents
- More supportive management
- Maintaining the restrictions to visitations.<sup>27</sup>

4.32 Professor Charlesworth maintained that, while job insecurity 'helped create the conditions' for the outbreak, it did not cause the problems on its own. In addition to insecure work, the professor argued a 'lack of oversight from the [Aged Care Quality and Safety Commission] was a huge issue'.<sup>28</sup>

4.33 In November 2020, *The Age* reported that 184 (28 per cent) of the Aged Care Quality and Safety Commission's 665 staff were casuals, contractors or employed via labour hire firms, including labour hire company Adecco:

Casual and labour-hire staff at the Aged Care Quality and Safety Commission are concentrated in the division charged with visiting homes to assess their performance. Recent job ads for aged care homes assessors show one-year casual employment is typical at the commission.<sup>29</sup>

### **Lack of access to paid leave**

4.34 Mr Collins said that initially during Melbourne's second wave outbreak, there was a lack of access to paid leave for those casual aged care workers who were potentially at risk of contracting COVID or required to isolate:

Casuals had nothing. If you came to work and you had a sniffle, you would go home. If you mentioned that maybe someone in the family had the flu or whatever, you were told to just go home. As a casual, you're there for the period of time that your employer chooses. ... People work when they shouldn't work when they're casual, and they went to work and

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<sup>26</sup> Attachment 1 (Submission on the Impact of COVID-19 in Aged Care), HSU NSW/ACT/QLD, *Submission 198*, p. 6.

<sup>27</sup> Attachment 1, HSU NSW/ACT/QLD, *Submission 198*, p. 7.

<sup>28</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 28.

<sup>29</sup> Clay Lucas, 'Recipe for disaster': Aged care watchdog hires casuals to rate homes', *The Age*, 4 November 2020, [www.theage.com.au/politics/victoria/recipe-for-disaster-aged-care-watchdog-hires-casuals-to-rate-homes-20201030-p56a32.html](http://www.theage.com.au/politics/victoria/recipe-for-disaster-aged-care-watchdog-hires-casuals-to-rate-homes-20201030-p56a32.html) (accessed 6 September 2021).

they went across sites. They went from sites that had COVID to sites that did not have COVID. Some of these people were doing 100 hours a week.<sup>30</sup>

- 4.35 Professor Bennett confirmed that lack of access to leave—and also fear of reputational damage for dropping or refusing shifts—contributed to 'presenteeism' among aged care workers in Victoria, and hardship payments provided government were not sufficient to cover the losses many workers endured, or feared.<sup>31</sup>
- 4.36 Professor Bennett said her observations and anecdotal evidence was strongly suggestive that lack of access to paid leave impacted people's behaviour in relation to testing *and* staying home from work. However, she said there was not yet data 'at a level' to show *definitively* 'whether people did undertest if they were in casual work'.<sup>32</sup>
- 4.37 Mr Ryan Batchelor from the McKell Institute Victoria said 'international research [demonstrates that] access to sick leave reduces contagion and helps stop the spread of disease'.<sup>33</sup>
- 4.38 Mr Batchelor described a peer-reviewed study from the United States on a 'rollout of emergency sick leave provisions', which showed 'a statistically significant variation in infection rates between those states that had access to emergency sick leave provisions and those that didn't'.<sup>34</sup>

#### **Box 4.1 Case study—outbreak at Epping Gardens**

Heritage Care is a medium-sized private residential aged care provider with 10 facilities in:

- Victoria—four homes with 443 beds; and
- NSW—six homes with 467 beds.<sup>35</sup>

Heritage Care owns and operates Epping Gardens—the aged care home at the centre of one of Melbourne's worst COVID-19 outbreaks.

By the conclusion of the outbreak, 103 residents and 86 staff had tested positive to COVID-19. A total of 38 people died as a result of the Epping Gardens outbreak.

The following information is from the Department of Health's Independent

<sup>30</sup> Mr Collins, HWU, *Committee Hansard*, 19 April 2021, p. 7.

<sup>31</sup> Professor Bennett, Deakin University, *Committee Hansard*, 19 April 2021, p. 45.

<sup>32</sup> Professor Bennett, Deakin University, *Committee Hansard*, 19 April 2021, p. 47.

<sup>33</sup> Mr Ryan Bachelor, Executive Director, McKell Institute Victoria, *Committee Hansard*, 19 April 2021, p. 50.

<sup>34</sup> Mr Bachelor, McKell Institute, *Committee Hansard*, 19 April 2021, p. 57.

<sup>35</sup> Mr Gregory Reeve, Chief Executive Officer, Heritage Care, *Proof Committee Hansard*, 28 July 2021, p. 35.



review of COVID-19 outbreaks at St Basil's and Epping Gardens aged care facilities (December 2020):

- Epping Gardens has 148 beds—132 allocated to residential care and the transition care program, and 16 leased to the Northern Health Palliative Care service;
- at the time of the outbreak there were 119 residents;
- the outbreak at Epping Gardens was formally notified to the Department of Health at 12:28pm on 20 July 2020;
- the General Manager and the Director of Nursing immediately isolated residents, enacted the facility's outbreak management plan, implemented full PPE, commenced contact tracing and notified the Heritage Care Clinical Services Manager;
- one staff member was positive and isolating at home;
- one resident died in hospital from COVID-19 on 23 July 2020;
- delays in on-site testing resulted in many staff choosing to get tested in the community and being forced to isolate, leading to critical staff shortages;
- concerns were raised about the lack of preparation and a lack of clear and present leadership on site;<sup>36</sup>
- even when 'surge workforce staff were scheduled to work, in some cases, they failed to attend';
- some casual and agency workers booked to work at the site refused, and some arrived not knowing there was an active outbreak, and left as soon as they found out;<sup>37</sup>
- twelve-hour shifts were implemented 'to conserve available staffing resources'; and
- on Monday 27 July, there were only two regular staff and two agency staff—'one quarter of the regular staffing roster for a morning shift'—to care for more than 100 residents.<sup>38</sup>

According to the CEO of Heritage Care, Mr Gregory Reeve:

- Epping Gardens' outbreak management plan in place at the time was 'nowhere near as advanced as they are now, given the lessons

<sup>36</sup> Department of Health, *Independent review of COVID-19 outbreaks at St Basil's and Epping Gardens aged care facilities*, December 2020, pp. 39–42, [www.health.gov.au/resources/publications/coronavirus-covid-19-independent-review-of-covid-19-outbreaks-at-st-basils-and-epping-gardens-aged-care-facilities](http://www.health.gov.au/resources/publications/coronavirus-covid-19-independent-review-of-covid-19-outbreaks-at-st-basils-and-epping-gardens-aged-care-facilities) (accessed 8 September 2021).

<sup>37</sup> The HSU NSW/ACT/QLD submitted that a similar thing happened in NSW during the Newmarch House outbreak, where agency staff were assigned to work at Newmarch House without being informed or prepared to work in a COVID-affected facility until the day they arrived for work—many choosing not to work. Attachment 1, HSU NSW/ACT/QLD, *Submission 198*, p. 5.

<sup>38</sup> Department of Health, *Independent review of COVID-19 outbreaks at St Basil's and Epping Gardens aged care facilities*, December 2020, pp. 49–51.

learnt';

- the primary concern was securing the required staff to provide adequate care;
- while many of the home's staff were furloughed, Heritage Care:
  - attempted to 'engage [staff] from other nursing homes within Victoria and even New South Wales, offering to pay for accommodation and transfer costs like flights and travelling expenses'—only *one person* volunteered;
  - accessed 'a casual pool', which Mr Reeve described as 'not very great for a casual pool';
  - rejected two staff that had been sent to work at Epping Gardens because they 'were already working at another home within that outbreak', and the risk of cross-infection was too great; and
  - attempted to access staff from nursing agencies, but could not secure any.<sup>39</sup>

Mr Reeve advised the Department of Health and the Aged Care Quality and Safety Commission, who 'provided support' but were also unable to provide staff, 'because there was a massive outbreak and there just wasn't supply available'. Ultimately, Mr Reeve and the 'executive team went in and supported the home ... until such time as we did get support from Austin Health, the [Australian Defence Force] and others'.<sup>40</sup>

Mr Reeve was asked if the situation on 27 July—when there were only two regular staff and two agency staff to care for 100 residents—demonstrates 'the pitfalls of switching to an overstretched and insecure workforce, which leaves you with no margin for error if someone calls in sick or can't cover a shift'. Mr Reeve replied:

Yes, I concur with you in that regard. ... I would agree with you and absolutely welcome working with the unions in this regard and, of course, with anyone at the government level or another level. That is exactly what I would like to achieve.<sup>41</sup>

## Working across multiple sites

4.39 Professor Eagar said that Melbourne had 'this particular problem where COVID went from home to home':

When you dug through into that it was because of the number of aged-care workers in Melbourne who were working in five homes, each for one day a week. That was really led by employers wanting a highly casualised workforce, where they could vary the number, from time to time, not give people security, because it was cheaper to do so. None of the employers

<sup>39</sup> Mr Reeve, Heritage Care, *Proof Committee Hansard*, 28 July 2021, pp. 35–36.

<sup>40</sup> Mr Reeve, Heritage Care, *Proof Committee Hansard*, 28 July 2021, p. 36.

<sup>41</sup> Mr Reeve, Heritage Care, *Proof Committee Hansard*, 28 July 2021, p. 38.



were then responsible for annual leave, sick leave, professional development and training et cetera. For the workers, getting a casual loading was more money in their hand to live on, on a day-to-day basis.<sup>42</sup>

4.40 Professor Bennett confirmed that working across multiple sites was a key factor in spreading COVID-19 through healthcare settings broadly, but most particularly, through aged care. The professor agreed that 'an earlier and more widespread requirement' to work exclusively at one facility during the outbreak would have been a 'reasonable measure to assist in infection control'.<sup>43</sup>

4.41 Professor Charlesworth, who conducted research on the Victorian outbreaks, found evidence that staff working across multiple sites in residential aged care 'were carriers of the virus'. She said: 'I think job insecurity was a factor'.<sup>44</sup>

4.42 At a Senate Estimates hearing on 27 October 2020, representatives from the Department of Health confirmed that the department *does not* hold data on aged care staff working across multiple sites. However, due to COVID-19, the department has 'done some work' to identify multiple-site workers, particularly in Victoria where the 'one-worker one-site rule' was operating for part of 2020:

Peak bodies conducted a survey of their members in Victoria, where these arrangements apply. They had 261 facilities out of around 430 ... respond to that survey. Each of those facilities reported 100 per cent adherence to single-site guidance.<sup>45</sup>

4.43 However, the department also looked at 'one-touch payroll' data from the Australian Tax Office and observed:

- 7.1 per cent of residential aged care workers in Victorian hot-spots had been receiving income from multiple providers prior to the single-site mandate; and
- this only dropped to 4.5 per cent after the mandate took effect.

So, while 100 per cent of the 261 providers that responded to the department's survey reported full compliance with the measure, pay-roll data shows that '4.5 per cent of aged care workers [in the relevant hot-spots] still work for multiple aged-care providers' (as at September 2020).<sup>46</sup>

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<sup>42</sup> Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, p. 39.

<sup>43</sup> Professor Bennett, Deakin University, *Committee Hansard*, 19 April 2021, pp. 43–44.

<sup>44</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 28.

<sup>45</sup> Mr Jaye Smith, First Assistant Secretary, Residential and Flexible Aged Care Division, Department of Health, *Senate Community Affairs Legislation Committee Hansard*, 27 October 2020, p. 76.

<sup>46</sup> Mr Smith, Department of Health, *Senate Community Affairs Legislation Committee Hansard*, 27 October 2020, p. 76.

4.44 The aged care minister revealed that the department is working on a national 'worker registration program' to capture information about working across multiple sites.<sup>47</sup>

4.45 Professor Bennett explained that not all aged care sector workers who work across multiple sites are casual workers—as well as part-time workers with multiple jobs, there are aged care facilities that outsource their cleaning to labour hire companies who provide cleaners who work across multiple sites while being employed by one employer:

You might be working for a cleaning company but, if you work across different sites, again you have this issue of people taking the virus potentially from one facility to another. So there were kinds of layers, I think, to the casual work. There were people, particularly in some of the roles, like cleaning, that might have been a key part of the infection control strategy for the institution itself but not necessarily thinking about potentially the risk to the individuals.<sup>48</sup>

4.46 Asked how the proliferation of casual work and the practice of workers being employed across multiple sites helped to facilitate the spread of COVID-19 in aged care, Mr Collins said:

Many workers stopped working. We were getting calls in the early hours of the morning that people were not turning up for shifts. Workers were not going to work. ... In Victoria, that's what happened at particular sites: people did not turn up to work. They sometimes took work at other locations because it's a casual arrangement and there was a bidding war. A bidding war took place for workers because they couldn't get enough workers. They would choose to take their casual hours at site A rather than site B. They are on one hour of notice. Sometimes they didn't ring in. Facilities were understaffed and there were deaths directly related to that at two facilities that I could go on record with: St Basil's and Epping Gardens.<sup>49</sup>

4.47 Mr Collins was asked to clarify what he meant by 'one-hour notification'. He said casual employment arrangements mean either an employer or a worker can cancel a shift at one hour's notice.<sup>50</sup>

4.48 As well as the obvious risk of people moving from site to site, carrying the infection, Professor Bennett said, from an epidemiological perspective, secure full-time work is safer because it helps to build a team culture of safety:

[I]t's about having a secure workforce in terms of the training levels and providing that sort of continuity. A lot of infection control is about teamwork and about building a culture. It's building a culture of calling

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<sup>47</sup> Senator the Hon Richard Colbeck, Minister for Aged Care and Senior Australians, Minister for Youth and Sport, *Senate Community Affairs Legislation Committee Hansard*, 27 October 2020, p. 77.

<sup>48</sup> Professor Bennett, Deakin University, *Committee Hansard*, 19 April 2021, p. 44.

<sup>49</sup> Mr Collins, HWU, *Committee Hansard*, 19 April 2021, p. 7.

<sup>50</sup> Mr Collins, HWU, *Committee Hansard*, 19 April 2021, p. 7.

out if there's a breach or supporting each other so that you're checking each other's mask fitting. There are a whole range of things that work at team level, and that's much harder to create if you don't have a stable workforce, if you've got turnover in your staff.<sup>51</sup>

- 4.49 Professor Eagar concluded by recommending that facilities such as aged care prioritise establishing 'a core workforce', using a casual workforce minimally to handle surge requirements:

I think we just have to really be aware of what you sacrifice when you move away from a permanent workforce. For me, it is about the team approach to infection control and prevention; it's about individual skill; but, as I said earlier, it's about how that skill networks to build a culture, to build your training levels, to build shared responsibility and a cohesive response in an emergency.<sup>52</sup>

- 4.50 A peer-reviewed academic study comparing international responses to COVID-19 in aged care was 'conducted to support federal policy decision making in Australia at the end of 2020'. The study looked at dozens of strategies employed around the world and found that—in conjunction with other measures—single-site work and paid sick leave *are effective* in preventing and mitigating infection:

Effective prevention and mitigation of COVID-19 transmission in [long-term care facilities] LTCFs requires a proactive, coordinated response between relevant stakeholders and multifactorial, hierarchical approaches that marshal available resources. LTCFs should maintain awareness of the clinical risks for residents, prevent introduction of [COVID-19], and initiate [infection prevention and control] IPC and clinical management behaviors to identify and manage residents with COVID-19 infection. Early international experience suggests this should include facility preparation and planning; **workforce education; single facility work, sick leave provisions**, and distributed deployment for staff; widespread active testing; early adoption of IPC precautions including use of PPE; reconsidering locations for care delivery, including creative approaches to cohorting of residents; and leveraging the capacity and expertise of the acute care sector.<sup>53</sup>

- 4.51 An international comparative study conducted by the AARP [American Association of Retired Persons] Public Policy Institute concluded that stable work, adequate wages and access to paid leave were key to minimising the impacts of COVID in residential aged care:

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<sup>51</sup> Professor Bennett, Deakin University, *Committee Hansard*, 19 April 2021, pp. 44–45.

<sup>52</sup> Professor Bennett, Deakin University, *Committee Hansard*, 19 April 2021, p. 47.

<sup>53</sup> Sally Hall Dykgraaf, Jane Desborough, Leslee Roberts, Alison McMillan, Elizabeth Sturgiss and Sethunya Matenge, 'Protecting Nursing Homes and Long-Term Care Facilities from COVID-19: A Rapid Review of International Evidence', *Journal of the American Medical Directors Association*, Vol. 22, Iss. 10, 2 August 2021, p. 13, [www.jamda.com/action/showPdf?pii=S1525-8610%2821%2900675-7](http://www.jamda.com/action/showPdf?pii=S1525-8610%2821%2900675-7) (accessed 6 September 2021). Emphasis added.

- Secure sufficient staff and resources for facilities, and **restrict staff to working in one facility, if possible, with adequate wages. If not possible to restrict them, provide the incentives they need to work in only one facility so they do not need to seek employment in two or three nursing homes. Staff need a salary sufficient to minimize their movement between facilities and paid sick leave to stay home when they are ill.** A literature review showed that increased facility staffing, particularly registered nurses, was consistently associated with reduced risk of COVID-19 infections and mortality. Another measure that proved effective was voluntary staff confinement to facilities, with staff sleeping in unused areas of the facility.
- **Improve facility jobs by providing a living wage, adequate benefits, and stable employment.** Train workers in gerontology to be part of the clinical team, and mentor them.
- Ensure the psychosocial well-being of workers by providing assistance, such as a dedicated helpline and offering flexible scheduling.<sup>54</sup>

### *Single-site 'mandates'*

4.52 In response to the tragic outbreaks in aged care, the sector—in conjunction with the Commonwealth Government—developed a single-site policy to be applied in areas declared COVID-19 'hotspots'. Ms Sparrow explained how the policy came about:

As sector, there are a few key people who developed a process where we would have workers working at a single site, making sure that no individual worker was financially disadvantaged as a result. We only did this in areas that were declared hotspots. When there was a declared hotspot, workers would only work at one site, and providers worked together to try and make sure that workers had as many hours as possible. The Commonwealth government, in particular, stumped up funding to make sure that nobody was then left without an important component of their salary.<sup>55</sup>

4.53 Mr Collins said the single-site policy was his idea, developed during 'a sit-down' with aged care employees during which he put it to them that, 'in order to deal with COVID, we needed to have everyone working at one site'. Mr Collins said:

It was very controversial internally at my union because I put it that our members were going to lose work and lose hours. We had no choice. We were supposed to be cooperating together to control COVID in Victoria. What that did to the casualised workforce—the people who were used to working at two or three or sometimes four sites to make ends meet; they

<sup>54</sup> Susan C. Reinhard and Jane A. Tilly (AARP Public Policy Institute), 'International Review of Innovations to Protect Nursing Home Residents from Infectious Diseases Such as COVID-19', *LTSS Choices*, May 2021, p. 11. Emphasis added.

<sup>55</sup> Ms Sparrow, ACSA, *Committee Hansard*, 19 April 2021, p. 31.

are very poorly paid—is suddenly restrict it to a contractual arrangement, because of funding, for 38 hours, at a maximum, at one site.<sup>56</sup>

4.54 The single-site workforce arrangements and Commonwealth grant funding are applied in relation to residential facilities under Commonwealth jurisdiction in areas declared COVID-19 hotspots. For instance, on 4 September 2021, the arrangements applied across aged care homes in all of NSW, all of Victoria, and all of the Australian Capital Territory—areas under lockdown at the time. The purpose of the arrangements is:

... to minimise the financial burden for approved residential aged care and approved [National Aboriginal and Torres Strait Islander Flexible Aged Care Program] NATSIFACP aged care providers as a result of supporting residential and NATSIFACP workers to work at a single site. ... An underlying principle is that the worker is not to be disadvantaged as a result of working at a single site.<sup>57</sup>

4.55 The Department of Health *asks* workers in residential aged care facilities in hotspots to 'limit their work to a single facility to reduce the risk of transmission of COVID-19 and protect workers and residents'. The department also *asks* providers to 'adjust their rosters as soon as practical and ensure staff are only working at one residential aged care facility'. However, this is guidance only—there is no actual mandate.<sup>58</sup>

4.56 The guidance encourages workers with more than one aged care employer to 'choose a primary employer', who can then apply for funding from a Commonwealth grants program if they lose money by providing additional hours to that employee.<sup>59</sup>

4.57 Critics have noted that the guidelines are not enforceable, and there is no mechanism 'to stop staff from working across multiple sites to supplement their income'. Funding for the grant program has also been triggered late during outbreaks. For instance, funds did not become available during

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<sup>56</sup> Mr Collins, HWU, *Committee Hansard*, 19 April 2021, p. 6.

<sup>57</sup> ACSA, *COVID-19 Information for ACSA Members*, 4 September 2021, [www.acsa.asn.au/ACSA/media/General/Documents/Aged%20Care%20Emergency%20Planning/COVID-19-Information-for-ACSA-Members.pdf](http://www.acsa.asn.au/ACSA/media/General/Documents/Aged%20Care%20Emergency%20Planning/COVID-19-Information-for-ACSA-Members.pdf) (accessed 7 September 2021).

<sup>58</sup> See: Department of Health, *Single site workforce arrangements and funding support for residential aged care providers in New South Wales*, 15 August 2021, [www.health.gov.au/news/announcements/single-site-workforce-arrangements-and-funding-support-for-residential-aged-care-providers-in-new-south-wales-15-august-2021](http://www.health.gov.au/news/announcements/single-site-workforce-arrangements-and-funding-support-for-residential-aged-care-providers-in-new-south-wales-15-august-2021) (accessed 7 September 2021).

<sup>59</sup> See: Australian Government GrantConnect, *Current Grant Opportunity View—GO4215: Support for Aged Care Workers in COVID-19*, <https://www.grants.gov.au/Go/Show?GoUuid=00B5399B-056F-8A5A-3699-BB7A96BF6B03> (accessed 7 September 2021).

Victoria's May 2021 outbreak until Thursday 27 May, 'well after the first cases began emerging in Melbourne'.<sup>60</sup>

- 4.58 Once an outbreak is over, it is clearly intended that workers should go back to their usual routines—including working across multiple sites. This is evident from the Department of Health's statement to providers in NSW, which says:

**Workers are encouraged to speak with their primary employer and look to work all shifts during this period with the residential aged care provider where they were working the most hours prior to the outbreak.** To the greatest extent possible, the employer should seek to match any hours no longer being worked with a secondary employer to ensure the worker is not financially disadvantaged and receives the same average take home pay in their regular pay cycle. **It is important workers also retain the security of any secondary employment.**

The use of agency staff is permitted but should be limited, while still ensuring an adequate standard of care for residents.<sup>61</sup>

- 4.59 Despite the well-known risks of staff working across multiple aged care facilities, the practice has continued into 2021, and more cases of COVID-19 have been linked to staff working across multiple aged care homes. For instance, in May 2021, the Victorian health minister reported that a staff member working at an impacted facility—Arcare Maidstone—had also worked at the BlueCross facility in Western Gardens, 'triggering the BlueCross staff and residents to be tested, and uncovering a case at that facility'.<sup>62</sup>

### Impacts of the policy on workers

- 4.60 The Queensland Nurses and Midwives Union (QNMU) said 'staffing shortfalls' have become more common during COVID and have been further exacerbated by single-site policies. This has left some workers without enough hours, and some with too many. Industrial Officer, Mr Kevin Crank, said:

Whilst, the QNMU recognises the importance of infection control measures, this further exemplifies the need for more secure employment arrangements so that workers are not reliant on multiple insecure jobs to earn a livelihood.<sup>63</sup>

<sup>60</sup> Melissa Davey, Christopher Knaus and Matilda Boseley, 'Health experts furious federal Covid guidelines still let Melbourne aged care staff work multiple sites', *The Guardian Australia*, 31 May 2021, [www.theguardian.com/australia-news/2021/may/31/health-experts-furious-federal-guidelines-still-let-melbourne-aged-care-staff-work-multiple-sites](http://www.theguardian.com/australia-news/2021/may/31/health-experts-furious-federal-guidelines-still-let-melbourne-aged-care-staff-work-multiple-sites) (accessed 30 September 2021).

<sup>61</sup> Department of Health, *Single site workforce arrangements and funding support for residential aged care providers in New South Wales*, 15 August 2021. Emphasis added.

<sup>62</sup> Melissa Davey, 'Victoria reports 11 new cases across state as outbreak hits two Melbourne aged care homes', *The Guardian Australia*, 31 May 2021, [www.theguardian.com/australia-news/2021/may/31/victoria-covid-update-11-new-cases-across-state-as-outbreak-hits-two-melbourne-aged-care-homes](http://www.theguardian.com/australia-news/2021/may/31/victoria-covid-update-11-new-cases-across-state-as-outbreak-hits-two-melbourne-aged-care-homes) (accessed 30 September 2021).

<sup>63</sup> Mr Kevin Crank, Industrial Officer, Queensland Nurses and Midwives Union (QNMU), *Proof Committee Hansard*, 14 July 2021, p. 34.

- 4.61 Despite the funding provided by the Commonwealth, Mr Lloyd Williams from the HSU said the single-site policy has meant workers on 'low hours' have been forced to 'give up additional employment ... which they have to eke out a living, and they weren't compensated adequately for it'.<sup>64</sup>
- 4.62 Former aged care worker, Ms Anu Singh said that 'a lot people [nearly 30 per cent] lost their second job' as a result of the single-site mandate, 'and lost the hope of saving money for a happy living or just keeping up with their daily living expenses'.<sup>65</sup>
- 4.63 Nursing agency worker, Mr Paul Bott explained the impacts on the sector from his perspective:
- During the second wave, people could only work at the one site and there were significantly fewer hours to what they were used to. Also, we didn't have enough staff at the facility because staff decided to work at the main facility that they worked at. They decided to work at the one they'd had the most hours at. So that other nursing home lost that staff member. So, during that period, there was significantly fewer staff, and we were told to work longer...<sup>66</sup>
- 4.64 CEO of the Aged Care Industry Association, Mr Luke Westenberg, maintained that staff in South Australia, where the State government *did* impose a single-site mandate, 'were unhappy' because:
- ... they preferred having the flexibility to work across multiple sites and they were less attracted to the proposition of working, even for the same hours, for a single employer. They actually preferred working across multiple employers. ... The feedback, largely anecdotally ... was that there were a number of staff who were unhappy at having to restrict themselves to a single facility, and they therefore were advocating fairly strongly for these requirements to be lifted as soon as possible.<sup>67</sup>
- 4.65 The United Workers Union (UWU) agreed that the imposition of a single-site mandate in South Australia caused 'significant hardship' for workers in that state. Aged care worker, Ms Tracey Colbert said that a lot of people left the sector 'because they didn't have the hours', or, conversely, 'because of the burden from pushing themselves, physically, too hard'.<sup>68</sup>

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<sup>64</sup> Mr Lloyd Williams, National Secretary, Health Services Union (HSU), *Committee Hansard*, 13 April 2021, p. 11.

<sup>65</sup> Ms Anu Singh, Member, United Workers Union (UWU), *Committee Hansard*, 19 April 2021, p. 12.

<sup>66</sup> Mr Paul Bott, Member, Australian Nursing and Midwifery Federation (ANMF), *Committee Hansard*, 19 April 2021, p. 2.

<sup>67</sup> Mr Luke Westenberg, Chief Executive Officer, Aged Care Industry Association (ACIA), *Committee Hansard*, 21 April 2021, pp. 10–11.

<sup>68</sup> Ms Tracey Colbert, Member, United Workers Union (Western Australia) (UWU), *Committee Hansard*, 19 April 2021, p. 13.

4.66 Ms Melinda Vaz, an enrolled nurse in Western Australia (WA) talked about her experience:

At the facility that I work at carers were told during the pandemic that they could only work at one site. As a result, we were often short-staffed. Management stated they would put the shifts out on ShiftMatch, but no-one would arrive. We were told at staff meetings that they were trying to find staff but they just don't exist. We're expected to still provide the care with fewer staff. That does not equate to quality care.<sup>69</sup>

4.67 However, workers who spoke to the committee said they would strongly prefer to work at one site if it did not mean losing income. Mr Bott said that he would 'definitely' prefer it, if he could get sufficient hours:

We're a single income family with three kids and renting. So I need the hours to sustain a good family life and to pay rent, to pay for the food and to pay for entertainment that our children like. My son plays football on Sundays, and I would like to be able to take him to games. But, if I don't get enough shifts during the week, I will have to work on that Sunday.<sup>70</sup>

4.68 Ms Colbert also expressed a preference to be a full-time employee at one site.<sup>71</sup>

4.69 Mr Collins said that, while the 'employers initially didn't understand' the idea of single-site work, in the end:

... it was the way to go, and it worked. If it worked during COVID, why can't we now have an industry that says, 'We're not going to have people working across three, four or five sites as casuals. We'll give them permanent part-time work'<sup>72</sup>

### *Provider perspectives*

4.70 This section considers evidence from some of the providers who participated in the inquiry, regarding:

- the extent of multiple job holding among their workers;
- their data collection; and
- their experiences with, and attitudes to, single-site policies.

### **Bolton Clarke**

4.71 Ms Melissa Leahy, Chief People Officer at Bolton Clarke, suggested the current workforce model in aged care is so entrenched that both providers and workers found it difficult to adapt to single-site arrangements. Ms Leahy suggested a more long-term approach is needed:

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<sup>69</sup> Ms Melinda Vaz, Aged Care Member, United Workers Union (Western Australia) (UWU), *Proof Committee Hansard*, 28 July 2021, p. 14.

<sup>70</sup> Mr Bott, ANMF Member, *Committee Hansard*, 19 April 2021, p. 2.

<sup>71</sup> Ms Colbert, UWU, *Committee Hansard*, 19 April 2021, p. 13.

<sup>72</sup> Mr Collins, HWU, *Committee Hansard*, 19 April 2021, p. 7.



The COVID-19 pandemic has also accelerated the need for aged care employers to navigate the complexity of stable employment. This has required a focus on sufficient hours according to individual circumstances and ensuring employees are not compelled to work across multiple workplaces.<sup>73</sup>

- 4.72 Aged care providers who were asked during the inquiry to provide data on how many of their workers were employed across multiple sites indicated that they did generally collect this information.<sup>74</sup> However, some providers had cause to collect the information as a result of COVID lockdowns.
- 4.73 During a lockdown in Queensland (QLD), Bolton Clarke submitted it was 'notified of 113 residential aged care workers across QLD and NSW that held a second job'.<sup>75</sup> The company also conducted a consultation in 2020, finding that 243 workers in residential care reported 'working multiple jobs'—approximately 10 per cent of its residential staff cohort.<sup>76</sup>
- 4.74 There were a number of reasons workers held second jobs, including 'that they actually enjoy working the second job', or that they wanted 'weekend work and the penalties that they could get for working on a weekend'.<sup>77</sup>
- 4.75 Ms Leahy noted that some workers were working in second jobs that were considered high risk, such as 'driving Ubers on the weekends'.<sup>78</sup>
- 4.76 Bolton Clarke chose to undertake the consultation 'because of the risk'. Then to mitigate the risk, Bolton Clarke asked these workers to work exclusively at Bolton Clarke. The result was that:
- 43 per cent of those employees took up the offer and 'increased hours up to full time';
  - 41 per cent of those employees 'decide[d] to take a career break with us [and] obtained more hours with their other provider'; and
  - the remaining 15 percent 'were low risk ... working a second job in a support environment, a call centre environment or an environment where they weren't having direct contact with customers'.<sup>79</sup>

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<sup>73</sup> Ms Melissa Leahy, Chief People Officer, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 21.

<sup>74</sup> See for instance: Bolton Clarke, Answers to written questions on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), pp. 1–2.

<sup>75</sup> Bolton Clarke, Answers to written questions on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), pp. 1–2.

<sup>76</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 25.

<sup>77</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 25.

<sup>78</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 26.

<sup>79</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 26.

### TriCare

- 4.77 For-profit aged care provider, TriCare submitted that it 'collects information on secondary employment at a site level' only. However, at the time of writing TriCare was 'in the process of centralising and systemising this information'.<sup>80</sup>
- 4.78 CEO, Ms Kerin McMahon said that TriCare's staff are 'no different' to other staff across the aged care sector in that many do work across multiple sites.<sup>81</sup> Based on data from 30 July 2021, TriCare estimated that it had approximately 19 staff working across its facilities 'during any one fortnight'.<sup>82</sup>
- 4.79 However, Ms McMahon said that 'like all providers', since dealing with COVID over the last 12 to 18 months, TriCare has 'been working hard to reduce that and reduce that risk'.<sup>83</sup>

### Heritage Care

- 4.80 Heritage Care's non-managerial workforce is made up of approximately 10 per cent permanent full-time staff, 60 per cent permanent part-time staff, and 30 per cent casuals.<sup>84</sup> For part-time workers, the standard number of minimum contract hours per week is 12 and the 'largest cohort of part-time workers' are on 12-hour per week contracts.<sup>85</sup>
- 4.81 As at 30 July 2021, Heritage Care submitted that 20 per cent of its directly-employed part-time and casual workers held secondary employment.<sup>86</sup> Mr Reeve said he believed single-site employment is something that staff would 'find more attractive',<sup>87</sup> and he supports a move towards more stable employment in the sector. This is further discussed in Chapter 6.
- 4.82 Mr Reeve was asked if all of the unvaccinated workers across Heritage Care's network would be limited to 'only working at one facility'. He replied that Heritage Care's 'current policy' is that unvaccinated workers 'should be single-site'. However, while this is the company's 'preference, and what's going to be communicated', Mr Reeve said they cannot 'make it mandatory, per se',

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<sup>80</sup> TriCare, Answers to questions on notice, public hearing, Canberra, 28 July 2021 and answers to written questions on notice, Senator Walsh, 5 August 2021(received 18 August 2021), p. 2.

<sup>81</sup> Ms Kerin McMahon, Chief Executive Officer, TriCare, *Proof Committee Hansard*, 28 July 2021, p. 33.

<sup>82</sup> TriCare, Answers to questions on notice, public hearing, Canberra, 28 July 2021 and answers to written questions on notice, Senator Walsh, 5 August 2021(received 18 August 2021), p. 2.

<sup>83</sup> Ms McMahon, TriCare, *Proof Committee Hansard*, 28 July 2021, p. 33.

<sup>84</sup> Mr Reeve, Heritage Care, *Proof Committee Hansard*, 28 July 2021, p. 37.

<sup>85</sup> Heritage Care, Answers to written questions taken on notice, Senator Walsh, 5 August 2021 (received 17 August 2021), p. 1.

<sup>86</sup> Heritage Care, Answers to written questions taken on notice, Senator Walsh, 5 August 2021 (received 17 August 2021), p. 1.

<sup>87</sup> Mr Reeve, Heritage Care, *Proof Committee Hansard*, 28 July 2021, p. 37.

and the policy is currently being reviewed from an industrial relations standpoint.<sup>88</sup>

### **On-demand platforms during COVID-19**

4.83 In response to the pressure placed on the aged care system by the COVID-19 pandemic, the Commonwealth government chose to pay millions of dollars to on-demand platforms to provide surge workforce at aged care facilities. Mable alone received \$7.8 million for this purpose in 2020.<sup>89</sup>

4.84 Anglicare's Newmarch House in Western Sydney was one of the aged care facilities forced to rely on Mable for surge workforce after losing 87 per cent of its usual staff at the height of the outbreak. Anglicare CEO Grant Millard described the quality of service provided by Mable to the Aged Care Royal Commission:

It quickly became apparent the staff that Mable could provide did not have the skills and qualifications that were needed in the particular circumstances ... The types of people who were being provided, I think there were very few people who had any residential aged care experience, some had home care experience. None of them had any practical experience in the use of PPE.<sup>90</sup>

4.85 Professor Charlesworth told the committee that the Royal Commission 'excoriated' Mable, and that the Newmarch House saga was 'an unmitigated disaster'.<sup>91</sup>

4.86 The ANMF added that they had seen problems associated with Mable's usage in aged care settings during the pandemic:

We got a lot of feedback about the problems experienced using Mable through the height of the COVID pandemic, when we saw that the right staff were not supplied at the right time.<sup>92</sup>

### **Vaccination and job security**

4.87 Vaccination is a key issue for workers and providers in the aged care sector. Inquiry participants made a number of observations in relation to:

- efforts to get the aged care workforce vaccinated;
- mandatory vaccination for workers in the sector;
- attitudes to vaccination among aged care workers; and
- access to vaccines, and support for achieving mandatory vaccination by the target date.

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<sup>88</sup> Mr Reeve, Heritage Care, *Proof Committee Hansard*, 28 July 2021, p. 37.

<sup>89</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 30.

<sup>90</sup> Mr Millard, Anglicare, *Aged Care Royal Commission Transcript*, 11 August 2020, p. 8502.

<sup>91</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 30.

<sup>92</sup> Ms Butler, ANMF, *Committee Hansard*, 19 April 2021, p. 5.

- 4.88 A number of inquiry participants commented that the Commonwealth's initial approach to vaccination in the aged care sector appeared to mostly focus on vaccinating residents of aged care facilities, with staff considered as an afterthought.
- 4.89 Director of Aged Care for the UWU in WA, Ms Carolyn Smith described the problem as one of 'rollout and access'. Ms Smith said the campaign to get workers vaccinated has been 'incredibly badly run'—failing to take into account that workers do shifts 'all over the place', many have English as a second language, many have been unclear on their eligibility, and many have faced additional barriers:
- Imagine a worker who lives in an outer metro area and works across two different facilities, sometimes up to 50 hours a week, all at the times when immunisation clinics or GP clinics are open. She was told there was going to be Commonwealth run vaccination in her facility and when she turned up she was told it was only for residents and only if there were any leftovers would she get the vaccination.<sup>93</sup>
- 4.90 Mr Reeve said, unlike the vaccination of residents, the rollout of vaccinations to staff 'wasn't scheduled in a strategic manner':
- ... the way it was originally handled, certainly in our homes, was that when the residents were being vaccinated there were sometimes ampoules or doses left over and so some staff had the opportunity to be vaccinated then, but it was never scheduled at that stage. So it was really: 'Would you like to get vaccinated? Here's the consent form. Here's the education. We've got half a dozen places.'<sup>94</sup>
- 4.91 Enrolled nurse, Ms Vaz confirmed that staff in her facility were told they would 'get the leftover' vaccines if they were 'working on the shift that day'. This is not what workers expected, Ms Vaz said: 'People were expecting, like with the flu jab, the facility would provide that vaccination, but it didn't happen. So there was a lot of confusion with staff.'<sup>95</sup>
- 4.92 TriCare submitted, as at 30 July 2021, 39 per cent of its aged care employees had received at least one dose of vaccine, and 25 per cent had received two doses.<sup>96</sup> In contrast, as at 28 July 2021, Heritage Care had 73 per cent of its 980 direct-care staff having had one shot, and 55 per cent of staff fully vaccinated.<sup>97</sup>

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<sup>93</sup> Ms Carolyn Smith, Aged Care Director, United Workers Union (Western Australia) (UWU), *Proof Committee Hansard*, 28 July 2021, p. 19.

<sup>94</sup> Mr Reeve, Heritage Care, *Proof Committee Hansard*, 28 July 2021, p. 37.

<sup>95</sup> Ms Vaz, UWU Member, *Proof Committee Hansard*, 28 July 2021, p. 19.

<sup>96</sup> TriCare, Answers to questions on notice, public hearing, Canberra, 28 July 2021 and answers to written questions on notice, Senator Walsh, 5 August 2021(received 18 August 2021), p. 2.

<sup>97</sup> Mr Reeve, Heritage Care, *Proof Committee Hansard*, 28 July 2021, p. 36.

4.93 Ms McMahon blamed 'access to vaccines' for the relatively low levels of vaccination among TriCare's staff:

That's certainly the feedback that we've been receiving from our staff, who are obviously commenting in regard to wanting to get the vaccine and trying to access the vaccine. People are seeking the Pfizer vaccine, and, in Queensland, it's still only provided through public health networks and those clinics, so actually accessing an appointment has been challenging. We're working really closely with our staff to provide flexibility to ensure that they can take the time they need to be vaccinated, and facilitating that process in every way possible. As an organisation, we intend to complete the [request for tender], which is something that's available for the sector at the moment, to potentially vaccinate our own staff to further facilitate that process. We're certainly working hard at trying to lift that rate.<sup>98</sup>

4.94 Ms Hutchins from the HSU said 'very little in-reach vaccinations' were arranged by the Commonwealth 'early on', which would have put the sector 'so much further down the path of a vaccinated workforce' at this stage.<sup>99</sup>

### *Mandatory vaccination for aged care workers*

4.95 On 28 June 2021, the National Cabinet 'agreed to mandate that at least the first dose of COVID-19 vaccine be administered by mid-September 2021 for all residential aged care workforce'. At the same time, the government announced the Residential Aged Care COVID-19 Employee Vaccination Support Grant, which provides \$11 million to enable residential aged care employees 'to attend off-site vaccination centres and GPs':

Under the grant, Residential Aged Care Facilities (RACFs) will be paid for the following three categories of eligible expenditure:

- Casual staff going off-site for vaccination—a flat fee of \$80 payable per staff member, per dose;
- Paid leave for casual staff who become unwell after vaccination and do not have other leave entitlements—one day's paid leave (at a rate of \$185) for up to a quarter of the provider's total number of casual staff; and
- Facilitation of off-site vaccination for employees—up to \$500 per site in flexible vaccination facilitation costs per site, which may be used for activities like: transport services, arranging groups of staff to be vaccinated and or any other reasonable expenses that incentivise staff to get vaccinated.<sup>100</sup>

<sup>98</sup> Ms McMahon, TriCare, *Proof Committee Hansard*, 28 July 2021, p. 33.

<sup>99</sup> Ms Lauren Hutchins, Aged Care Division Secretary, Health Services Union NSW/ACT/QLD (HSU), *Proof Committee Hansard*, 14 July 2021, p. 31.

<sup>100</sup> Prime Minister of Australia, *Media Statement: National Cabinet Statement*, 28 June 2021, [www.pm.gov.au/media/national-cabinet-statement-5](http://www.pm.gov.au/media/national-cabinet-statement-5) (accessed 9 September 2021).

4.96 Ms Smith said the mandate means 'the clock is ticking', but 'there is still no program to vaccinate workers in situ at work', and 'no plan' to paid leave for vaccination to anyone except casual workers:

To reach the numbers by 17 September, we need 3,000 aged-care workers a day, seven days a week, to be vaccinated around Australia. We're not seeing that. So that's another staffing crisis we're going to see come 17 September, because we are not going to reach 100 per cent vaccinated by then.<sup>101</sup>

4.97 The HSU said access is a big problem for many workers who are 'diligently' trying to get vaccinated, but cannot get access to vaccines, especially in rural and regional areas. Ms Hutchins said:

This has been a stuff-up. The problem is that the announcement, as Gerard has said, has a huge implication for a workforce that is already stretched. This could see an aged-care workforce crisis, come 17 September. We're looking at the possibility of 25 per cent of the workforce not being vaccinated, and where is the government? Where is the planning? We have heard nothing.<sup>102</sup>

4.98 Ms Smith said the UWU supports mandatory vaccination and believes 'hesitancy isn't the key issue'. There may be 'some hesitancy' among aged care workers, just as there is in the broader community. Though, it is likely to be less 'because aged-care workers understand about vaccinations; they are required to have the flu vaccine'. The union supports mandatory vaccination, but it is also 'concerned' that:

There is still no communication. There was an announcement, I think, three weeks ago that vaccinations were going to be mandatory. There's still not communication out in the workplace about what [mandatory vaccination] means.<sup>103</sup>

4.99 Ms Vaz agreed, saying staff have been told; 'If you're not vaccinated, you won't be given a shift', and they are 'struggling just to find somewhere to get vaccinated'.<sup>104</sup>

4.100 Bolton Clarke said 'anecdotal feedback' from its employees is that 'they're very supportive' of the mandate, though the 'cut-off time is going to be challenging':

Currently [as of 28 July 2021], 30 per cent of our employees have had the first vaccination; 17 per cent of our employees have had the second vaccination. They are aware that we are chasing down vaccination dates, particularly in residential aged care, with a September time frame. It is challenging for us and challenging for our employees to get the COVID vaccination. Booking a COVID vaccination has been somewhat

<sup>101</sup> Ms Smith, UWU, *Proof Committee Hansard*, 28 July 2021, p. 19.

<sup>102</sup> Ms Hutchins, HSU, *Proof Committee Hansard*, 14 July 2021, p. 31.

<sup>103</sup> Ms Smith, UWU, *Proof Committee Hansard*, 28 July 2021, p. 19.

<sup>104</sup> Ms Vaz, UWU Member, *Proof Committee Hansard*, 28 July 2021, p. 19.

challenging. ... But we certainly haven't had any feedback or pushback from employees to date.<sup>105</sup>

4.101 The HSU said there are a 'whole range of reasons why it will be difficult to get vaccinated', and warned that mandating vaccination by a certain date could backfire on the government, leading to workers leaving the sector if vaccines are hard to get. National President, Mr Gerard Hayes said the government should use the carrot, not the stick, to get workers vaccinated:

Our members have effectively got until September to get vaccinated or else potentially they don't have a job. ... we are clearly getting advice from our members that it's easier to go and work for Bunnings for \$27 an hour. ... So over the next 10 weeks we would like to see a concerted effort to encourage people. To incentivise that the government would do very well to consider our attraction and retention issue, and a big part of that is the wages...<sup>106</sup>

### **Progress on reaching the target**

4.102 The Department of Health publishes the residential aged care worker COVID-19 vaccination rates map, which shows data by facility across Australia. The data is updated each weekday by 5.00pm.<sup>107</sup>

4.103 The interactive map allows you to drill-down into each statistical area and see the percentage of staff that have had their first dose, as reported by providers. On 17 September 2021—the date by which all aged care workers were supposed to have had their first dose—most areas had 90–100 per cent of staff vaccinated. However, there were still a number of Statistical Area 3s (SA3s) with only 70–79 per cent or 80–89 per cent of staff having had their first dose, mainly in regional areas:

- Tumut–Tumbarumba;
- Upper Murray exc. Albury;
- Shoalhaven;
- Meander Valley–West Tamar;
- Noosa Hinterland; and
- Surfers Paradise.<sup>108</sup>

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<sup>105</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 22.

<sup>106</sup> Mr Gerard Hayes, National President, Health Services Union; Secretary, Health Services Union NSW/ACT/QLD (HSU), *Proof Committee Hansard*, 14 July 2021, p. 30.

<sup>107</sup> Department of Health, *Residential aged care worker COVID-19 vaccination rates map*, [www.health.gov.au/resources/apps-and-tools/residential-aged-care-worker-covid-19-vaccination-rates-map/residential-aged-care-worker-covid-19-vaccination-rates-map](http://www.health.gov.au/resources/apps-and-tools/residential-aged-care-worker-covid-19-vaccination-rates-map/residential-aged-care-worker-covid-19-vaccination-rates-map) (accessed 8 September 2021).

<sup>108</sup> Department of Health, *Residential aged care worker COVID-19 vaccination rates map*, [www.health.gov.au/resources/apps-and-tools/residential-aged-care-worker-covid-19-vaccination-rates-map/residential-aged-care-worker-covid-19-vaccination-rates-map](http://www.health.gov.au/resources/apps-and-tools/residential-aged-care-worker-covid-19-vaccination-rates-map/residential-aged-care-worker-covid-19-vaccination-rates-map) (accessed 8 September 2021).

4.104 Media reports on 17 September suggested that around 94.4 per cent of the workforce had received their first dose, leaving 'about 15,000 aged care workers nationally' unvaccinated, and, according to the rules—now unable to work. The *Newcastle Herald* reported that aged care managers told reporters that the mandate has 'already led to resignations in the lead up to [the vaccination] deadline':

That means an already under-resourced sector is under more pressure at what is a critical time, say managers, as well as the Health Services Union, and the Australian Council of Trade Unions.<sup>109</sup>

4.105 Aged care service managers explained some of the barriers to getting to the 100 per cent target so quickly:

Barriers include logistics, such as child minding, shift work, and transport, and in one case an 'objector' was making a conscious choice ... Initially, 85 of [one service manager's] 189 members of staff had been hesitant about getting vaccinated. ... Some of the barriers [the service manager reported] hearing about across the aged care network is they want more information.<sup>110</sup>

4.106 Assistant Secretary of the Australian Council of Trade Unions, Mr Liam O'Brien, said the high levels of vaccination among aged care workers 'confirms overwhelmingly' that aged care workers are 'willing' to get vaccinated. However, there are still significant concerns that some areas have not meet the deadline:

In a sector that already suffers from significant labour shortages unions are concerned that any loss of workers could compromise the safety for workers and the residents they care for ... The government need[s] to ensure an appropriate transition so that quality and safety [are] not compromised beyond the deadline...<sup>111</sup>

## Committee view

4.107 The disastrous outbreaks of COVID-19 in Melbourne's aged care homes during 2020 were unprecedented, but they could have been predicted, and they should have been prevented.

4.108 Hundreds of vulnerable residents were infected, and many died a lonely and traumatic death, isolated from their loved ones.

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<sup>109</sup> Gabriel Fowler, 'Aged care staff face 'consequences' if they don't meet COVID vaccination deadline', *Newcastle Herald*, 17 September 2021, [www.newcastleherald.com.au/story/7433228/consequences-for-staff-who-miss-vax-deadline-for-aged-care/?cs=6157](http://www.newcastleherald.com.au/story/7433228/consequences-for-staff-who-miss-vax-deadline-for-aged-care/?cs=6157) (accessed 17 September 2021).

<sup>110</sup> Gabriel Fowler, 'Aged care staff face 'consequences' if they don't meet COVID vaccination deadline', *Newcastle Herald*, 17 September 2021.

<sup>111</sup> Mr Liam O'Brien, Assistant Secretary, Australian Council of Trade Unions, quoted in: Gabriel Fowler, 'Aged care staff face 'consequences' if they don't meet COVID vaccination deadline', *Newcastle Herald*, 17 September 2021.



- 4.109 The committee is deeply saddened by these events and wishes to convey its heartfelt condolences to all the residents, staff, providers and families involved.
- 4.110 Hundreds of workers were also infected, along with their families and community members, and—apart from the disease itself—workers and providers were impacted by the trauma of trying to care for residents in impossible and unprecedented circumstances. Our hearts go out to you—and our deepest respect.

*Secure work is safer*

- 4.111 The evidence is clear that workers moving from site to site, working at multiple aged care homes, contributed to the spread of COVID-19 infections during Melbourne's second wave.
- 4.112 The practice is not only bad for workers and a source of anxiety for residents, it is *unsafe*, as it increases the spread of contagion in a vulnerable population. This is not only true during a pandemic—it is always the case.
- 4.113 International studies comparing the COVID responses of countries around the world have identified secure, adequately-paid, single-site employment to be a key component of any successful strategy for infection control—it's a 'no brainer'.<sup>112</sup>
- 4.114 The committee notes the government's introduction of a single-site policy and grant funding to assist providers to offer workers additional hours to work at one site during COVID-19 outbreaks. However, this should not be designed as a temporary measure.
- 4.115 The committee is concerned to see the rhetoric in Department of Health statements encouraging providers to see single-site measures as temporary. Providers should be encouraged to offer workers increased hours in a way that is ongoing, through the provision of new contracts.
- 4.116 The Commonwealth must not waste this opportunity to enhance the safety of residents *and* improve the security of the workforce.
- 4.117 The committee shares the concern of aged care providers, unions and academics about the performance of gig platforms in aged care facilities during the pandemic, such as Mable at Newmarch House, and supports Recommendation 87 of the Aged Care Royal Commission that this form of

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<sup>112</sup> See: Sally Hall Dykgraaf, Jane Desborough, Leslee Roberts, Alison McMillan, Elizabeth Sturgiss and Sethunya Matenge, 'Protecting Nursing Homes and Long-Term Care Facilities from COVID-19: A Rapid Review of International Evidence', *Journal of the American Medical Directors Association*, Vol. 22, Iss. 10, 2 August 2021, p. 13; Susan C. Reinhard and Jane A. Tilly (AARP Public Policy Institute), 'International Review of Innovations to Protect Nursing Home Residents from Infectious Diseases Such as COVID-19', *LTSS Choices*, May 2021, p. 11.

indirect engagement is undesirable and should be restricted wherever possible.

### **Recommendation 6**

**4.118 The committee recommends that the Australian Government redesigns the single-site policy and Commonwealth grant to aged care providers so that they incentivise providers to offer *ongoing* full-time, and higher-hour part-time, positions to aged care workers—rather than the current temporary support.**

### *Vaccinations*

4.119 The committee notes compelling evidence on the importance of ensuring that paid leave is available for workers during a pandemic—both for preventing workers going to work sick, or when they should be isolating, and for encouraging and supporting workers to get vaccinated.

### **Recommendation 7**

**4.120 The committee recommends that the Australian Government commits to fully funding two weeks of paid pandemic leave, and up to three days of vaccination-related leave, for all workers in the aged care sector, regardless of their role or employment contract.**

4.121 The committee is concerned that the rollout of vaccinations to aged care workers was treated as an afterthought, when it should have been part of the rollout to residents.

4.122 Overworked, underpaid and precariously-employed aged care staff should not have been faced with having to arrange their own vaccinations by 17 September 2021, or risk losing their jobs.

4.123 With booster shots likely needed in the near future, the Commonwealth must manage this process more effectively next time, or risk losing workers the sector can hardly afford to lose.

### **Recommendation 8**

**4.124 The committee recommends that the Australian Government arranges in-reach vaccination for all aged care workers who remain unvaccinated, as a priority, and ensure future vaccination programs (such as for booster shots) are conducted via in-reach programs.**

# Chapter 5

## Insecure work in the disability care sector

- 5.1 While it is a smaller sector than aged care, the disability care sector is a large employer with a similar growing need for new workers, and the jobs are almost exclusively publicly-funded.
- 5.2 In 2019 the Australian Government estimated that the disability care workforce would need to almost double in five years—from 100 000 to 190 000 workers by 2024—making the NDIS 'one of the largest job creation opportunities in Australian history'.<sup>1</sup>
- 5.3 However, a number of inquiry participants have provided evidence suggesting that jobs in disability care have become *less secure* since the introduction of the National Disability Insurance Scheme (NDIS) in 2016.
- 5.4 This chapter discusses this evidence, noting that the committee considered the disability care sector in its first interim report, *On-demand platform work in Australia*. In particular, the report discussed the introduction and growth of online platforms in the disability carer sector.
- 5.5 As such, issues of workforce insecurity in the disability care sector are considered *briefly* in this report, with some general comments and recommendations made. The committee intends to revisit the issue of platform work within the NDIS in its final report.

### The disability care sector

- 5.6 The introduction of the NDIS altered how disability funding was provided. Instead of giving funding to service providers, who would then provide services to people with disabilities, funding now 'rests with the NDIS participant so that they can exercise choice and control'.<sup>2</sup>
- 5.7 In 2020 there were 390 000 participants in the NDIS.<sup>3</sup> The number of 'active providers' had also increased almost four-fold since 2017—from 4005, to 14 882 in June 2020.<sup>4</sup> According to the Queensland Nurses and Midwives Union

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<sup>1</sup> Department of Social Services, *Growing the NDIS Market and Workforce*, 2019, p. 4, [www.dss.gov.au/sites/default/files/documents/03\\_2019/220319 - growing the ndis market and workforce 2019- accessible.docx](http://www.dss.gov.au/sites/default/files/documents/03_2019/220319_-_growing_the_ndis_market_and_workforce_2019-accessible.docx) (accessed 7 October 2021).

<sup>2</sup> Ms Natalie Lang, Secretary, Australian Services Union (ASU), *Proof Committee Hansard*, 12 April 2021, pp. 5–6.

<sup>3</sup> National Disability Insurance Agency, *Annual Report 2019-20* (NDIA Annual Report 2019–20) 15 October 2020, p. 5, [www.ndis.gov.au/media/2724/download](http://www.ndis.gov.au/media/2724/download) (accessed 4 June 2021).

<sup>4</sup> Queensland Nurses and Midwives Union (QNMU), *Submission 15*, p. 14. Data from the NDIS.

(QNMU), the NDIS not only increased the number of small providers, it 'propelled the rapid emergence of gig type arrangements'.<sup>5</sup>

- 5.8 Total payments made as part of the NDIS increased from \$2.18 billion in 2016–17 (the scheme's first year) to \$16.11 billion in 2019–20.<sup>6</sup> Funding for the NDIS is provided by the Commonwealth and state governments and through an increase to the Medicare Levy.<sup>7</sup>
- 5.9 The NDIS Rules allow participants to either manage their own funding and arrange their own supports, or have the National Disability Insurance Agency (NDIA) manage their funding with one of two options:
- the participant chooses their own supports; or
  - the NDIA manages their supports.<sup>8</sup>
- 5.10 The National Foundation for Australian Women (NFAW) submitted that it is 'supportive of the principle of increased choice and control for those receiving care'. However, the NFAW is 'greatly concerned' that the design of the NDIS is negatively impacting workers, which flows onto care recipients.<sup>9</sup>
- 5.11 According to the NFAW, funding in the disability care sector has been structured in a way that *forces* providers 'beyond efficiency into cost-cutting'. The NFAW referred to recent research suggesting the amount of funding provided to meet the hourly rate for a Disability Support Worker 'has been set too low to enable the minimum ... Award conditions to be met':

The study also found that the pricing model did not reflect existing employees' classification levels and provided inadequate allowance for training, workers' time not spent providing face-to-face support (3 minutes an hour), travel between clients (providers can include a 20-minute journey but without any adjustment for support to be provided), and supervision (both levels and workloads). These assessments are supported by findings of an employer survey in which two-thirds of respondents disagreed with the statement 'NDIS prices enable us to meet our industrial obligations'.<sup>10</sup>

## The workforce

- 5.12 According to the *NDIS National Workforce Plan 2021–2025*, there will be 353 000 workers 'in the NDIS-funded workforce' by 2024:

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<sup>5</sup> QNMU, *Submission 15*, p. 14

<sup>6</sup> NDIA Annual Report 2019–20, p. 20.

<sup>7</sup> Dr Luke Buckmaster, 'Paying for the National Disability Insurance Scheme', *Parliamentary Library Briefing Book – 45<sup>th</sup> Parliament*, August 2016, [www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/BriefingBook45p/NDIS](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook45p/NDIS) (accessed 7 October 2021).

<sup>8</sup> National Foundation for Australian Women (NFAW), *Submission 11*, p. 6.

<sup>9</sup> NFAW, *Submission 11*, p. 36.

<sup>10</sup> Macdonald et al 2018, quoted in NFAW, *Submission 11*, p. 36.

- 90 per cent will be support workers—66 per cent home-based and 23.7 per cent community-based;
  - 7.4 per cent will be allied health workers; and
  - 3 per cent will be 'other'.<sup>11</sup>
- 5.13 The Health Services Union (HSU) submitted that approximately 80 per cent of workers in the disability sector are employed part-time and 40 per cent are employed on a casual basis—'and rising'.<sup>12</sup>
- 5.14 The Australian Services Union (ASU) confirmed these figures, adding:
- Many workers work irregular hours in multiple locations.
  - Many do not receive minimum legal compensation (including for time spent traveling between locations, and other essential job functions. ...
  - Staff turnover is extremely high: around 25 percent per year for the workforce, and over 35 percent per year among casual employees.
  - The average number of hours that employees work in a week is low and falling to just over 20 hours per week.
  - The workforce reflects a high concentration of women workers, and older workers: 70 percent are women, and 44 percent are 45 years or older.<sup>13</sup>
- 5.15 The gendered nature of job insecurity and low wages in disability care is similar to that in aged care. Australian Services Union (ASU) NSW & ACT Secretary, Ms Natalie Lang said:
- ... it is a significant issue that has led to the undervaluation of female dominated industries for many generations in this country ... a certificate III in disability support should be just as valuable as a certificate III in fitting and turning.<sup>14</sup>
- 5.16 Many NDIS workers are engaged in insecure work, across multiple sites and employers. Ms Lang suggested that the NDIS should be viewed as 'an entire scheme', but instead employment is becoming more fragmented. The funding model has led to 'a rise' in platform service providers employing different models based on the use of independent contractors, or casual employment models, that do not always facilitate consistent client/worker relationships.<sup>15</sup>
- 5.17 Like aged care, the disability care workforce is female-dominated. The NFAW said the NDIS is increasing casualisation in the disability care sector. The growth rate for the permanent disability care workforce was 1.3 per cent per

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<sup>11</sup> Dr Fiona Macdonald, *Submission 126*, p. 1.

<sup>12</sup> Health Services Union (HSU), *Submission 84*, p. 3.

<sup>13</sup> Australian Services Union (ASU), *Submission 33*, p. 16.

<sup>14</sup> Ms Natalie Lang, NSW & ACT Secretary, Australian Services Union (ASU), *Committee Hansard*, 12 April 2021, p. 5.

<sup>15</sup> Ms Lang, ASU, *Proof Committee Hansard*, 12 April 2021, pp. 5–6.

year; while the growth rate for the casual workforce was 26 per cent (in 2017).<sup>16</sup> It is estimated that less than 10 per cent of NDIS workers have permanent full-time jobs.<sup>17</sup>

5.18 Multiple job holding is common. The McKell Institute Victoria submitted 2020 survey data from the University of New South Wales which found 14 per cent of disability support workers 'currently worked for more than one employer', and 36 per cent 'had worked for two or more employers in the last 12 months' (28 per for two employers, 8 per cent for three or more).<sup>18</sup>

5.19 The workforce of the NDIA—the government agency that manages the NDIS—itself has a high proportion of labour hire and contractor roles:

At 30 June 2020, the total NDIS workforce was 11,550, including 4,396 [Australian Public Service] employees, 1,692 labour hire contractors and consultants, and 5,462 people employed by NDIA's partners.<sup>19</sup>

### **The contribution of the NDIS to insecure work**

5.20 A number of inquiry participants submitted that working conditions and job security have 'deteriorated' in the disability care sector because of the NDIS.<sup>20</sup>

5.21 Dr Fiona Macdonald from RMIT University submitted that insecure work among 'frontline disability support workers', who make up 90 per cent of the workforce, 'has grown and intensified under the NDIS', including with:

- growth in smaller service providers' use of casual employment arrangements;
- some larger service providers organising permanent part-time work as on-demand work;
- emergence and growth of digital platform and other third-party brokers/mediators of support labour and the use by these organisations of independent contracting models;
- individual NDIS participants' and registered and non-registered NDIS service providers' use of independent contracting arrangements for engaging disability support workers; and
- NDIS participants' direct employment of disability support workers.<sup>21</sup>

5.22 A report produced by the Australia Institute's Centre for Future Work in 2019, *Prearity and Job Instability on the Frontlines of NDIS Support Work*, concluded that:

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<sup>16</sup> NFAW, *Submission 11*, p. 37.

<sup>17</sup> Ms Lang, ASU, *Proof Committee Hansard*, 12 April 2021, pp. 5–6.

<sup>18</sup> McKell Institute Victoria, *Submission 86*, p. 9.

<sup>19</sup> NDIA Annual Report 2019–20, p. 43.

<sup>20</sup> See for instance: Maurice Blackburn Lawyers, *Submission 17*, p. 25.

<sup>21</sup> Dr Macdonald, *Submission 126*, p. 2.

Disability service workers are facing a whole new set of pressures arising from the NDIS's market-driven approach, including:

- Instability in work and income, associated with fluctuations in demand for work from individual participants.
- Unpaid work associated with traveling to and from clients, performing various overhead and administrative tasks, etc.
- Inadequacies in the NDIS's 'unit price' model of establishing cost parameters for particular care functions or services.
- An absence of institutional support for training, supervision, mentoring, and professional development (since agencies have few resources under the NDIS pricing system to provide these broader functions).
- High levels of staff turnover, made worse by the lack of training and support given to the new workers recruited to meet the rapid expansion in service delivery as the NDIS is rolled out.<sup>22</sup>

5.23 The Chief Executive Officer of the care services platform provider, Hireup—a platform that directly employs its workers—submitted:

... from my seat as the CEO of a large disability service provider I can see more general trends in the disability sector which worry me. Precarious work is increasing as the proportion of people formally employed by the traditional not-for-profit providers, and more modern, tech enabled providers like us, falls and the proportion of sole traders—or independent contractors—rises.<sup>23</sup>

5.24 The NFAW said while ethical employers continue to try and pay fair wages, dipping into their own reserves, many employers in the disability care sector are using strategies to try to cut costs and survive under the NDIS model, including:

- 'moving employees to different award classifications';
- limiting or changing the hours worked by individual employees 'to avoid the risk of a casual conversion occurring'; or
- circumventing the industrial relations framework 'altogether' by facilitating 'individual contracting' of workers by clients.<sup>24</sup>

5.25 Dr Macdonald said her research suggests the NDIS is designed in a way that is actively reshaping the workforce towards insecure, self-employment models. This is because 'an explicit goal for the NDIS' is to increase the proportion of recipients who manage their own funding; and those who manage their own

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<sup>22</sup> Professor Donna Baines, Dr. Fiona Macdonald, Dr. Jim Stanford, Jessie Moore, *Precurity and Job Instability on the Frontlines of NDIS Support Work*, The Centre for Future Work at the Australia Institute, September 2019, pp. 4–5, <https://apo.org.au/sites/default/files/resource-files/2019-11/apo-nid268796.pdf> (accessed 9 October 2021).

<sup>23</sup> Hireup, *Submission 23*, covering letter.

<sup>24</sup> NFAW, *Submission 11*, pp. 37–38.

funding are more likely to engage workers that are not employees, that is, independent contractors or directly employed support workers:

So, like other cash-for-care schemes that provide direct payments to people requiring care, the NDIS is designed to enable engagement of support workers without the involvement of a traditional service provider or employing organisation. ... As the proportion of self-managing and plan-managing NDIS participants grows there is likely to be growth in direct employment of support workers and engagement of workers as independent contractors.<sup>25</sup>

- 5.26 Hireup raised concerns about the proliferation of on-demand platforms leading to a 'race to the bottom' on wages and conditions for disability care workers, saying it is understandable that individual NDIS participants may choose to engage workers who charge under award wages. However, participants may not understand that the workers are missing out on 'entitlements, protections and award wages'.<sup>26</sup>
- 5.27 Mr Jordan O'Reilly, co-Founder and CEO of Hireup, cautioned that if the government does not move to regulate around on-demand platforms in the care sector, 'that's where the future will go—more and more independent contractors working in the disability sector', and the loss of stable, permanent jobs.<sup>27</sup>
- 5.28 Maurice Blackburn Lawyers was concerned that the information provided by government to potential NDIS service providers does not include 'any requirement that the organisation must have a good track record in satisfying employment and industrial relations requirements'. Not mentioned in materials at all, Maurice Blackburn argued that these requirements 'should be central to any government procurement process for the provision of services/staff'.<sup>28</sup>
- 5.29 Participants were also concerned that on-demand platforms in the disability care sector are 'shirking' responsibility for work health and safety (WHS). (This issue was covered at length in the committee's first interim report.) The current legal framework leaves some ambiguity around *who* bears the obligation to provide and maintain a safe working environment—a person with a disability

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<sup>25</sup> Dr Macdonald, *Submission 126*, pp. 2–3.

<sup>26</sup> Ms Jessica Timmins, Senior Director of Service, Hireup, *Proof Committee Hansard*, 12 April 2021, pp. 38–39.

<sup>27</sup> Mr Jordan O'Reilly, Chief Executive Officer and co-Founder, Hireup, *Proof Committee Hansard*, 12 April 2021, p. 40.

<sup>28</sup> Maurice Blackburn Lawyers, *Submission 17*, p. 25.



who engages a worker, the worker themselves, or the platform through which they are engaged.<sup>29</sup> The committee observed:

According to the current guidance, it appears conceivable that an individual person with a disability, engaging a worker through a platform using their NDIS funding could be considered a [person conducting a business or undertaking].<sup>30</sup>

5.30 While the committee acknowledges that NDIS participants should have the freedom to choose to be a PCBU, it is concerning that the current system may result in participants unknowingly becoming a PCBU, particularly in cases where participants would be unwilling to adopt that responsibility if given the choice.

### Impacts of insecure work

5.31 The HSU was concerned that care workers engaged through platforms or labour hire agencies—especially those who are independent contractors or sole traders:

... often lack consistent access to collegiate and managerial support and supportive environments; safe work practices and safety training; access to ongoing and paid professional development opportunities; and access to fair and adequate industrial and legal representation. Modes of engagement that subvert the traditional employment relationship do so at a cost to building a stable, highly skilled, well-resourced and supported workforce.<sup>31</sup>

5.32 Dr Macdonald warned that the current insecure employment arrangements have resulted in 'significant problems of insecurity and precarity' for workers, including:

... increased worker isolation, reductions in training, reductions in supervision, loss of opportunities for peer support, increased time pressures on workers and high levels of underemployment ... working time insecurity, income insecurity, employment and job insecurity and risks to health and safety. Insecure work under the NDIS carries unacceptable risks for workers and for people with disability as well as impacting on workforce sustainability.<sup>32</sup>

5.33 The committee was told about a growing body of international research which indicates that 'cash-for-care schemes' promoting independent contracting and direct employment arrangements 'produce very poor outcomes' for low-paid

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<sup>29</sup> Victorian Government Department of Premier and Cabinet, *Report of the Inquiry into the Victorian On-Demand Workforce*, June 2020 (Victorian on-demand workforce report), p. 116, <https://engage.vic.gov.au/inquiry-on-demand-workforce> (accessed 13 June 2021).

<sup>30</sup> Senate Select Committee on Job Security, *First interim report: on-demand platform work in Australia*, June 2021, p. 128.

<sup>31</sup> HSU, *Submission 84*, p. 4.

<sup>32</sup> Dr Macdonald, *Submission 126*, p. 2.

care workers and care recipients in the disability support and other care sectors. Poor outcomes are emerging, relating to:

- decreased employment security and substandard conditions;
- 'undermining workforce sustainability'; and
- increasing gender inequality in employment.<sup>33</sup>

5.34 Dr Macdonald was concerned that the NDIS is designed in a way that *relies* on insecure model of employment 'to achieve its objectives'. As such, Dr Macdonald considered it 'critical' that the government act to improve 'employment conditions and protections for current and future disability support workers ... through mechanisms available outside the NDIS and in the sphere of industrial regulation'.<sup>34</sup>

5.35 The ASU similarly stated that the 'signal feature of the community and disability sector is the precarity of employment'. The ASU said the community and disability sectors are 'unique' in that 'this feature of the sectors is a deliberate and indeed legislated policy of government'.<sup>35</sup>

5.36 The committee's views and proposals for reform are included in the next chapter of this report.

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<sup>33</sup> Dr Macdonald, *Submission 126*, p. 3.

<sup>34</sup> Dr Macdonald, *Submission 126*, p. 3.

<sup>35</sup> ASU, *Submission 33*, p. 10.

## Chapter 6

# Aged care and disability care: proposals for reform

- 6.1 This chapter considers evidence from providers, peak bodies, workers and their representatives, academics, and others on how to improve job security in aged care and the disability care sector. Proposed reforms are considered in light of their potential impacts—both positive and negative—on workers, care recipients, and providers of aged and disability care services.
- 6.2 The chapter considers the relative roles that providers, workers, unions, and government, as the primary funder of aged and disability care, need to play to bring about meaningful reforms. It concludes with the committee's views and recommendations.

### Aged care

#### *Inadequate 'working time security'*

- 6.3 A majority of inquiry participants—workers and their representatives, as well as aged care providers, academics and others—agreed that the way employment is currently structured in the aged care sector provides inadequate 'working time security' for a large proportion of workers.
- 6.4 As detailed in Chapter 2, only around 5 per cent of aged care workers who provide direct care are employed in permanent full-time positions; between 50 per cent (in the Home Care Packages Program) and 71 per cent (in residential care) are in permanent part-time positions; and between 32 per cent (across home care) and 19 per cent (in residential aged care) are casuals or fixed-term contractors (mostly casuals)—a further 2 to 5 per cent are estimated to be 'employed as agency staff or sub-contractors'.<sup>1</sup>
- 6.5 This means almost 95 per cent of direct care aged care workers are employed on either part-time, casual or agency contracts, with a large proportion of the

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<sup>1</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, pp. 14–15, [www.health.gov.au/resources/publications/2020-aged-care-workforce-census](http://www.health.gov.au/resources/publications/2020-aged-care-workforce-census) (accessed 11 September 2021). 2016 data: Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 67. The number of agency or sub-contractor staff is likely to be undercounted, as it relies on aged care provider responses to the 2020 survey, to which less than 50 per cent of residential providers responded and even lower percentages of home care providers.

part-time employees on low minimum-hours contracts, generally working more hours than they are contracted for.<sup>2</sup>

- 6.6 It is important to note that, under existing awards, these additional hours are 'paid at ordinary rates'<sup>3</sup>—in other words, these workers receive no over-time pay or casual loading.<sup>4</sup>
- 6.7 While the 2020 Census found casual rates between 19 and 32 per cent,<sup>5</sup> the use of casuals appears to be much higher in some parts of the aged care sector. For instance, not-for-profit aged care provider Bolton Clarke employs less than 10 per cent of its care staff as casuals; but at private, for-profit provider TriCare, over 30 per cent of staff are casuals.<sup>6</sup>
- 6.8 National Secretary of the Health Services Union (HSU), Mr Lloyd Williams, criticised the existing arrangements, arguing that workers in the sector 'need the security of known hours', predictable income and the ability 'to organise their lives'.<sup>7</sup>
- 6.9 HSU Aged Care Division Secretary, Ms Lauren Hutchins, asked; 'Why can't we have full-time workers in aged care?' It is true that providers want flexibility, but residents *need* continuity of care. Ms Hutchins said that if 'continuity of care' was a 'requirement in aged care, you would see more full-time workers' in the sector, delivering 'better outcomes for residents'.<sup>8</sup>

### How did we get here?

- 6.10 There were varying views among unions, workers and academics as to *why* providers use so many part-time contracted workers and casuals. However, most believed that there are two key reasons:
- (a) it is cultural—a historical legacy of the way the sector has evolved over time, perhaps related to the devaluing of the work as 'women's work'; and

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<sup>2</sup> Department of Health, 2016 National Aged Care Workforce Census and Survey, Canberra, 2017, pp. 24–25.

<sup>3</sup> Mr Lloyd Williams, National Secretary, Health Services Union (HSU), *Committee Hansard*, 13 April 2021, p. 10.

<sup>4</sup> Ms Lauren Hutchins, Aged Care Division Secretary, Health Services Union NSW/ACT/QLD (HSU), *Proof Committee Hansard*, 14 July 2021, p. 28.

<sup>5</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, pp. 14–15. 2016 data: Department of Health, *2016 National Aged Care Workforce Census and Survey*, Canberra, 2017, p. 67.

<sup>6</sup> Bolton Clarke, Answers to written questions on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), pp. 1–2; TriCare, Answers to questions on notice, public hearing, Canberra, 28 July 2021 and answers to written questions on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), pp. 1–3.

<sup>7</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 10.

<sup>8</sup> Ms Hutchins, HSU, *Proof Committee Hansard*, 14 July 2021, p. 32.

(b) as a way of trying to keep costs down in order to deliver care within inadequate budget allocations.

6.11 Ms Melissa Leahy, Chief People Officer of Bolton Clarke, pointed out the irony that, while 'the nature of aged care work' requires 'a secure and permanent workforce', the sector has failed to adopt 'practices that lead to a secure workforce'. Instead, there is 'a history in the sector of the following practices':

- Employing a high percentage of casuals and adopting a 'try before you buy' approach
- Staff progressing through from casual, to minimum hours contract, to increased hours contracts over time
- Minimum hour contracting practices as a standard approach with rostered hours not reflecting contract hours
- Hours worked above minimum hour contracts do not attract any penalties, effectively using a permanent part time workforce as casuals.<sup>9</sup>

6.12 According to the HSU, the insecure and precarious employment models that dominate aged care are primarily a 'cultural hangover' and don't really benefit providers long-term. However, in the short-term providers may benefit from 'having a highly compliant workforce' that can be flexed up and down—'like a casual workforce with seven days notice' and no requirement to pay a 25 per cent casual loading.<sup>10</sup>

6.13 Mr Gregory Reeve, Chief Executive Officer (CEO) of Heritage Care, said the models developed over time, were designed around students and visa holders who are limited to working 40 hours per fortnight. However, Mr Reeve said 'at this point in history' this is 'not where I want us to be':

I believe in working with the unions and the people on having a core group of at least 70 to 80 per cent of full-time equivalent staff in each home who have the capacity to belong to what they see is a community and the certainty and surety of full-time employment. The spin-off of that is to the benefit of the residents, the local community, the staff members and, frankly, the organisation.<sup>11</sup>

6.14 Explaining why providers might adopt these practices, Ms Leahy said providers are 'impacted by':

- Low wages and insufficient funding to aged care organisations (employers) to make any meaningful changes ... keeping overheads and wage costs within externally determined funding parameters that do not keep pace with real costs of providing care (including appropriately remunerating staff)

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<sup>9</sup> Ms Melissa Leahy, Chief People Officer, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 21.

<sup>10</sup> Ms Hutchins, HSU, *Proof Committee Hansard*, 14 July 2021, p. 28.

<sup>11</sup> Mr Gregory Reeve, Chief Executive Officer, Heritage Care, *Proof Committee Hansard*, 28 July 2021, p. 38.

- Highly mobile workforce focussed on customer care rather than a sense of loyalty to any one organisation
- A large number of employees choosing to work as a casual for penalties or choosing to work multiple jobs to make ends meet
- Poor workforce planning, rostering and scheduling systems and capability in a highly complex environment
- Skills shortage with an insufficient pipeline of new graduate talent and pool of experienced hires, further impacted by current sector perception and COVID-19 pandemic.<sup>12</sup>

6.15 In the long-term, HSU National President, Mr Gerard Hayes said the model is inefficient, forcing providers to run the same training multiple times, adding administrative burden and reducing the quality of care: 'Why wouldn't you want to enhance and support the people that you've got working for you?'<sup>13</sup>

6.16 Ms Carolyn Smith from the United Workers' Union (UWU) in Western Australia (WA) suggested the employment practices 'go to the skinniness of the funding model':

... if a resident dies and a bed is empty for a week, we don't want to have to employ people. ... If, literally, the week or two that it takes to fill a bed is going to wreck the budget, that's a real problem. So having a funding model that allows for that sort of thing I think is incredibly important.<sup>14</sup>

6.17 Providers use large numbers of low-hours part-time workers (as opposed to smaller numbers of full-time workers) to manage costs within very tight budgets:

Providers will staff to the minimum hours they need. The mornings are really busy because people are getting out of bed, being showered, having breakfast and having their medications, so the providers want the majority of people working from six in the morning to maybe 12. Things get—not quiet, because it's never quiet in aged care, but they're not as hectic. They do not want to employ a person for an hour where they're not running. I think that is really why that model is used.<sup>15</sup>

6.18 This theory was supported by evidence from Professor Sara Charlesworth at RMIT University, who described it as 'an employer strategy': 'If you keep workers hungry for hours, you know that they are less likely to call in sick... You've got a very minimum amount of sick leave if you're a permanent part-time worker, so you're very reluctant to lose hours'.<sup>16</sup> Similarly, the HSU

<sup>12</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 21.

<sup>13</sup> Mr Gerard Hayes, National President, HSU, *Proof Committee Hansard*, 14 July 2021, p. 28.

<sup>14</sup> Ms Carolyn Smith, Aged Care Director, United Workers Union (Western Australia) (UWU), *Proof Committee Hansard*, 28 July 2021, pp. 16–17.

<sup>15</sup> Ms Smith, UWU, *Proof Committee Hansard*, 28 July 2021, p. 15.

<sup>16</sup> Professor Sara Charlesworth, Work, Gender and Regulation, School of Management, and Director, Centre for People, Organisation and Work, College of Business, RMIT University, *Committee Hansard*, 19 April 2021, p. 26.

said keeping workers on minimum-hours contracts means they are 'far more likely to behave and be compliant'.<sup>17</sup>

6.19 Mr Collins from the HWU submitted that this form of precarious work was the 'business model' of many aged care providers, who 'manipulate the hours' to keep workers 'lean and mean'.<sup>18</sup>

6.20 Bolton Clarke submitted that its 20-hour per fortnight minimum-hour contracts are 'directly related to the RSL Care Enterprise Agreement which is the historic industrial instrument applicable to QLD and NSW'.<sup>19</sup> Despite the low-hours contracts, Ms Leahy said, 'employees do work regular and systematic hours', with 'ninety percent ... working, on a regular basis, more hours than those minimum-hour contracts ... once employees are working and settled'.<sup>20</sup>

6.21 Ms Leahy added that the status quo is upheld by legacy IT platforms and poor rostering practices. When someone leaves the organisation, their shifts are broken up and distributed to existing workers, and new workers are offered the same low-hours contracts—thus the system of insecure work is perpetuated.<sup>21</sup>

6.22 The HSU argued this legacy model is no longer appropriate, if it ever was:

In this day and age, when we have an ageing population and when many aged-care facilities cannot handle the demand that's currently there, there's no reason at all to have minimum-hours contracts or indeed have people working across three or four sites to make ends meet when they could have a full-time job in one particular site, which, from a safety point of view, particularly in this period, would be a far better thing to be doing and a far better business model.<sup>22</sup>

### How can we fix it?

6.23 Regardless of *how* these practices evolved, there was a general consensus that it would be very difficult for providers to change them without some wider reform—most likely through regulation and the provision of additional funding.

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<sup>17</sup> Mr Hayes, HSU, *Proof Committee Hansard*, 14 July 2021, p. 27.

<sup>18</sup> Mr Collins, HWU, *Committee Hansard*, 19 April 2021, p. 9.

<sup>19</sup> Bolton Clarke, Answers to written questions on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), p. 2.

<sup>20</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 22.

<sup>21</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 24.

<sup>22</sup> Mr Hayes, HSU, *Proof Committee Hansard*, 14 July 2021, p. 27.

*The role of providers*

6.24 CEO of the Aged Care Industry Association (ACIA), Mr Luke Westenberg, said providers *want* to give staff 'more hours', 'if there were capacity in the system to enhance staffing'.<sup>23</sup> However, there is not currently the funding:

... over time, the increase in the indexation of funding has failed to match the increase in the cost of staffing or services. So there has therefore been—and a number of reports demonstrate this—increasing pressure on the providers to continue to pay appropriate and attractive wages to their staff within the funding envelope, but in real terms it is not increasing as rapidly as pay scale.<sup>24</sup>

6.25 Representatives from the Aged Care Services Association (ACSA) observed that it may seem paradoxical that providers say they cannot get enough workers, while individual workers say they are unable to get enough hours. ACSA CEO, Ms Patricia Sparrow, said:

Sometimes our providers will say they want to offer more hours, but the workers aren't necessarily there to take the hours. That might be to do with an overall lack of staff available, but sometimes what we hear providers say and what the workers themselves are saying don't quite add up, so I think there is further unpacking to do there. I think that the fact that we are struggling financially adds to that.<sup>25</sup>

6.26 Executive Director of ASCA, Mr Malcolm Larsen said location may be a factor, with members reporting that 'in regional, rural and remote Australia it's far more difficult, at times, to fill employment positions'.<sup>26</sup>

6.27 Bolton Clarke submitted that it has been 'working proactively with union representatives' to 'remove' the practice of minimum-hours contracting, recently agreeing on 'a process to review worked hours against contract hours annually or at the request of an employee'. Bolton Clarke said it anticipates 'improved rostering systems will allow [it] to move away from the practice of minimum hour contracting over time'.<sup>27</sup>

6.28 Professor Charlesworth noted that employers are 'currently pushing the federal government to introduce the Pacific Labour Scheme', in order to bring women from the Pacific Islands to work in aged care in Australia, 'on the grounds that we simply don't have enough aged-care workers'. Providing

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<sup>23</sup> Mr Luke Westenberg, Chief Executive Officer, Aged Care Industry Association (ACIA), *Committee Hansard*, 21 April 2021, p. 11.

<sup>24</sup> Mr Westenberg, ACIA, *Committee Hansard*, 21 April 2021, p. 10.

<sup>25</sup> Ms Patricia Sparrow, Chief Executive Officer, Aged & Community Services Australia (ACSA), *Committee Hansard*, 19 April 2021, p. 30.

<sup>26</sup> Mr Malcolm Larsen, Executive Director, Government and Public Affairs, ACSA, *Committee Hansard*, 13 April 2021, p. 33.

<sup>27</sup> Bolton Clarke, Answers to written questions on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), pp. 1–2.



more secure, full-time jobs, and part-time jobs with more hours, could help avoid the need for more migrant workers in the sector—though wages would still likely need to be increased.<sup>28</sup> Wages are addressed further on this chapter.

- 6.29 Mr Ray Collins, Industrial Organiser from the Health Workers Union (HWU) in Victoria suggested providers are deeply wedded to current practices. When the HWU tried to work with providers to stop multiple-site work during the COVID outbreaks in Victoria during the second wave, providers were resistant and didn't understand how it could work.

They couldn't make any sense of it, because they originally said, 'How would that work? You won't be able to do that.' I said, 'No; I may not be able to because we have to tell the members that we're going to cut their hours back.' In the end, with negotiation, the employer groups—the guild, as such—and the federal government came to the realisation, in respect of the spread, that it was the way to go, and it worked.<sup>29</sup>

- 6.30 The HWU impressed upon the committee that if single-site employment can work during COVID, it should be able to work all the time: Why 'have people working across three, four or five sites as casuals ... give them permanent' work at one site.<sup>30</sup>

#### *A role for regulation*

- 6.31 A number of inquiry participants argued that the current employment practices in aged care that cause working time insecurity will not change without government intervention.
- 6.32 The UWU supported the development of a regulatory framework for aged care providers to move to 'more secure jobs'. Coordinator of Member Power at the UWU, Ms Ffion Evans said 'one job should be enough for every worker in aged care'. By providing more full-time and higher-hours contracts, and reducing casual shifts, providers could 'easily' create more secure jobs—which is what 60 per cent of workers surveyed by the union want.<sup>31</sup>
- 6.33 Mr Williams (HSU) said providers will not 'organically' move to employing more people on a full-time permanent basis because the 'funding models are so tight'. There is a need 'to regulate the staffing arrangements' because, without regulation, 'there will always be an incentive for employers to put profit before the care outcomes which the aged-care royal commission has identified and to carve up hours to save costs'.<sup>32</sup>

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<sup>28</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 27.

<sup>29</sup> Mr Ray Collins, Industrial Organiser, Health Workers Union (HWU), *Committee Hansard*, 19 April 2021, p. 7.

<sup>30</sup> Mr Collins, HWU, *Committee Hansard*, 19 April 2021, p. 7.

<sup>31</sup> Ms Ffion Evans, Coordinator, Member Power, UWU, *Committee Hansard*, 19 April 2021, p. 12.

<sup>32</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 10.

- 6.34 The HSU urged the committee to recommend that the Australian Government support both wage increases and changes to provider reporting requirements. Ms Hutchins said:

... it's not just good enough to report on minutes of care; we have to look at the breakdown in terms of the roster—how many people are delivering that care?—so you can look at an average, or employers must produce a breakdown of their workforce and the hours being worked, by individual, so there is some understanding of what is actually happening in aged care.<sup>33</sup>

- 6.35 Ms Leahy said providers struggle to balance 'consumer needs with employee needs', and that 'standards should be set by government and should be enforced by government', with 'a level of flexibility in how we apply different practices for both the workers and the clients'.<sup>34</sup>

- 6.36 Professor Charlesworth reported that the government in New Zealand has recently made a number of changes to aged care, including: wage increases; introducing 'a mechanism for guaranteed hours'; payment 'for client cancellations'; and 'an availability allowance'. While it is leading to positive outcomes, Professor Charlesworth noted that 'the national government there didn't fund it quite enough, so there've been some teething problems'.<sup>35</sup>

- 6.37 Dr Katherine Ravenswood from Auckland University of Technology, who appeared in a private capacity, confirmed that the wage increases in New Zealand have 'made a huge difference to ... workers' lives', allowing workers to 'afford to go to the GP or to maybe have a day off to spend time with grandchildren'. However, New Zealand's care and support workers 'still experience job insecurity'. While wages have improved, workers continue to report 'irregular weekly hours', 'fluctuating weekly rosters', 'financial instability' and 'underemployment'. Dr Ravenswood argued this is due to the 'failure to remove historic, ongoing gender discrimination from the system'.<sup>36</sup>

- 6.38 The Queensland Nurses and Midwives Union (QNMU) said the problem of working time insecurity could be solved by mandating over-time rates for hours worked over contracted hours:

In terms of the solution, if employers were required to pay overtime to part-time staff for any hours in excess of their contracted hours, then employers, in order to avoid paying the overtime, would increase the contracted hours to the number of hours that they actually want their

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<sup>33</sup> Ms Hutchins, HSU, *Proof Committee Hansard*, 14 July 2021, p. 32.

<sup>34</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 24.

<sup>35</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 25.

<sup>36</sup> Dr Katherine Ravenswood, Private capacity, *Proof Committee Hansard*, 28 July 2021, pp. 8–9.

employees to work. The payment of overtime in excess of contracted hours would essentially solve the problem.<sup>37</sup>

*Amend the awards*

- 6.39 Aged care workers are generally employed under either the *Aged Care Award 2010*, the *Social, Community, Home Care and Disability Services Industry Award 2010* or the *Nurses Award 2010*.
- 6.40 In 2012 the Fair Work Commission issued an Equal Remuneration Order (ERO) for the *Social, Community, Home Care and Disability Services Industry Award*, which provided pay increases of between 23 per cent and 45 per cent over a period between 2012 and 2020, in recognition of the gendered nature of low pay in those sectors.<sup>38</sup>
- 6.41 Australian Services Union (ASU) Victorian and Tasmanian Branch Secretary, Ms Lisa Darmanin said the ERO 'was in recognition of the low levels of bargaining in the sector, and the sector still doesn't bargain: 80 per cent of workers are not on enterprise agreements'. Ms Darmanin added that if the bargaining issue is not addressed, workers in care sectors will continue to slip behind: 'you can't run an equal pay case every 10 years to fix a wage gap'.<sup>39</sup>
- 6.42 The HSU NSW/ACT/QLD submitted that, aside from acknowledging that part-time employees 'may agree to additional hours', the *Aged Care Award* 'is silent' on the topic of working additional hours above those contracted, and 'lacks provisions to facilitate the monitoring of hours actually worked by part-time workers'. The Award provides no additional compensation for hours worked over those contracted—no loading or penalty rates, and no compensation if these are suddenly cut.<sup>40</sup>
- 6.43 The QNMU commented<sup>41</sup> on a case currently in progress at the Fair Work Commission: the Work value case—Aged Care Industry. The case, which is set to be heard at the Commission on 6 and 7 July 2022, involves applications by three unions and their members to vary the *Aged Care Award 2010* in relation to:
- Clause 14.1 Minimum wages—Aged Care Employee; and

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<sup>37</sup> Mr Kevin Crank, Industrial Officer, Queensland Nurses and Midwives Union (QNMU), *Proof Committee Hansard*, 14 July 2021, p. 35.

<sup>38</sup> Fair Work Australia, *Social, Community and Disability Services Industry Equal Remuneration Order 2012*, <https://www.fwc.gov.au/documents/awardsandorders/html/pr525485.htm> (accessed 9 October 2021).

<sup>39</sup> Ms Lisa Darmanin, Branch Secretary, Victorian and Tasmanian Branch, Australian Services Union (ASU), *Committee Hansard*, 20 April 2021, p. 58.

<sup>40</sup> HSU NSW/ACT/QLD, *Submission 198*, p. 1.

<sup>41</sup> Mr Crank, QNMU, *Proof Committee Hansard*, 14 July 2021, p. 35.

- Schedule B—Classification definitions.<sup>42</sup>
- 6.44 As part of the case, the Fair Work Commission has requested information from the Commonwealth as to what wage increases it is 'willing to fund'. Mr Crank said the QNMU believes it is 'very important' the Australian Government commits to fully fund 'any wage increases awarded by the Fair Work Commission' as a result of this and other cases: 'We also have applications before the Fair Work Commission for 25 per cent wage increases in the Nurses Award and the Aged Care Award'.<sup>43</sup>
- 6.45 The HSU NSW/ACT/QLD submitted that job security in aged care could be achieved by:
- Increasing the rates of pay for aged care workers in line with the HSU's Work Value Case before the Fair Work Commission to ensure that workers earn a wage that doesn't force them to work for multiple employers and is appropriate to the value of the work being performed;
  - Amending the relevant industry awards to include a minimum part time engagement of 20 hours per week, while allowing workers to enter into genuine flexible work arrangements with their employer should their personal circumstances mean they need to work less than this minimum;
  - Amending the relevant industry awards to include a six-monthly review of part-time hours, and where additional hours beyond contracted hours are being performed on a regular basis, employers should be required to amend contracted hours accordingly;
  - Requiring all recipients of federal aged care and [National Disability Insurance Scheme] NDIS funding (residential and home care), as part to their accreditation and/or registration, to provide evidence that all work performed in the delivery of services is paid in accordance with the relevant award;
  - Increasing regulation on aged care and NDIS platform businesses to ensure that at least award rates are paid, worker and client safety is ensured, and both aged care and NDIS quality and safety standards are being met.<sup>44</sup>

### *Increase direct, permanent employment*

- 6.46 Aged care providers said they use casual employees mainly to cover for planned and unplanned absences. However, for-profit provider TriCare reported that over 30 per cent of its staff are casuals.<sup>45</sup>

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<sup>42</sup> Fair Work Commission, *Work value case—Aged Care Industry*, [www.fwc.gov.au/cases-decisions-orders/major-cases/work-value-case-aged-care-industry](http://www.fwc.gov.au/cases-decisions-orders/major-cases/work-value-case-aged-care-industry) (accessed 14 September 2021).

<sup>43</sup> Mr Crank, QNMU, *Proof Committee Hansard*, 14 July 2021, p. 35.

<sup>44</sup> HSU NSW/ACT/QLD, *Submission 198*, p. 8.

<sup>45</sup> Bolton Clarke, Answers to written questions on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), pp. 1–2; TriCare, Answers to questions on notice, public hearing, Canberra,

- 6.47 Not-for-profit provider, Bolton Clarke reported having recently reduced its casual workforce from around 20 per cent to around 10 per cent, which Ms Leahy said is Bolton Clarke's 'ideal casual number'. Without sufficient availability of casuals, Bolton Clarke reported that it has to rely on agency staff, which is not its 'preference'.<sup>46</sup>
- 6.48 At a hearing, Ms Leahy said Bolton's Clarke's casual employees had an average tenure of around two years with the organisation.<sup>47</sup> However, on notice, Bolton Clarke submitted that the actual average length of service for its casual employees is 4.57 years.<sup>48</sup> This indicates that casual staff are not simply 'filling in'—they are a long-standing, critical part of any aged care workforce.
- 6.49 Per Capita proposed that more direct employment is needed in aged care to maintain quality, because in a 'third-hand' employment arrangement 'the responsibility for the performance and development of the workforce is not within the employer's remit':
- By outsourcing the recruitment and retention of staff, it makes it very difficult, if not impossible, I would say, for there to be a standardised national accreditation system that is monitored and provided directly by employers to their staff and where the development of staff and their ability to meet those standards is monitored directly through the direct employment relationship.<sup>49</sup>
- 6.50 Professor Charlesworth said that Ms Lynelle Briggs AO, one of the Aged Care Royal Commissioners, 'recommended that aged-care workers be directly employed'—a recommendation the professor thinks is 'absolutely crucial'.<sup>50</sup>
- 6.51 Mr Westenberg said providers in the industry generally prefer the idea of workers engaged on a permanent basis, if it can 'be managed in such a way that it was able to meet operational needs and requirements of the residents'.<sup>51</sup> Similarly, Ms Leahy said Bolton Clarke wants its staff to 'transition into permanent part-time or full-time work over time'. However, low wages and challenging workloads are a disincentive: 'We talk about the shortage in labour

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28 July 2021 and answers to written questions on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), pp. 1–3.

<sup>46</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 26.

<sup>47</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 26.

<sup>48</sup> Bolton Clarke, Answers to written questions on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), p. 1.

<sup>49</sup> Ms Emma Dawson, Executive Director, Per Capita, *Committee Hansard*, 19 April 2021, p. 20.

<sup>50</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 28.

<sup>51</sup> Mr Westenberg, ACIA, *Committee Hansard*, 21 April 2021, p. 11.

and workforce coming through the pipeline, but really, as a sector, what we need to be focusing on are retention initiatives'.<sup>52</sup>

### Casual conversion

6.52 Casuals in aged care commonly work for many years with the same employer.<sup>53</sup> However, workers may not *want to*—or may not *be able to*—convert from casual to permanent.

6.53 Mr Williams explained that existing casual conversion provisions frequently do not apply in the case of aged care workers, because 'it's all shiftwork' and 'employers have a lot of scope to change and mix the hours'.<sup>54</sup> This means workers can easily fail the test of working 'a regular pattern of hours'.<sup>55</sup>

6.54 The Australian Nursing and Midwifery Federation (ANMF) said that, in its view, changes made to the *Fair Work Act 2009* by the *Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Act 2021* are 'likely to increase the number of casual employees, rather than encourage employers to offer permanent work at the time of engagement'. The ANMF argued that the casual conversion provisions in the Act 'are not adequate':

The ANMF is particularly concerned about the impact new s15A [which defines the meaning of a 'casual employee'] may have in the aged care sector. Consistency of care provision in residential care is an important factor in ensuring quality and safe care can be delivered; staff who are familiar to residents and who know residents are better able to care for those residents.<sup>56</sup>

6.55 Mr Collins said employers want to retain their casual workforce. The HWU often adds casual conversion clauses into enterprise agreements it negotiates with providers—'where, if you work a certain amount of hours over a period of time on a regular systemic roster, you can convert to part time'—but the union finds these clauses are 'not complied with'. Inevitably, Mr Collins said, the employer 'will indicate an excuse and break the chain so they don't get converted to part time or, subsequently, full time'.<sup>57</sup>

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<sup>52</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 26.

<sup>53</sup> For instance, the average length of service for casual employees at Bolton Clarke is 4.57 years. Bolton Clarke, Answers to written questions on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), pp. 1–2.

<sup>54</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 12.

<sup>55</sup> Fair Work Ombudsman, 'Employers offering casual conversion', *Becoming a permanent employee*, [www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/casual-employees/becoming-a-permanent-employee](http://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/casual-employees/becoming-a-permanent-employee) (accessed 14 September 2021).

<sup>56</sup> ANMF, *Submission 27*, p. 11.

<sup>57</sup> Mr Collins, HWU, *Committee Hansard*, 19 April 2021, p. 6.

6.56 Mr Kevin Crank from the QNMU said that even if *some* casuals in aged care do benefit from casual conversion, that will not help 'the vast bulk of the aged care workforce', which 'is labelled as permanent part-time but treated as casuals'—'they'll get no benefit whatsoever from the casual conversion provisions in the legislation'.<sup>58</sup>

### *Increase wages*

6.57 Without an increase in wages, inquiry participants argued that initiatives to increase job security in aged care would likely fail.

6.58 Ms Hutchins explained that even if providers offered full-time rosters 'with complementary part-time workers', on the current wages, full-time workers would 'have to supplement their income elsewhere':

If you're still on \$23 an hour and you're living in a metropolitan area, that's not going to be enough. We need better rosters, full-time rosters, **plus a wage increase** so that workers can stay in one job, and it can be a good job that delivers for them and delivers for residents.<sup>59</sup>

6.59 According to Professor Eagar, the Royal Commission recognised that wages in aged care are 'substantially' lower than they need to be 'for attracting and retaining the workforce we need'.<sup>60</sup>

6.60 This section considers proposals for how to achieve wage increases in aged care in a way that would build secure jobs for the future.

### **The role of providers**

6.61 Ms Sparrow said the members of ACSA would like to pay higher wages but simply cannot: 'The funding that we receive to deliver services is less than the value of the service that we provide'.<sup>61</sup> While ACSA believes the workforce is 'undervalued', and this needs to be addressed, it is 'very difficult' for providers to "balance the books":

By way of illustration, currently, 64 per cent of all residential-care facilities are operating at a loss, and that rises to a whopping 78 per cent of all rural and remote residential-care facilities in the bush. So it makes it very difficult for us to increase salaries and pay these workers what we think they are worth.<sup>62</sup>

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<sup>58</sup> Mr Crank, QNMU, *Proof Committee Hansard*, 14 July 2021, p. 37.

<sup>59</sup> Ms Hutchins, HSU, *Proof Committee Hansard*, 14 July 2021, p. 32. Emphasis added.

<sup>60</sup> Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, p. 38.

<sup>61</sup> Ms Sparrow, ACSA, *Committee Hansard*, 19 April 2021, p. 29.

<sup>62</sup> Ms Sparrow, ACSA, *Committee Hansard*, 19 April 2021, p. 29.

6.62 Similarly, Mr Westenberg said 'an increasing proportion of providers are running at a loss operationally'—'not an environment conducive to increasing wages'.<sup>63</sup>

6.63 Mr Westenberg pointed to surveys that show aged care employers 'would be very happy to support an increase in wages', but only 'if given an increase in funding':

I know that members do seek to provide appropriate individualised arrangements for their workplace. I think it's also certainly true that one of the constraints upon further increases in wages is the funding envelope...<sup>64</sup>

6.64 Ms Leahy observed that the minimum wage 'increased in total by 13.95 per cent' between 2016 and 2020, while the Aged Care Funding Instrument 'increased by 5.5 per cent' over the same time period:

... so aged-care providers are becoming more and more challenged to meet wage expectations. The wages in our enterprise agreement have eroded against the federal minimum wage increases over the last five years.<sup>65</sup>

6.65 Mr Reeve said Heritage Care is working on a new Enterprise Agreement 'with the unions' in NSW and Victoria, and while he strongly believes the care staff 'are deserving of a significant increase in salary or hourly rates',<sup>66</sup> current funding makes it very difficult to achieve that. The added imposition of COVID regulations and requirements (for good reasons) has further exacerbated the situation, according to Mr Reeve, adding an estimated '\$7.50 per resident per day in unfunded costs'—making it even harder for providers to offer any payrises independently of funding increases.<sup>67</sup>

6.66 Mr Westenberg said aged care providers and staff 'do their best every day to provide excellent care within the regulatory and funding structure within which we operate'.<sup>68</sup>

6.67 However, Mr Crank claimed that private providers *could* pay more. They are driven to keep wages low by their need to make a profit. Mr Crank said carers employed in the public sector are 'typically ... paid more for the same work':

That gap is exaggerated in aged care, where the gap between what a nurse performing aged-care work in the public sector in Queensland, which happens—there are aged-care facilities run by the Queensland government, for example, who are staffed by employees working for

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<sup>63</sup> Mr Westenberg, ACIA, *Committee Hansard*, 21 April 2021, p. 12.

<sup>64</sup> Mr Westenberg, ACIA, *Committee Hansard*, 21 April 2021, p. 9.

<sup>65</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 23.

<sup>66</sup> Mr Gregory Reeve, Chief Executive Officer, Heritage Care, *Proof Committee Hansard*, 28 July 2021, p. 36.

<sup>67</sup> Mr Reeve, Heritage Care, *Proof Committee Hansard*, 28 July 2021, p. 40.

<sup>68</sup> Mr Westenberg, ACIA, *Committee Hansard*, 21 April 2021, p. 9.



Queensland Health. Those public sector employees are paid dramatically better than nurses working in private aged care and have dramatically more employment security in the public sector for nursing in aged care compared to the private sector.<sup>69</sup>

- 6.68 State-run aged care may have better wages and better job security, and have handled COVID better too, but Professor Charlesworth pointed out that 'public sector involvement in aged care ... sits at only 10 per cent'. While the majority of funding comes from government, the aged care sector is predominantly *run by* for-profit and not-for-profit providers.<sup>70</sup>
- 6.69 However, the Commonwealth Government is 'effectively the lead employer in the sector', as it provides the funding. Professor Charlesworth said this gives the Commonwealth 'a great opportunity to actually address job insecurity' in aged care: 'You can't say that for retail and you can't say that for hospitality, but the federal government is in the box seat to actually do something about job insecurity in the sector'.<sup>71</sup>

### **The role of government**

- 6.70 All participants agreed the system is underfunded. In January 2020, Ms Sparrow commented that Australia's expenditure on aged care is 'at the bottom of the barrel' compared with other OECD countries<sup>72</sup> at 1.2 per cent of GDP,<sup>73</sup> and Professor Charlesworth said 'we will certainly have to spend more money' to reach an adequate standard of care. Asked if Australia should increase taxes if necessary to cover the additional funding, Professor Charlesworth said:

Yes. It's a public good. Aged care, child care, disability—they're all public goods. These are something that government provides, and it is absolutely different in every quality from other goods and services.<sup>74</sup>

- 6.71 Mr Hayes from the HSU said the \$17 billion the government has promised over the next four years to reform aged care is welcome, but it is not enough—the numbers 'just don't add up to really what it needs if we're fair dinkum about trying to fix this'. The \$17 billion allocated is split over residential and

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<sup>69</sup> Mr Kevin Crank, Industrial Officer, Queensland Nurses and Midwives Union (QNMU), *Proof Committee Hansard*, 14 July 2021, p. 35.

<sup>70</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 24.

<sup>71</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 24.

<sup>72</sup> OECD = Organisation for Economic Co-operation and Development. Professor Charlesworth said the average was around 1.8 per cent. *Committee Hansard*, 19 April 2021, p. 27.

<sup>73</sup> Ms Patricia Sparrow quoted in Sandy Cheu, 'Australia spending less than international counterparts', *Australian Ageing Agenda*, 29 January 2020, [www.australianageingagenda.com.au/royal-commission/australia-spending-less-than-international-counterparts/](http://www.australianageingagenda.com.au/royal-commission/australia-spending-less-than-international-counterparts/) (accessed 14 September 2021).

<sup>74</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 27.

home care, and Mr Hayes pointed to economic modelling which says \$20 billion is required *just* to 'deal with' residential aged care:

[T]hat would give a 25 per cent pay increase, which would effectively be \$5, it would promote an extra 59,000 jobs within the Australian communities and it would promote an extra 90 minutes of direct care hours. That's what it would take over a four-year period to get to that level.<sup>75</sup>

- 6.72 According to Ms Hutchins, a 0.5 per cent increase in the Medicare Levy 'would fully fund residential aged care' to the minimum standard.<sup>76</sup> Research conducted by Monash University 'indicated, overwhelmingly, that people were ... prepared to kick in'.<sup>77</sup>
- 6.73 The HSU NSW/ACT/QLD submitted that this reform would lift quality by attracting more carers to the sector and 'retaining a caring and skilled workforce by lifting wages above the minimum wage': 'High quality, safe and decent care for older Australians can be achieved if we can agree as a society to lift the Medicare Levy from its current level of 2 per cent to 2.5 per cent'.<sup>78</sup>
- 6.74 Per Capita argued for a 'care-led recovery' from COVID-related economic downturns. The proposal would see government stimulus directed towards investment in health care and social assistance, which Per Capita argued has been shown to provide 'a significant return in creating jobs not only in that sector but more broadly and an economic return that exceeds similar investment in the construction sector by two to one'.<sup>79</sup>
- 6.75 Ms Leahy said 'minimum wages need to be reflected in the award' and 'flow into' enterprise agreements. Providers need to balance competing demands— from improving the quality of food, of cleaning *and* of staff numbers—so if 'we want to get that funding through to our frontline employees, I think we need to see that in the awards'.<sup>80</sup>
- 6.76 Ms Smith pointed out that a rise in wages, while critical, would not necessarily address income insecurity without other measures; as workers may still not be able to secure enough shifts to make a living wage.<sup>81</sup>
- 6.77 Dr Ravenswood submitted that an inherent problem in aged care is fragmentation—of the system and of regulation. The solution in Australia, as

<sup>75</sup> Mr Hayes, HSU, *Proof Committee Hansard*, 14 July 2021, p. 27.

<sup>76</sup> Ms Hutchins, HSU, *Proof Committee Hansard*, 14 July 2021, p. 32.

<sup>77</sup> Mr Hayes, HSU, *Proof Committee Hansard*, 14 July 2021, p. 32.

<sup>78</sup> HSU NSW/ACT/QLD, *Submission 198*, p. 2.

<sup>79</sup> Ms Dawson, Per Capita, *Committee Hansard*, 19 April 2021, pp. 19–20.

<sup>80</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 24.

<sup>81</sup> Ms Smith, UWU, *Proof Committee Hansard*, 28 July 2021, p. 15.

in New Zealand, is to make the system 'less complicated and ... less fragmented'; that is to standardise it. Dr Ravenswood argued for an over-all increase to aged care funding, standardised funding mechanisms, 'enforceable minimum standards', and standardised 'health accreditation of aged care providers' across the nation.<sup>82</sup>

### *Mandate staffing levels*

6.78 The Department of Health does not mandate minimum staffing levels for residential aged care in Australia. The Aged Care Quality Standards currently require all aged care services 'to have and use a skilled and qualified workforce, sufficient to deliver and manage safe, respectful, and quality care and services'.<sup>83</sup>

6.79 A number of inquiry participants argued that without clear, measurable and enforceable minimum staffing levels, providers could continue to understaff their facilities—even if funding were increased.

6.80 The QNMU advocated for 'legislated minimum ratios and skill mix across all sectors, including aged care to ensure that members can deliver safe and effective care'.<sup>84</sup>

6.81 Dr Ravenswood said 'enforceable minimum standards are important'. Options for enforcing minimum staffing levels include through procurement policy and/or accreditation. That is, government could mandate a 'minimum amount' of expenditure on staff in its procurement tenders. It could also make minimum staffing levels a requirement for accreditation:

That procurement, if it was specific to the aged-care sector, could also very specifically include safe staffing levels and safe workloads, which makes it easier to monitor and easier to report on.<sup>85</sup>

6.82 The HSU commented that the *makeup* of the workforce is also critical:

... so that you have the right amount of carers, the right amount of allied health professionals, the right amount of nurses, the right amount of doctors visiting and so forth becomes a good outcome for a resident. Otherwise, if we just say the word 'ratio', it doesn't really get into the detail of what we need to get a positive outcome for people in aged care.<sup>86</sup>

6.83 Ms Hutchins said that the Government's response to the aged care royal commission 'actually went below what was recommended in terms of staffing'.

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<sup>82</sup> Dr Ravenswood, *Proof Committee Hansard*, 28 July 2021, p. 10.

<sup>83</sup> Aged Care Quality and Safety Commission, 'Standard 7: Human resources', Aged Care Quality Standards, [www.agedcarequality.gov.au/providers/standards](http://www.agedcarequality.gov.au/providers/standards) (accessed 14 September 2021).

<sup>84</sup> QNMU, *Submission 15*, [p. 12].

<sup>85</sup> Dr Ravenswood, *Proof Committee Hansard*, 28 July 2021, p. 10.

<sup>86</sup> Mr Hayes, HSU, *Proof Committee Hansard*, 14 July 2021, p. 32.

As discussed in the section below on 'the Government's plan to reform aged care', the Government has committed to mandating face-to-face care at 200 minutes per day per resident, including 40 minutes with a registered nurse, by 1 October 2023.<sup>87</sup> Ms Hutchins said this 'doesn't even meet the three-star international standard', which is defined as adequate care.<sup>88</sup>

### *Increase transparency and reporting*

6.84 The HSU raised concerns that a current lack of transparency and reporting of how funding is spent has led to a two-speed system, where some not-for-profits have been forced to close, as they can't meet compliance costs, while some private providers 'skim [profits] right off the top' of the funding:

I understand there's a \$10-a-day nutrition allowance ... but, again, there's no clear indication of where that money would be spent or how it would be spent. I think it is the same thing with wages ... people with \$159 million net profits and others driving Ferraris. Transparency of funding has to be absolutely critical in this.<sup>89</sup>

6.85 Professor Eagar argued that governments should regulate to require that government funding provided to aged care facilities 'actually be spent on care', because under current conditions:

... there is no need to acquit the funding that you receive on care. You can either take that as profit or go and spend it on real estate or whatever you want to do with it.<sup>90</sup>

6.86 Asked how the government could be sure that funding increases would lead to wage increases, Mr Westenberg said:

... the cost of staffing in aged care is, depending on the source, somewhere between two-thirds and three quarters of the cost of the total provider expenditure. So increases in funding are largely going to go to the largest component of expenditure.<sup>91</sup>

6.87 Asked if the industry would support 'enforceable, transparent measures that tie wages to funding', Mr Westenberg responded that, while a 'huge majority of funding goes to wages', and there was unlikely to be 'a whole lot of objection', but 'the devil is in the detail'.<sup>92</sup>

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<sup>87</sup> Department of Health, *Respect, care, dignity: A generational plan for aged care in Australia*, May 2021, p. 22, [www.health.gov.au/sites/default/files/documents/2021/05/respect-care-dignity-a-generational-plan-for-aged-care-in-australia.pdf](http://www.health.gov.au/sites/default/files/documents/2021/05/respect-care-dignity-a-generational-plan-for-aged-care-in-australia.pdf) (accessed 14 September 2021).

<sup>88</sup> Ms Hutchins, HSU, *Proof Committee Hansard*, 14 July 2021, p. 32.

<sup>89</sup> Mr Hayes, HSU, *Proof Committee Hansard*, 14 July 2021, p. 31.

<sup>90</sup> Professor Eagar, AHSRI, *Committee Hansard*, 19 April 2021, p. 40.

<sup>91</sup> Mr Westenberg, ACIA, *Committee Hansard*, 21 April 2021, p. 10.

<sup>92</sup> Mr Westenberg, ACIA, *Committee Hansard*, 21 April 2021, p. 10.

- 6.88 Ms Sparrow said ACSA would support 'greater transparency' alongside 'a proper uplift in the system'. A genuine increase in funding—'not just tinkering around the edges'—that would allow providers to meet their costs.<sup>93</sup>
- 6.89 While for-profit aged care providers have claimed that they are unable to fund wage increases or more secure work arrangements for their employees, this conflicts with evidence provided to the committee and in media reports.
- 6.90 One for-profit aged care provider, TriCare, received \$103 million in Commonwealth funding in the 2019–20 Financial Year. At an 81-bed Toowoomba facility, TriCare received more than \$6 million, equivalent to approximately \$75 000 in funding per bed, before incorporating fees charged to residents.<sup>94</sup>
- 6.91 The committee heard that TriCare is domiciled in the tax haven of Norfolk Island, while TriCare's owners, the O'Shea Family, are among the richest families in Queensland and are major political donors.<sup>95</sup>
- 6.92 In August 2021, investigative journalist Anthony Klan reported that TriCare has been based on Norfolk Island for tax purposes since 1971, with its headquarters listed as a small accountancy firm on the island. Mr Klan wrote:
- [TriCare has] been physically based in Brisbane since it was founded in 1968 by accountant Paul O'Shea, who had bought some nursing homes in the Sunshine State.
- Three years later, O'Shea, a Queenslander, signed a few forms and registered the company—then called Nursing Centre of Australia—as being based (on paper) on Norfolk Island, which had five years earlier become the first tax haven in the Pacific Islands.
- TriCare has been "based" on Norfolk Island—and using its associated tax and accounting loopholes—ever since.<sup>96</sup>
- 6.93 TriCare responded to this evidence, acknowledging 'the registration status of the TriCare group of companies', but saying the profits from its businesses are

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<sup>93</sup> Ms Sparrow, ACSA, *Committee Hansard*, 19 April 2021, p. 34.

<sup>94</sup> Anthony Klan, 'Aged care residents "shafted" in tax haven cash dash', *The Klaxon*, 31 July 2021, [www.theklaxon.com.au/home/aged-care-residents-shafted-in-tax-haven-cash-dash](http://www.theklaxon.com.au/home/aged-care-residents-shafted-in-tax-haven-cash-dash) (accessed 9 October 2021).

<sup>95</sup> See: Anthony Klan, 'Aged care giant "based" in Norfolk Island pockets more than island's entire GDP', *The Klaxon*, 26 August 2021, [www.theklaxon.com.au/home/aged-care-giant-based-in-norfolk-island-pockets-more-than-islands-entire-gdp](http://www.theklaxon.com.au/home/aged-care-giant-based-in-norfolk-island-pockets-more-than-islands-entire-gdp) (accessed 10 October 2021). Confirmed by Ms McMahon, TriCare, *Proof Committee Hansard*, 27 July 2021, p. 32.

<sup>96</sup> Anthony Klan, 'Aged care giant "based" in Norfolk Island pockets more than island's entire GDP', *The Klaxon*, 26 August 2021.

'taxed in Australia', and that neither 'TriCare nor its shareholders have received any tax benefit in relation to Norfolk Island'.<sup>97</sup>

- 6.94 Similarly, the lavish lifestyle enjoyed by the owners of for-profit provider Heritage Care have been extensively reported on since the tragic COVID-19 outbreak at its Epping Gardens facility in Melbourne.<sup>98</sup>

### *Explore market-driven solutions*

- 6.95 Inquiry participants were asked to consider market-driven solutions, including increasing competition in the sector and increasing contributions by private citizens.
- 6.96 Asked if more private sector competition in the aged care market might lead to an increase in wages and an improvement in conditions for workers, Professor Charlesworth said research has shown the introduction of 'consumer directed' home care services—ostensibly to promote competition and choice—has in fact led to 'a diminution of the quality of care' and 'no improvement of wages'.<sup>99</sup>
- 6.97 According to the Aged Care Financing Authority (ACFA) occupancy rates are falling in residential aged care—'down to 88.3 per cent in 2019–20 from 89.4 per cent in 2018–19 and 90.3 per cent in 2017–18'. These falls are due to an increase in the promotion of the home care model and are putting more financial strain on residential care providers.<sup>100</sup>
- 6.98 In relation to the Commonwealth's procurement of private residential aged care services, Professor Charlesworth argued that insufficient funding and a lack of transparency from providers means there is 'no evidence that competition in the market provides higher wages or better quality employment'.<sup>101</sup>
- 6.99 Mr Westenber was asked if a solution to increasing wages and job security in aged care might be to increase consumer contributions. Mr Westenber agreed and noted there is 'a lot of support across the sector for increased consumer contributions as a means of assisting in increasing funding':

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<sup>97</sup> TriCare, Answers to questions taken on notice, public hearing, Canberra, 28 July 2021 and answers to written questions taken on notice, Senator Walsh, 5 August 2021 (received 18 August 2021), p. 1.

<sup>98</sup> See for instance: Michael Bachelard, 'Golden age over for Maserati-driving aged care moguls, says nursing home CEO', *The Sydney Morning Herald*, 4 August 2020, [www.smh.com.au/national/golden-age-over-for-maserati-driving-aged-care-moguls-says-nursing-home-ceo-20200803-p55i4b.html](http://www.smh.com.au/national/golden-age-over-for-maserati-driving-aged-care-moguls-says-nursing-home-ceo-20200803-p55i4b.html) (accessed 9 October 2021).

<sup>99</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, pp. 23–24.

<sup>100</sup> Aged Care Financing Authority (ACFA), *Ninth Report on the Funding and Financing of the Aged Care Industry*, July 2021, p. 4, [www.health.gov.au/resources/publications/ninth-report-on-the-funding-and-financing-of-the-aged-care-industry-july-2021](http://www.health.gov.au/resources/publications/ninth-report-on-the-funding-and-financing-of-the-aged-care-industry-july-2021) (accessed 11 August 2021).

<sup>101</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, pp. 23–24.

I would think that, from a public policy perspective, it's quite reasonable for taxpayers to anticipate that consumers with significant assets or other sources of income would make a contribution to what can be, in some cases, very expensive care. So I think a mix of private and public would make sense.<sup>102</sup>

6.100 Mr Westenberg explained that the current funding system places 'restrictions on the means-tested fee', an annual and lifetime fee 'cap', and dictates that 'the consumer cannot pay more than those caps', and accommodation deposits are capped. The *Legislated Review of Aged Care 2017* (Tune report) recommended 'the abolition of the lifetime and annual caps with the means-tested fee' and looking at 'some exclusions of assets which therefore lead to a lower deemed capacity to pay for some people—for example, whether the family home is included because other family members are living there'. Mr Westenberg concluded there are 'a range of areas' in which more consumer contributions could be sought, 'but it is currently regulated and consumers don't have the freedom to offer to enter into that arrangement with an aged-care provider'.<sup>103</sup>

6.101 Dr Ravenswood was asked if the system in New Zealand allows aged care facilities to use private sources of revenue to 'facilitate higher pay to attract workers and provide high-quality care'. There is nothing in New Zealand's legislation which 'prevents' an employer paying wages that are higher than the regulated minimums. However, Dr Ravenswood clarified, 'they would not be funded publicly for the higher wages'. Providers could, under the regime, 'provide a higher standard of care and charge extra on top of what is seen as the standard level of care that is publicly provided'.<sup>104</sup>

6.102 Ms Leahy said more consumer contributions are 'definitely an option ... for consideration', and, while she did not hold an opinion on whether that would be 'the right model or not from a sector perspective', either way, 'we definitely need to get more funding into aged care'.<sup>105</sup>

### **Facilitate sector-wide bargaining**

6.103 Unions that participated in the inquiry argued that bargaining in the sector is constrained by the fact that workers are not able to bargain with the party that 'holds the purse strings'. Ms Smith said:

We're talking to providers who get money, so they do hold a particular purse, but it's not like bargaining. ... providers will say to us, 'We want to do this, but we have not got the money.' A lot of employers have told me over many years that they haven't got the money, but I think there is information via the royal commission and via some of the work that's done

<sup>102</sup> Mr Westenberg, ACIA, *Committee Hansard*, 21 April 2021, p. 12.

<sup>103</sup> Mr Westenberg, ACIA, *Committee Hansard*, 21 April 2021, p. 12.

<sup>104</sup> Dr Ravenswood, *Proof Committee Hansard*, 28 July 2021, p. 9.

<sup>105</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 23.



backing that up. ... The Fair Work Act means we can only talk to providers, not to the government, which is the ultimate funder.<sup>106</sup> ... if we don't have the government at the table, we don't have the decision-makers at the table.<sup>107</sup>

6.104 Ms Annie Butler, Federal Secretary of the ANMF said with over two-and-a-half thousand aged care facilities and over 900 aged care providers, it is 'a disparate, fragmented industry'. Providers have varied understanding of industrial relations and HR expertise, so 'there are a whole lot of contributing factors that have allowed these employment models to persist'.<sup>108</sup>

6.105 The QNMU added that aged care workers have traditionally been reticent to strike or take industrial action, as they are focussed on caring. This has disadvantaged these workers in bargaining.<sup>109</sup>

6.106 Mr Williams said the bargaining framework in Australia 'simply does not work for aged care or disability workers' for two reasons:

- aged and disability care workers 'are unable to bargain collectively across their industry'; and
- the government is the primary funder, but workers and unions are 'unable to bring the funder to the table in order to bargain'.<sup>110</sup>

6.107 Dr Ravenswood said Australia has found itself in this 'situation' because the government, 'as the economic employer', has 'kept several steps away from the actual employment relationship between the aged-care provider and the worker'.<sup>111</sup>

6.108 The HSU argued that 'funded sectors, like aged care and disability care, should be able to bargain across the sector', and that the bargaining framework should be updated to ensure that the funder, or the 'economic employer', can be compelled to participate in the negotiations:

When you have the funder of services sitting outside the system dictating the price, it puts a cap on bargaining. What we find is that the aged care and the disability care sectors are more reliant on the minimum award system, because all of the funding is based on the minimum award. ... It makes the bargaining process extraordinarily difficult because, if you seek to negotiate better outcomes on wages or career structures or training and professional development that enhances those career structures, the response from the employers in both the aged care and disability sectors is:

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<sup>106</sup> Ms Smith, UWU, *Proof Committee Hansard*, 28 July 2021, p. 15.

<sup>107</sup> Ms Smith, UWU, *Proof Committee Hansard*, 28 July 2021, p. 17.

<sup>108</sup> Ms Annie Butler, Federal Secretary, Australian Nursing and Midwifery Federation (ANMF), *Committee Hansard*, 19 April 2021, p. 4.

<sup>109</sup> Mr Crank, QNMU, *Proof Committee Hansard*, 14 July 2021, p. 36.

<sup>110</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 13.

<sup>111</sup> Dr Ravenswood, *Proof Committee Hansard*, 28 July 2021, p. 12.



'We would like to do those things because we believe they add quality, but we're unable to because of the funding models that we're constrained by.' The economic source dictates the bargaining outcome.<sup>112</sup>

6.109 CEO of TriCare, Ms Kerin McMahon agreed that the current framework makes bargaining 'really challenging':

... you are trying to come to the table and determine what types of workplace conditions and agreements you can afford and bargain on when you've got that destabilised funding environment happening in the background. Plus there is also a modern award better-off concept to overcome as well.<sup>113</sup>

6.110 Ms Smith said that 'sector-wide bargaining' is 'the only answer to the problems of aged care'. With providers being funded in the same way, from the same source, Ms Smith argued 'it's just ridiculous' to continue with the current outdated bargaining model, which requires bargaining 'provider by provider'.<sup>114</sup>

6.111 Ms Smith said the UWU wasn't proposing there be no focused or specialised bargaining—'We have to be sensible about it'—but argued that:

There are some very clear segments of the industry that are very similar and can get similar economies of scale, and we should be bargaining with them as an industry. There are probably 10 to 20 big players in each state who are about the same size and with whom I think you could bargain with. It would make sense to begin with them, and maybe you could then bargain with smaller providers and more specialist providers.<sup>115</sup>

6.112 Professor Charlesworth said in New Zealand the process of increasing wages and improving conditions in aged care:

... was overseen by a really important collaboration between unions, aged-care providers, the national government, advocacy groups and, interestingly, their Human Rights Commission, which was very important in getting through to the populace the idea that the human right to be have a dignified old age was really important, as was the human right of workers to have dignified work.<sup>116</sup>

6.113 Ms Leahy from Bolton Clarke was asked if she was supportive of the idea of sector-wide bargaining, with the government as a party 'at the table', she confirmed that she was, saying: 'we've definitely got to all work together to

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<sup>112</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 13.

<sup>113</sup> Ms Kerin McMahon, Chief Executive Officer, TriCare, *Proof Committee Hansard*, 28 July 2021, p. 31.

<sup>114</sup> Ms Smith, UWU, *Proof Committee Hansard*, 28 July 2021, pp. 15–16.

<sup>115</sup> Ms Smith, UWU, *Proof Committee Hansard*, 28 July 2021, p. 16.

<sup>116</sup> Professor Charlesworth, RMIT University, *Committee Hansard*, 19 April 2021, p. 25.

find that solution'.<sup>117</sup> Ms McMahon from TriCare also supported a sector-wide approach, with the government taking part in discussions.<sup>118</sup>

## Response to the Royal Commission

6.114 The Aged Care Royal Commission made 148 recommendations—123 were joint recommendations and 25 were specific to the individual Commissioners. The Morrison Government accepted, or accepted in principle, 126 of the recommendations.<sup>119</sup>

6.115 Key recommendations from the Royal Commission included Recommendation 84, Recommendation 86 and Recommendation 87. Recommendation 84 called for an 'increase in award wages':

Employee organisations entitled to represent the industrial interests of aged care employees covered by the *Aged Care Award 2010*, the *Social, Community, Home Care and Disability Services Industry Award 2010* and the *Nurses Award 2010* should collaborate with the Australian Government and employers and apply to vary wage rates in those awards to:

- (a) reflect the work value of aged care employees in accordance with section 158 of the *Fair Work Act 2009* (Cth), and/or
- (b) seek to ensure equal remuneration for men and women workers for work of equal or comparable value in accordance with section 302 of the *Fair Work Act 2009* (Cth).

The Government *noted* the recommendation, saying the 'matter is currently being considered by the Fair Work Commission', and decisions of the Commission 'are independent of Government'. The Government stated that it 'will provide information and data to the [Commission] as required'.<sup>120</sup>

6.116 Recommendation 86 called for a 'minimum staff time standard for residential care' that would mandate:

From 1 July 2022, the minimum staff time standard should require approved providers to engage registered nurses, enrolled nurses, and personal care workers for at least 200 minutes per resident per day for the average resident, with at least 40 minutes of that staff time provided by a registered nurse.

<sup>117</sup> Ms Leahy, Bolton Clarke, *Proof Committee Hansard*, 28 July 2021, p. 25.

<sup>118</sup> Ms McMahon, TriCare, *Proof Committee Hansard*, 28 July 2021, p. 31.

<sup>119</sup> Department of Health, *Australian Government Response to the Final Report of the Royal Commission into Aged Care Quality and Safety*, [www.health.gov.au/sites/default/files/documents/2021/05/australian-government-response-to-the-final-report-of-the-royal-commission-into-aged-care-quality-and-safety.pdf](http://www.health.gov.au/sites/default/files/documents/2021/05/australian-government-response-to-the-final-report-of-the-royal-commission-into-aged-care-quality-and-safety.pdf) (accessed 14 September 2021).

<sup>120</sup> Department of Health, *Australian Government Response to the Final Report of the Royal Commission into Aged Care Quality and Safety*, p. 56.

In addition, from 1 July 2022, the minimum staff time standard should require at least one registered nurse on site per residential aged care facility for the morning and afternoon shifts (16 hours per day).

From 1 July 2024, the minimum staff time standard should increase to require approved providers to engage registered nurses, enrolled nurses, and personal care workers for the average resident for at least 215 minutes per resident per day for the average resident, with at least 44 minutes of that staff time provided by a registered nurse.

In addition, from 1 July 2024, the minimum staff time standard should require at least one registered nurse on site per residential aged care facility at all times.

The Government *accepted* this recommendation, stating that the new funding model to be introduced on 1 October 2022 would provide 'additional funding ... to support services to meet the Royal Commission's recommended minimum 200 minute care time standard'. However, the minimum care time standard is not set to become mandatory until 1 October 2023.<sup>121</sup>

6.117 Recommendation 87 highlighted the Commissioners' view that direct employment should be the default and dominant mode of work in the aged care sector. It said that the Australian Government should require all aged care providers to:

- (a) approved providers: have policies and procedures that preference the direct employment of workers engaged to provide personal care and nursing services on their behalf
- (b) where personal care or nursing work is contracted to another entity, that entity has policies and procedures that preference direct employment of workers for work performed under that contract.

6.118 The Government did not accept Recommendation 87, instead referring it to yet another Commission—the Productivity Commission—for further examination.<sup>122</sup>

### *The plan to reform aged care*

6.119 In May 2021, in response to the Royal Commission's recommendations, the Australian Government published, *Respect, care, dignity: A generational plan for aged care in Australia* (the Plan), which outlined a roadmap to deliver a \$17.7 billion aged care reform package.<sup>123</sup>

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<sup>121</sup> Department of Health, *Australian Government Response to the Final Report of the Royal Commission into Aged Care Quality and Safety*, pp. 56–57.

<sup>122</sup> Department of Health, *Australian Government Response to the Final Report of the Royal Commission into Aged Care Quality and Safety*, p. 57.

<sup>123</sup> Department of Health, *Respect, care, dignity: A generational plan for aged care in Australia*, May 2021, p. 2.

6.120 The Plan laid out spending and initiatives from 2021 to 2025. It included a number of initiatives to build the *size* of the workforce, which are not detailed here. Initiatives that have the potential to help to boost *job security* in the workforce are listed below:

- \$18.4 million to improve pricing transparency and put pressure on rising administrative charges;
- \$3.2 billion to support aged care providers to deliver better care and services through a new Government Basic Daily Fee supplement of \$10 per resident per day, while continuing the 30% increase in the homeless and viability supplements;
- \$189.2 million to implement the transparent funding model, the Australian National Aged Care Classification (AN-ACC) and the increase in residential respite funding which it will bring for around 240,000 senior Australians accessing residential aged care and 67,000 accessing residential respite care each year;
- \$49.1 million to expand the Independent Hospital Pricing Authority to help ensure that aged care costs are directly related to the care provided;
- \$3.9 billion to increase the amount of front line care (care minutes) delivered to 240,000 aged care residents and 67,000 who access respite services. By 1 October 2023, this will be mandated at 200 minutes per day, including 40 minutes with a registered nurse;
- An additional \$27.3 million to fund 1,650 new training places, including the Aged Care Transition to Practice Program (150 places) and Aged Care Nursing Scholarship Program (1,200 places). Allied health professionals will also be eligible for postgraduate scholarships (300 places)
- \$25.1 million to expand the Rural Locum Assistance Program, ensuring continuity of clinical care and strong clinical leadership, so aged care providers in regional and rural areas will have increased access to a surge workforce. An incentive scheme for permanent placements in regional and remote areas will also increase staff retention
- An additional 33,800 training places for personal care workers to attain a Certificate III in Individual Support (Ageing). Both new and existing personal care workers will be encouraged to obtain this qualification.<sup>124</sup>

6.121 According to the Plan, the new 'transparent funding model' for residential aged care, called the Australian National Aged Care Classification (AN-ACC) model, was 'independently developed by the University of Wollongong'. This model will replace the current Aged Care Funding Instrument.<sup>125</sup>

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<sup>124</sup> Department of Health, *Respect, care, dignity: A generational plan for aged care in Australia*, May 2021, pp. 22–23.

<sup>125</sup> Department of Health, *Respect, care, dignity: A generational plan for aged care in Australia*, May 2021, p. 12.

6.122 The Plan also includes \$200.1 million to introduce a new Star Rating system in Australia, which will 'highlight the quality of aged care facilities, better informing senior Australians, their families and carers'. The Plan states that:

The new funding system will be introduced with a significant funding uplift, supporting better care for residents and **greater transparency through reporting of staffing levels and a Star Rating system**. ...

\$3.9 billion in additional funding from October 2022 will **further support face-to-face care time for each resident**. This will be monitored, and **each provider will need to report their care staffing minutes** commencing with their annual financial return in October 2021 and moving to quarterly reporting from 1 July 2022.<sup>126</sup>

6.123 Recommendation 76 included a recommendation from Commissioner Briggs that the Aged Care Workforce Industry Council should:

... lead the Australian Government and the aged care sector to a consensus to support applications to the Fair Work Commission to improve wages based on work value and/or equal remuneration, which may include redefining job classifications and job grades in the relevant awards.<sup>127</sup>

6.124 While the Government indicated that it 'accepts' Recommendation 76 in its response, the Plan does not include any reference to changing the award or redefining job classifications.

6.125 Critics have said that \$17.7 billion over four years is 'about half' of what economic modellers say is needed to address the recommendations of the Royal Commission.<sup>128</sup>

6.126 ANMF analysis of the Plan concluded that apart from the 'retention bonus' for aged care nurses, 'the Morrison Government did not provide anything specific in the Federal Budget to boost wages':

Rather than a one-off bonus, ANMF supports a significant wage rise for the private and not-for-profit aged care workforce, including nurses and personal care workers, that reflects their value and the importance of their work.<sup>129</sup>

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<sup>126</sup> Department of Health, *Respect, care, dignity: A generational plan for aged care in Australia*, May 2021, p. 13. Emphasis added.

<sup>127</sup> Department of Health, *Australian Government Response to the Final Report of the Royal Commission into Aged Care Quality and Safety*, p. 50.

<sup>128</sup> Elias Visontay, 'Coalition's \$17.7bn aged care budget pledge 'falls well short' of what is needed, experts warn', *The Guardian Australia*, 12 May 2021, <https://www.theguardian.com/australia-news/2021/may/12/budget-2021-aged-care-australia-federal-coalition-funding-well-short-royal-commission-reform> (accessed 14 September 2021).

<sup>129</sup> ANMF, '\$17.7 billion for aged care: will it fix wages and staffing?', *On The Record*, 10 June 2021, <https://otr.anmfvic.asn.au/articles/17-7-billion-for-aged-care-will-it-fix-wages-and-staffing> (accessed 14 September 2021).

6.127 The ANMF further noted that it has made an application in the Fair Work Commission 'seeking a 25 per cent wage increase for aged care registered and enrolled nurses, and personal care workers', and is seeking, 'in the next round of enterprise bargaining to bring private and not-for-profit aged care nurses' and carers' wages in line with public sector aged care'.<sup>130</sup>

6.128 The HSU submitted estimates from Equity Economics that a pay rise for aged care personal care workers of 25 per cent, provided 'over four years in real terms would increase the cost of aged care by \$2.2 billion over four years', and increase spending on residential aged care in Australia 'from 0.94 per cent of GDP to 0.98 per cent of GDP over four years'.<sup>131</sup>

## Disability care

6.129 While many of the issues affecting aged care are relevant across the care sectors, inquiry participants made a number of proposals for reform specific to disability care.

6.130 The ASU recommended government procurement rules around competitive tendering and the funding of service providers be reformed to mandate that:

- Wages for all workers, cannot be lower than the [*Social, Community, Home Care and Disability Services Industry Award 2010*] rates ...
- Provision will be made in the price for accrual of portable leave entitlements ...
- Adequate overhead costs for all workers, regardless of the nature of their employment ...
- End of contract considerations for all workers, who do not receive a casual loading ...
- Continuity of service provisions ... [and]
- Providers [be] required to comply with industrial law.<sup>132</sup>

6.131 The Australian Services Union (ASU) proposed a portable long service leave scheme for the NDIS. Ms Lang suggested that the NDIS should be viewed more like a single employer,<sup>133</sup> and presents an opportunity for the government to 'pilot what portable entitlements, such as portable long service leave, could look like at a national level'. Noting that portable long service leave entitlements schemes are in place in other jurisdictions, such as in the Australian Capital Territory, Queensland and Victoria,<sup>134</sup> Ms Lang said these

<sup>130</sup> ANMF, '\$17.7 billion for aged care: will it fix wages and staffing?', *On The Record*, 10 June 2021.

<sup>131</sup> Attachment 2 (Equity Economics, *Delivery Decent Residential Aged Care: Funding the care elderly Australians deserve*, 2020), HSU NSW/ACT/QLD, *Submission 198*, p. 19.

<sup>132</sup> Australian Services Union (ASU), *Submission 33*, p. 13.

<sup>133</sup> Ms Natalie Lang, Secretary, Australian Services Union (ASU), *Proof Committee Hansard*, 12 April 2021, p. 6.

<sup>134</sup> See: *Long Service Leave (Portable Schemes) Act 2009* (ACT); Russell Postle, 'Article: Portable Long Service Leave extension in Queensland – community services', *BDO Australia*, 9 November 2020,

schemes have 'proven to be very successful in attracting and retaining those workers'.<sup>135</sup>

6.132 As well as portable long service leave, the ASU proposed the development of 'a comprehensive and ongoing training system for the industry' which would provide disability support workers—'especially those working for multiple employers or moving to new positions'—with the ability to 'accumulate recognised and portable qualifications'. The ASU said such a training strategy could play 'an important role in stabilising and uplifting' employment levels and practices in the sector, especially in rural and regional areas.<sup>136</sup>

6.133 The National Foundation for Australian Women (NFAW) endorsed calls to increase direct employment in aged care and submitted that '[c]orresponding measures be taken to address the growth of contracting and gig economy employment in the disability sector'.<sup>137</sup>

6.134 In addition the NFAW recommended that any national labour-hire licensing scheme implemented at the Commonwealth level 'should at a minimum identify home-based care in both the disability and aged care sectors among the high-risk sectors to be covered by the scheme'.<sup>138</sup>

6.135 The UWU recommended that the government 'commit to resourcing and investing in sustainable and secure caring industries of the future, specifically aged care, disability support and early childhood education and care'.<sup>139</sup>

## Committee view

### *Aged care*

6.136 Aged care is largely publicly-funded: the Commonwealth contributes over two-thirds of the funding and the total amount is rising year-on-year.<sup>140</sup>

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[www.bdo.com.au/en-au/insights/not-for-profit/articles/portable-long-service-leave-extension-in-queensland-community-services](http://www.bdo.com.au/en-au/insights/not-for-profit/articles/portable-long-service-leave-extension-in-queensland-community-services) (accessed 4 June 2021); Meredith Kennedy, 'Long service portability in the Community Services Sector – an update', *Maddocks*, 24 February 2021, [www.maddocks.com.au/insights/long-service-portability-in-the-community-services-sector-an-update](http://www.maddocks.com.au/insights/long-service-portability-in-the-community-services-sector-an-update) (accessed 4 June 2021). Many of these schemes include workers delivering services under the NDIS.

<sup>135</sup> Ms Lang, ASU, *Proof Committee Hansard*, 12 April 2021, p. 4.

<sup>136</sup> ASU, *Submission 33*, p. 17.

<sup>137</sup> National Foundation for Australian Women (NFAW), *Submission 11*, p. 6.

<sup>138</sup> NFAW, *Submission 11*, p. 7.

<sup>139</sup> United Workers Union, *Submission 54*, p. 6.

<sup>140</sup> Royal Commission into Aged Care Quality and Safety (Aged Care Royal Commission), *A summary of the Final Report*, 1 March 2021, p. 63, [agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-executive-summary.pdf](https://agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-executive-summary.pdf) (accessed 11 August 2021).

- 6.137 Aged care is a large employer—with an estimated 434 107 individuals working in the sector in 2020,<sup>141</sup> aged care employs roughly the equivalent of the population of Canberra. Health Care and Social Assistance—the industry category that aged care sits within—is Australia's biggest employer, with 1 809 700 individuals employed in the sector in February 2021. By way of comparison, Public Administration and Safety employs around 848 400 people, Transport, Postal and Warehousing employs around 673 900 people, Agriculture, Forestry and Fishing employs around 325 400 people, and Mining employs around 252 100 people.<sup>142</sup>
- 6.138 The need for skilled and dedicated aged care workers is constant, and it is also growing fast. Around 500 000 additional workers will need to join the workforce over the next decade.<sup>143</sup>
- 6.139 At the same time primary care workers in the sector are some of the lowest-paid, poorly-recognised and financially-insecure workers in the country. Rates of casualisation have increased since 2016 and the widespread use of low minimum-hours contracts, with no over-time pay or casual loadings, means part-time staff are treated as a quasi-casual workforce and enjoy no working time security.
- 6.140 Residential aged care workers are chronically overworked in understaffed facilities, and many of them are working multiple jobs—across multiple sites—to stitch together living wage.
- 6.141 It does not have to be this way.
- 6.142 The problems with the way the workforce is structured have developed over time. They are driven by economic, practical and cultural factors and are deeply entrenched.
- 6.143 Service providers may value the flexibility offered by these arrangements—they may save a dollar here and there on wages—but this inquiry has demonstrated that ultimately no one is benefitting from the status quo. There are workforce retention issues, inefficiencies in training and human resources, risks for patient safety, and negative impacts on patient care.

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<sup>141</sup> Department of Health, *2020 Aged Care Workforce Census Report*, September 2021, p. 8.

<sup>142</sup> Penny Vandebroek, Snapshot of employment by industry, 2021, *Parliamentary Library Flagpost*, 18 June 2021, [www.aph.gov.au/About Parliament/Parliamentary Departments/Parliamentary Library/FlagPost/2021/June/Snapshot\\_of\\_employment\\_by\\_industry\\_2021](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2021/June/Snapshot_of_employment_by_industry_2021) (accessed 15 September 2021).

<sup>143</sup> Mr Williams, HSU, *Committee Hansard*, 13 April 2021, p. 9. See also: Abbie O'Brien, Biwa Kwan, 'Australia's aged care workforce shortage could reach 110,000 in next decade, new report warns', *SBS News*, 10 August 2021, [www.sbs.com.au/news/australia-s-aged-care-workforce-shortage-could-reach-110-000-in-next-decade-new-report-warns/6d673e52-d6f8-4955-8071-e24351ccb28b](http://www.sbs.com.au/news/australia-s-aged-care-workforce-shortage-could-reach-110-000-in-next-decade-new-report-warns/6d673e52-d6f8-4955-8071-e24351ccb28b) (accessed 14 September 2021).



- 6.144 During this inquiry, we have asked workers, unions and providers—why don't you just change this situation? Resoundingly these parties have told us that they would like to change the situation, but they do not 'hold the purse strings'—they are limited in what they can do to resolve these issues on their own.
- 6.145 The committee accepts these claims, notwithstanding that there appears to be spectacular robbing of the public purse by for-profit aged care providers, as evidenced by the lavish lifestyles of the super-wealthy owners of TriCare and Heritage Care. It is particularly grotesque that public aged care funding is being diverted to tax havens at the expense of aged care workers and recipients.
- 6.146 While the committee believes individual employers, particularly for-profit providers, could be doing *more* to increase job security at the facility or service level, we agree that the sector cannot resolve these issues without leadership from the Australian Government.
- 6.147 Regardless of the model of care provision, the primary funder of aged care is the Australian Government. As the economic employer of the aged care workforce, the government inevitably drives industrial relations outcomes through regulation, as well as through financial incentives and disincentives.
- 6.148 Aged care workers earn close to minimum wage, despite their skills, qualifications, and the immense social value of their work. This is a travesty and reflects the historical undervaluation of so-called 'women's work', despite its significant value and contribution to society.
- 6.149 It is up to the Government, as the economic employer of aged care workers in this country, to work with providers, unions and the sector to finally provide aged care workers—the vast majority of whom are women—with decent wages and conditions. This will benefit not only workers, their families and communities, but care recipients, and the Australian economy more broadly.
- 6.150 As the primary funder of health care and social assistance—the largest employment sector in Australia—the Commonwealth has great influence over the labour market. Aged care reform should be seen as a driver of economic prosperity and a way to help lift female workforce participation and prevent hard-working women from retiring in poverty.
- 6.151 Instead of being insecure, low-paid and undesirable, aged care jobs need to offer workers financial security and independence. With decent wages and conditions, aged care workers would be better able to contribute to the prosperity of their local economies and help rebuild the national economy post-COVID.
- 6.152 The Government's response to the Aged Care Royal Commission falls short of what is needed to fix the problems in aged care and lets down aged care

workers by failing to provide the wage increases they have been waiting far too long for.

- 6.153 The response is a starting point but much more remains to be done. The committee acknowledges and supports the announcement of the minimum staff time standard. However, it should be implemented from 1 July 2022, as the Royal Commission recommended, not left until October 2023. In addition, the Government must explain why it has not responded to the Commission's suggested *additional* staff time increase, proposed for 2024.
- 6.154 The benefits of continuity of care are clear. Secure, ongoing employment supports continuity of care—precarious and insecure work destroys it.
- 6.155 The Government should introduce workforce composition guidelines and targets, and require residential care providers to report against these targets, moving towards an increased proportion of full-time care staff over time.
- 6.156 The growth of indirect work arrangements, including on-demand platforms, labour hire, agency work and subcontracting in aged care, is of grave concern to both aged care workers and aged care recipients. This has already been recognised by the Aged Care Royal Commission through its Recommendation 87, which unfortunately still has not been accepted by the government.
- 6.157 The relevant awards must be reformed, with wages increased to reflect the value and importance of the work performed by aged care workers in Australia.
- 6.158 The loopholes in the awards that currently allow for part-time staff to be used as a quasi-casual workforce must be closed. The practice of low minimum-hours contracting must be ended.
- 6.159 The Australian Government must facilitate sector-wide bargaining for aged care and disability care and must play a central role in the enterprise bargaining process. Employees in these industries are locked out of enterprise bargaining for a range of factors including large numbers of individual enterprises, historic undervaluation, reliance on government funding, reduced bargaining power and the goal of customer directed care. Enterprise bargaining in the care sectors cannot be conducted in a meaningful way unless government, providers, workers and unions, and sector peak bodies, are all at the table.
- 6.160 At over \$21 billion a year and rising, the Commonwealth's investment in aged care is substantial. The Government must use this investment to drive an increase in stable, high-quality, on-going jobs that will strengthen families and communities, not leave them struggling in poverty.
- 6.161 The Royal Commission provided an opportunity for a total reset in aged care in Australia. Carers are the heart and soul of aged care—there can be no reset

for aged care without an overhaul of its disastrously-structured, overworked and underpaid workforce.

6.162 Unfortunately, the Government's response, and its Generational plan for aged care in Australia, provides precious little for workers.

### *Disability care*

6.163 The National Disability Insurance Scheme is a major public investment and has the capacity to create tens of thousands of new, high-quality jobs across all parts of Australia.

6.164 The committee acknowledges there are significant challenges in upscaling the disability workforce to meet the demands of the NDIS. The answer is not to be found in the 'Uberisation' of the care sector.

6.165 The committee notes with concern that the Government is 'considering pathways to price deregulation' under the NDIS.<sup>144</sup> Deregulating the price paid for care can only lead to a 'race to the bottom' for the wages and conditions of workers and a lower standard of care for vulnerable Australians.

6.166 The government, and the pricing authorities, must learn the lessons from the failed Mable experiment during the pandemic. Aged and disability care services must be staffed by adequately-trained and supported personnel, backed up by fair pay and conditions.

6.167 Older Australians and those living with disability need and deserve a standard of care that can only be provided by a securely-employed workforce.

6.168 To begin to address the concerning shift towards even greater precarity in the sector, disability care workers need the capacity to bargain on a sector-wide level.

6.169 Far from deregulating prices, pricing authorities need to take into account the genuine costs required to provide high quality care when they determine pricing. This means setting prices that provide for wages and conditions sufficient to attract and retain a skilled workforce in the sector.

6.170 Related to this, the committee supports the establishment of a statutory Equal Remuneration Principle, backed up by strengthened powers for the Fair Work Commission, so that it may make orders for pay increases to rectify gender-based undervaluation in sectors like disability care and aged care.

6.171 Finally, the committee urges the Government to review the NDIS with a view to reforming those aspects of the model that are leading to a proliferation of

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<sup>144</sup> Department of Social Services, *Growing the NDIS Market and Workforce*, 2019, p. 7, [www.dss.gov.au/sites/default/files/documents/03\\_2019/220319 - growing the ndis market and workforce 2019- accessible.docx](http://www.dss.gov.au/sites/default/files/documents/03_2019/220319_-_growing_the_ndis_market_and_workforce_2019-accessible.docx) (accessed 7 October 2021).

low-paid care workers engaged as independent contractors via online platforms. This issue will be revisited in the committee's final report.

## **Recommendations—Aged care**

### **Recommendation 9**

**6.172 The committee recommends the Australian Government urgently responds to and supports the Aged Care Industry work value case lodged in the Fair Work Commission by the Health Services Union and the Australian Nursing and Midwifery Federation, to ensure that wages fairly reflect the work value provided by aged care workers.**

### **Recommendation 10**

**6.173 The committee recommends that, as part of the Star Rating system, and any other relevant assessment or grading system, the Australian Government requires aged care providers to report on, not just their staffing levels, but also:**

- the proportion of staff in direct, permanent employment arrangements;
- the staffing classification mix;
- hours of paid training provided to staff; and
- retention rates.

### **Recommendation 11**

**6.174 The committee recommends that the Australian Government requires, as an ongoing condition of holding an approval to provide aged care services, that aged care providers report on:**

- the proportion of staff that are full-time, part-time, casual, on-demand platform and agency/labour hire workers;
- the number of contracted staff hours and rostered staff hours;
- the staffing classification mix;
- the proportion of spending on frontline staffing and employment costs, other operational expenses, profits and surpluses, and other key indices; and
- non-minimisation and non-avoidance of Australian tax laws.

### **Recommendation 12**

**6.175 The committee recommends the Australian Government develops an aged care provider procurement policy that actively promotes job security in the sector, recognises the benefits of secure, on-going permanent employment to the delivery of safe, high-quality aged care, and specifies that the establishment of secure, direct, and fair-paid jobs is a key criterion of aged care investment.**

### **Recommendation 13**

**6.176** The committee recommends that the Australian Government adopts and extends Recommendation 87 of the Aged Care Royal Commission, requiring as a condition of holding an approval to provide aged care services that aged care providers have policies and procedures that preference the direct employment of all aged care workers. Aged care providers should be required to ensure all work, including through indirect work arrangements such as on-demand platforms, is paid in accordance with the relevant award, and this should also be enforced by the Aged Care Quality and Safety Commission and relevant unions.

### **Recommendation 14**

**6.177** The committee recommends that, in accordance with Recommendation 85 of the Aged Care Royal Commission, the Australian Government ensures that increasing remuneration to support attraction and retention of employees is an explicit objective of all pricing authorities in the care sector.

### **Recommendation 15**

**6.178** The committee recommends that the Australian Government implements a minimum staff time standard for residential aged care adequate to ensure high quality and support maximised hours rostering of staff.

### **Recommendation 16**

**6.179** The committee recommends the Australian Government requires that all aged care providers in receipt of public funding are domiciled in Australia for tax purposes, and do not engage in tax minimisation or avoidance.

## **Recommendations—Across the care sectors**

### **Recommendation 17**

**6.180** The committee recommends the Australian Government considers a sector wide facilitated agreement making scheme to support fair wages and secure employment conditions, recognising the unique dynamics of the care sectors. The Fair Work Commission should be provided with the power to require the participation of relevant government/s as the economic employer/s in the sector.

### **Recommendation 18**

**6.181** The committee recommends the Australian Government works with unions, service providers and employers to amend relevant Awards to ensure the widespread practice of low minimum-hours part-time contracts is restricted, including consideration of:

- specifying a minimum number of part-time hours that can be included in standard contracts;
- requiring employers to pay over-time rates for hours worked over and above contracted hours;
- including automatic mechanisms for review—for instance, if after six months an employee is consistently working above contracted hours, they should be offered the opportunity for the contract to be amended to reflect the actual hours worked; and
- employees consistently working over 35 hours per week for 12 months or longer—regardless of the pattern of hours—should be offered full-time employment.

The committee also recommends that these provisions should be easily enforceable and include anti-avoidance mechanisms.

#### **Recommendation 19**

6.182 The committee recommends the Australian Government directs pricing authorities in the care sectors to consider all genuine costs required to provide high quality care when determining pricing, including wages and conditions that will attract and retain a skilled workforce, best practice skill mix, and paid training hours.

#### **Recommendation 20**

6.183 The committee recommends the Australian Government strengthen the powers of the Fair Work Commission so that it may order pay increases for workers to rectify gender-based undervaluation; including establishing a statutory Equal Remuneration Principle. For example, guiding principles making it clear that a male comparator is not required to assess whether workers in an industry are receiving equal pay for work of equal or comparable value.

**Part 2**  
**Higher education**





# Chapter 7

## Job security in the higher education sector

- 7.1 Higher education in Australia is primarily delivered through universities in the form of courses that lead to Bachelors, Masters and Doctoral Degrees.<sup>1</sup> The broader term 'tertiary education' includes universities, as well as non-university higher education providers, and vocational education and training (VET) providers.<sup>2</sup> While the committee acknowledges that there are significant issues in the wider tertiary education sector, this report is specifically focussed on workforce issues in university higher education.
- 7.2 A number of issues relating to job security were raised by witnesses and submitters to the inquiry, including increasing levels of insecure employment through the use of casual and fixed-term contracts, and issues relating to pay and conditions.
- 7.3 This chapter provides an introduction to the higher education sector and its workforce by looking at:
- the structure of the higher education sector;
  - the size and composition of the workforce;
  - common employment arrangements; and
  - earnings and wages of academics.

### The higher education sector

#### *Importance of higher education*

- 7.4 Australian universities are significant contributors to public good through their ability to: innovate and distribute new knowledge; contribute to economic output and national income; attract global talent and foster international relationships; help address societal change through civic debate; and improve individual lives.
- 7.5 The Australian Bureau of Statistics (ABS) reported that the tertiary sector was worth \$37.4 billion to the Australian economy in 2019–20, making it Australia's third largest export.<sup>3</sup>

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<sup>1</sup> Study in Australia, *Australian education system*, 2021, [www.studyaustralia.gov.au/english/australian-education/education-system](http://www.studyaustralia.gov.au/english/australian-education/education-system) (accessed 23 August 2021).

<sup>2</sup> Study in Australia, *Australian education system*, 2021, (accessed 23 August 2021).

<sup>3</sup> Australian Bureau of Statistics (ABS), *International Trade: Supplementary Information, Financial Year*, [www.abs.gov.au/statistics/economy/international-trade/international-trade-supplementary-information-financial-year/latest-release](http://www.abs.gov.au/statistics/economy/international-trade/international-trade-supplementary-information-financial-year/latest-release) (accessed 17 August 2021).

- 7.6 In 2019, a total of 1.5 million students were enrolled across Australia's 43 universities.<sup>4</sup> International students comprised 32.4 percent of all enrolments, a trend that had been increasing pre-pandemic. A 2015 report by Deloitte Access Economics estimated that, of that year's international student cohort, 130 000 skilled graduates would enter the Australian workforce thereafter and the increase in human capital would add \$8.7 billion to Australia's GDP. In contrast, domestic student enrolments have been in marginal decline since 2017.<sup>5</sup>
- 7.7 The significance of the higher education sector was acknowledged by many of the organisations and individuals that presented evidence to the committee. The National Tertiary Education Union (NTEU) explained:
- Australia relies upon our universities and TAFEs to produce our future professional workforce, to train our teachers, nurses, doctors, mathematicians; our scientists, engineers and architects, and our social workers, psychologists, musicians and business leaders. We rely on our universities to produce ground breaking, innovative research, and to have this research support what our students learn. We expect our universities to be engaged in social issues and in resolving complex problems, to be an active part of our society and to be part of our communities. We want them to lead business innovation and research development, and to be major players on the world stage, leaders in their fields of teaching and research internationally and to be competitive with the top institutions around the world.<sup>6</sup>
- 7.8 In the *National Strategy for International Education 2025*, released in 2016, the Australian Government recognised the importance of the sector to Australia's future economic prosperity. The Strategy outlines a 10-year plan for the sector and highlights the importance of maintaining the quality of Australian education institutions and of the international student experience, particularly in relation to employability, to continue growth in the sector.<sup>7</sup>

### *Funding*

- 7.9 The Department of Education, Skills and Employment (DESE) manages the funding, regulation and reporting of the university sector through the *Higher Education Support Act 2003* (Cth) (HESA). The federal government supports

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<sup>4</sup> Universities Australia, *Data snapshot*, October 2019, p. 8.

<sup>5</sup> Deloitte Access Economics, *Growth and opportunity in Australian International Education*, December 2015, [www2.deloitte.com/au/en/pages/economics/articles/growth-opportunity-australian-international-education.html](http://www2.deloitte.com/au/en/pages/economics/articles/growth-opportunity-australian-international-education.html) (accessed 23 August 2021).

<sup>6</sup> National Tertiary Education Union (NTEU), *Committee Hansard*, 13 April 2021, p. 31.

<sup>7</sup> Department of Education, Skills and Employment (DESE), *National Strategy for International Education 2025*, 29 March 2021, p. 2, [www.dese.gov.au/national-strategy-international-education](http://www.dese.gov.au/national-strategy-international-education) (accessed 17 August 2021).

Australia's higher education sector for both teaching and research through a range of policies, funding and programs. The main funding programs are:

- The Commonwealth Grant Scheme (CGS). The CGS is the largest source of government funding for universities which subsidises course fees for eligible domestic students.
- Higher Education Loan Program (HELP) payments. The Australian Government through the HELP scheme provides loans to students that are repaid by students when they hit a certain repayment threshold that is income contingent.
- Research funding through research block grants, nationally competitive grants, and government supported industry led research initiatives.
- Various supplementary grant programs are also funded under HESA to support higher education learning and teaching.<sup>8</sup>

7.10 Total Australian Government expenditure in higher education has almost tripled between 1989 and 2018–19 from \$6.7 billion to \$18.4 billion per year. HELP loans accounted for the majority of this growth having doubled from less than 16 per cent of total expenditure in 1989 to 35 per cent in 2018–19.<sup>9</sup>

7.11 However, despite the nominal value increase in funding, total spending as a percentage of GDP increased from 0.88 per cent in 1989 to just under one per cent in 2018–19. Furthermore, when HELP loans were excluded, higher education grants for teaching, learning and research had decreased from 0.74 per cent of GDP in 1989 to 0.65 per cent in 2018–19.<sup>10</sup>

7.12 The 2020–21 Federal Budget included additional investment in higher education research, leading to an estimated expenditure high of \$11.4 billion in 2020–21. However, this funding increase reflects a one-off temporary increase in research funding which is being provided in response to the COVID-19 pandemic. Expenditure is forecast to decline in the years following. Higher education expenditure in 2023–24 is estimated at \$9.3 billion, approximately the same as it was in real terms in 2009–10, as illustrated in **Figure 7.1**.<sup>11</sup>

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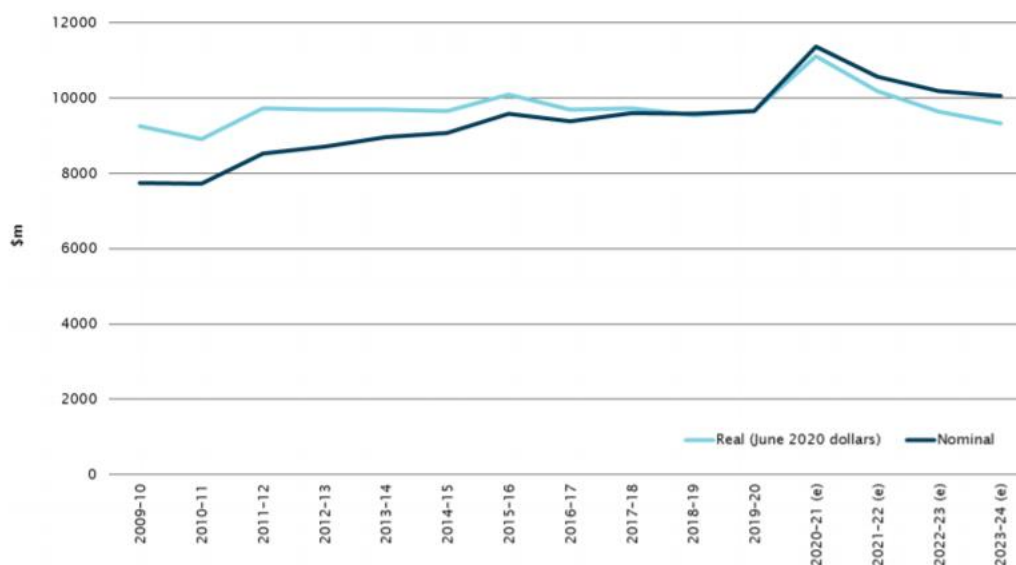
<sup>8</sup> Universities Australia, *2020 Higher Education Facts and Figures*, October 2020, p. 12.

<sup>9</sup> Universities Australia, *2020 Higher Education Facts and Figures*, October 2020, p. 13.

<sup>10</sup> Universities Australia, *2020 Higher Education Facts and Figures*, October 2020, p. 12.

<sup>11</sup> Dr Hazel Ferguson, A guide to Australian Government funding for higher education learning and teaching, *Parliamentary Library Research Paper Series*, 2020-21, 23 April 2021, p. 3, [https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/7921419/upload\\_binary/7921419.pdf](https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/7921419/upload_binary/7921419.pdf) (accessed 20 August 2021).

**Figure 7.1 Estimated Australian Government expenditure on higher education, 2009–10 to 2023–24**



Source: Parliamentary Library based on Australian Government, *Budget strategy and outlook: budget paper no. 1: 2020–21*; Australian Government, *Final budget outcome, various years*, [https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/7921419/upload\\_binary/7921419.pdf](https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/7921419/upload_binary/7921419.pdf) (accessed 30 August 2021).

7.13 In evidence to the committee, Dr Alison Barnes, National President of the NTEU, characterised Australian universities as having a 'funding crisis':

We were in a situation pre COVID where \$10 billion had been stripped from Australian universities whilst the sector had grown. Universities were in a funding crisis, which was exacerbated by COVID, which saw another \$3.5 billion to \$5 billion pulled from Australian universities.<sup>12</sup>

7.14 On a global scale, Australia's investment in higher education is below the OECD average.<sup>13</sup> One academic submitter who preferred not to be identified offered a perspective as to why Australia's higher education expenditure has remained stagnant:

It is well-known that Australia is extremely risk-averse in terms of such investment, not prepared to invest money that may not provide a guaranteed return, whereas all more developed OECD countries have been willing to provide larger sums of venture capital investment for a broad range of undertakings and to accept that not all such investment will bear expected profits.<sup>14</sup>

7.15 International student fees have been the largest source of revenue growth for universities over the past few years. Analysis by the Australian Parliamentary Library reported that 'over half (58.5%) of the \$6.4 billion revenue increase

<sup>12</sup> Dr Alison Barnes, National President, NTEU, *Committee Hansard*, 13 April 2021, p. 34.

<sup>13</sup> NTEU, *Submission 47*, p. 28.

<sup>14</sup> Name Withheld, *Submission 120*, p. 24.

from 2016 to 2019 came from overseas student fees'. Given the drop in international enrolments, revenue would be expected to decrease between 2020 and 2021.<sup>15</sup>

### Recent federal reforms

- 7.16 In October 2020, the Australian Government introduced the Job-Ready Graduates Package. The Hon Dan Tehan MP, then Minister for Education, announced the Job-Ready Graduates Package would 'address the misalignment between the cost of teaching a degree and the revenue that a university receives to teach it'.<sup>16</sup>
- 7.17 Amongst other changes to existing teaching funding programs, the package legislated a reduction in average funding per-student for domestic Commonwealth-supported students.<sup>17</sup>
- 7.18 The legislation did not receive bipartisan support. The Australian Labor Party argued that the package 'attacks the core research purpose of universities by funding only teaching'.<sup>18</sup>
- 7.19 The Job-Ready package was not significantly addressed by inquiry participants. This may be explained by the fact that it is too early to observe the impacts of the legislation. When asked if certain faculties experienced higher rates of employment casualisation than others, Dr Terri MacDonald expressed concern that, some courses that are expensive to teach—such as nursing, education and science—would face 'increased pressure to insecurely hire staff to deliver those courses' as a result of the package.<sup>19</sup>

### Size and composition of the workforce

- 7.20 The higher education sector directly and indirectly supports the employment of thousands of Australians. Different organisations provided varying estimates of the exact number of people employed in universities. These

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<sup>15</sup> Dr Hazel Ferguson, 'Overseas students in Australian higher education: a quick guide', *Parliamentary Library Research Paper Series*, 2020-21, 22 April 2021, p. 7, [https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/6765126/upload\\_binary/6765126.pdf](https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/6765126/upload_binary/6765126.pdf) (accessed 20 August 2021).

<sup>16</sup> Hon Dan Tehan MP, *Job-ready graduates speech*, 19 June 2020, p. 3.

<sup>17</sup> Dr Hazel Ferguson, Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Bill 2020, *Bills Digest No. 12*, 2020-21, 3 October 2020, p.7, [https://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/7527030/upload\\_binary/7527030.pdf;fileType=application%2Fpdf#search=%22legislation/billsdgs/7527030%22](https://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/7527030/upload_binary/7527030.pdf;fileType=application%2Fpdf#search=%22legislation/billsdgs/7527030%22) (accessed 20 August 2021).

<sup>18</sup> Senate Education and Employment Legislation Committee, *Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Bill 2020*, op. cit., pp. 80–81.

<sup>19</sup> Dr Terri MacDonald, Director–Policy and Research, NTEU, *Committee Hansard*, 13 April 2021, p. 32.

differences extend to the breakdown of employees by role and function, and type of employment contract. As such, there are a range of statistics to consider.

- 7.21 The limitations of current and previous workforce data collections were noted by a number of inquiry participants. The NTEU submitted that 'data on employment in universities is limited and difficult to interpret'.<sup>20</sup> The Council of Australian Postgraduate Associations Incorporated (CAPA) referred to the higher education data as 'scattered and incomplete'.<sup>21</sup>

### *Government data*

#### **Department of Educations, Skills and Employment**

- 7.22 The Higher Education Data Collection is collected and published annually by the DESE. All higher education providers that are approved under HESA are required to report data for the Higher Education Data Collection. Approved providers include all public universities and Bond, Notre Dame, University of Divinity and Avondale University College.<sup>22</sup>
- 7.23 DESE publishes data as at 31 March each year using the following two methods:
- fulltime, fractional full-time and estimated casual staff on a full-time equivalent (FTE) basis; and
  - a headcount for full-time and fractional full-time.<sup>23</sup>
- 7.24 The latest full-year data is for 2020, reporting a total of 140 805 employees on an FTE basis and 130 414 on a headcount basis. These figures are broken down in **Table 7.1**.

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<sup>20</sup> NTEU, *Submission 47*, p. 20.

<sup>21</sup> Council of Australian Postgraduate Associations (CAPA), *Submission 64*, p. 7.

<sup>22</sup> DESE, *Higher Education Statistics: Staff data, 2021*, [www.dese.gov.au/higher-education-statistics/staff-data#toc-actual-casual-staff](http://www.dese.gov.au/higher-education-statistics/staff-data#toc-actual-casual-staff) (accessed 30 August 2021).

<sup>23</sup> Australian Higher Education Industrial Association (AHEIA), answer to written question on notice, 3 May 2021 (received 17 May 2021).

**Table 7.1 2020 Staff data**

	FTE		Headcount	
	2019	2020	2019	2020
<b>Full time</b>	95,500	98,915	96,506	99,965
<b>Fractional full time</b>	17,205	17,943	29,281	30,449
<b>Estimated casual</b>	24,873	23,946	n/a	n/a
<b>Total</b>	137,578	140,805	125,787	130,414

Source: DESE, *Selected Higher Education Statistics – 2020 Staff data*. ([www.dese.gov.au/higher-education-statistics/staff-data/selected-higher-education-statistics-2020-staff-data](http://www.dese.gov.au/higher-education-statistics/staff-data/selected-higher-education-statistics-2020-staff-data))

- 7.25 Universities are not required to collect headcount data on casuals and only provide the department with estimated casual FTE data. **Table 7.1** reflects this as the total FTE count is higher than total headcount in both 2019 and 2020. As the department does not collect actual numbers of casual workers in its headcount data, gaining a true figure of the number of employees working in the sector, their work status, and a breakdown of their function, is difficult.
- 7.26 The following year the DESE publishes the data for the previous year's 'actual casual staff', which is 'delayed by one year'. This data includes 'actual staff resources expended by casual staff in the calendar year measured in FTEs'. The data is provided in an 'aggregate' form, rather than by individual 'units'. This means 'a single record may relate to many staff members'.<sup>24</sup>
- 7.27 The 2020 actual casual data has not been published by the DESE yet. However, using the 2019 data, a trend in the level of casualisation emerges:
- full-time FTE was 95 500, or 69.7 per cent of total FTE in 2019—down from 71.1 per cent in 2010;
  - fractional full-time FTE (made up of part-time workers) was 17 205, or 12.6 per cent of total FTE in 2019—up from 11.9 per cent in 2010;
  - casual FTE was 24 350, or 17.8 per cent of total FTE in 2019—up from 16.2 per cent in 2010.
- 7.28 **Figure 7.2** shows that comparative percentage growth of actual casual and fractional full-time has been increasing since 2010, whilst full-time has been decreasing, with actual casual FTE data experiencing the highest growth.

<sup>24</sup> DESE, *Higher Education Statistics: Staff data*, 2021, (accessed 30 August 2021).



**Figure 7.2 FTE for Full-time, Fractional Full-time and Actual Casual Staff by Work Contract, 2010 to 2019**

Year	Full-time		Fractional Full-time		Actual Casual		Total	
	FTE	% change on previous year	FTE	% change on previous year	FTE	% change on previous year	FTE	% change on previous year
2010	79,649	2.8%	13,302	3.9%	17,979	6.2%	110,929	3.5%
2011	82,113	3.1%	13,759	3.4%	19,009	5.7%	114,882	3.6%
2012	85,016	3.5%	14,372	4.5%	18,844	-0.9%	118,232	2.9%
2013	86,059	1.2%	14,809	3.0%	19,487	3.4%	120,355	1.8%
2014	87,296	1.4%	15,345	3.6%	20,310	4.2%	122,951	2.2%
2015	87,585	0.3%	15,407	0.4%	21,363	5.2%	124,356	1.1%
2016	88,453	1.0%	16,070	4.3%	22,194	3.9%	126,717	1.9%
2017	90,170	1.9%	16,118	0.3%	23,205	4.6%	129,493	2.2%
2018	92,692	2.8%	16,330	1.3%	23,219	0.1%	132,241	2.1%
2019	95,500	3.0%	17,205	5.4%	24,350	4.9%	137,054	3.6%
% of total FTE in 2019	69.7%		12.6%		17.8%		100.0%	

Source: DESE, *Selected Higher Education Statistics—2020 Staff Appendix—Actual Staff FTE*, [www.dese.gov.au/higher-education-statistics/resources/2020-staff-appendix-1-actual-staff-fte](http://www.dese.gov.au/higher-education-statistics/resources/2020-staff-appendix-1-actual-staff-fte) (accessed 30 August 2021).

7.29 The level of casualisation among teaching staff is particularly notable. The following time series graphs compare FTE numbers by 'work contract' type across all work functions ('research only', 'teaching only', 'teaching and research', and 'other'), with FTE numbers by work contract type in 'teaching only'. (See **Figure 7.3** and **Figure 7.4**)

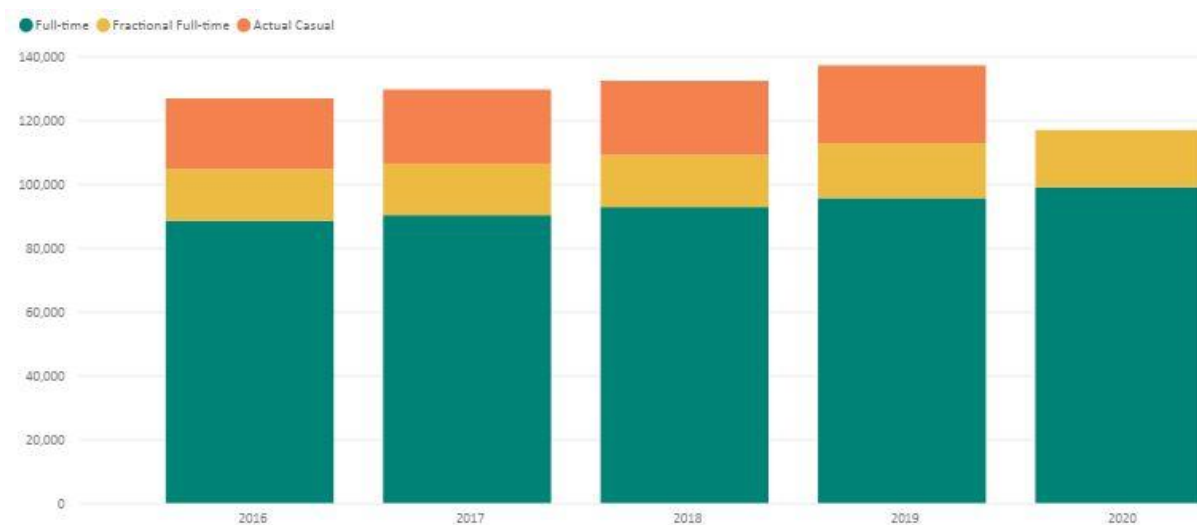
7.30 The actual casual data for 2020 isn't available until next year, however, from the 2019 data, the following observations can be made:

- actual casuals comprised 17.8 per cent of FTE by all work contract types in 2019;
- casuals are significantly overrepresented in teaching-only roles at 73.5 per cent and accounting for 13 856 of a total 24 350 FTE, or 57 per cent of all casuals; and
- full-time FTE by all work contract types has fallen from 21.6 per cent to 16.6 per cent between 2016–2019.<sup>25</sup>

<sup>25</sup> DESE, *Selected Higher Education Statistics – Staff Time Series*, 2021, <https://app.powerbi.com/view?r=eyJrIjoiOTNiM2ExOTAtNmZmNS00ZTAyLTg4MTQ0ZDI1YmE2ZTI5MzdmliwidCI6ImRkMGNmZDE1LTQ1NTgtNGIxMi04YmFkLWVhMjY5ODRmYzQxNyJ9> (accessed 31 August 2021)

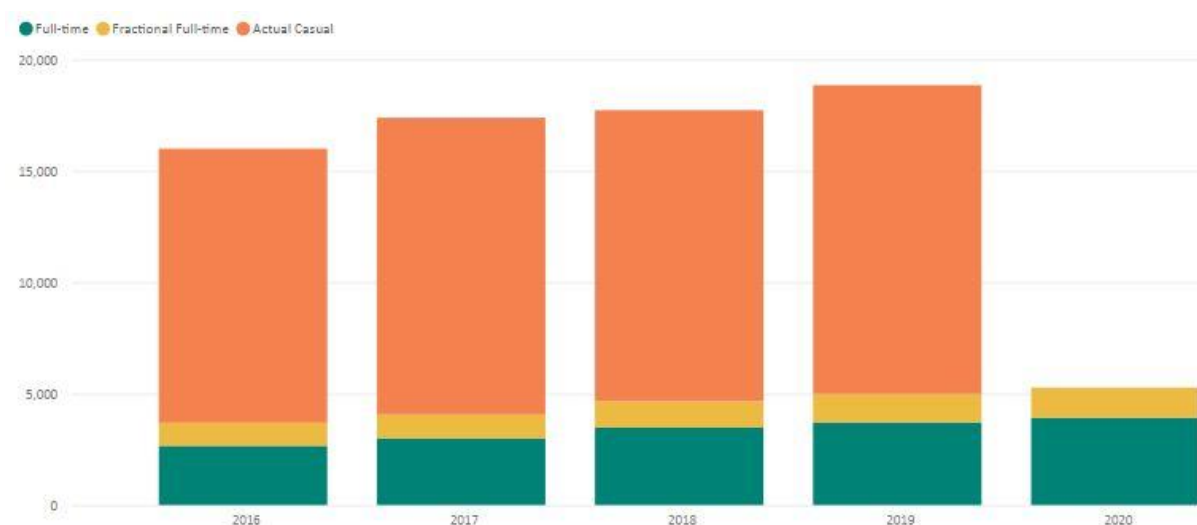


**Figure 7.3 FTE numbers by work contract type across all work functions, 2016–2020**



Source: DESE, *Selected Higher Education Statistics – Staff Time Series, 2021*, <https://app.powerbi.com/view?r=eyJrljoiOTNiM2ExOTAtNmZmNS00ZTAyLTg4MTQtdZDI1YmE2ZTI5MzdmIiwidCI6ImRkMGNmZDE1LTO1NTgtNGlxMi04YmFkLWVhMjY5ODRmYzQxNy9> (accessed 30 August 2021).

**Figure 7.4 FTE numbers by work contract type for teaching only staff, 2016–2020**



Source: DESE, *Selected Higher Education Statistics – Staff Time Series, 2021* (accessed 30 August 2021).

### Workplace Gender Equality Agency

7.31 While the DESE does not provide a headcount on casuals in their datasets, the Workplace Gender Equality Agency (WGEA) does. The WGEA requires employers with more than 100 employees, including all public universities, to report staffing profile data on the number and composition of their employees.

7.32 **Table 7.2** provides a summary of the WGEA's statistics from 2016–2020. It demonstrates that casual staff have persistently made up greater than 40 per cent of the higher education workforce since 2016.

**Table 7.2 Summary of Higher Education**

Summary	2016	2017	2018	2019	2020
<b>Number of employees</b>	213,866	223,180	226,656	239,898	229,456
<b>Number of organisations</b>	56	55	63	65	59
<b>Percentage of female employees</b>	58.4%	58.5%	58.4%	58.8%	59.1%
<b>Employee type breakdown (All employees)</b>					
<b>Casual</b>	42.4%	44.0%	43.7%	44.6%	40.7%
<b>Part-time</b>	13.1%	12.8%	12.7%	12.8%	13.7%
<b>Full-time</b>	44.5%	43.2%	43.6%	42.6%	45.6%

Source: WGEA, 2019-2020 WGEA dataset, <https://data.gov.au/dataset/ds-dga-4d35cd80-2538-4705-82f3-d0d18e823d98/details?q=WGEA> (accessed 30 August 2021).

- 7.33 The WGEA describes its data collection as 'from a snapshot date between 1 April of the previous year and 31 March of the current year'. However, the WGEA does not enforce consistency around census dates and allows the universities to choose their own on the basis that it is 'representative of your workforce for that year'.<sup>26</sup> This limits the scope of analysis when comparing the WGEA data against the DESE data.
- 7.34 As evident in **Table 7.2**, another concern with relying on the WGEA higher education datasets is that the number of reporting organisations varies from year to year and includes non-university providers.
- 7.35 However, an independent analysis by Andrew Norton, a professor at the Centre of Social Research Methods at the Australian National University (ANU), found a high degree of consistency between the datasets. Professor Norton analysed a sample of the first ten universities in the WGEA dataset and found that 'in seven cases their reported 2019–20 numbers varied from their DESE 31 March 2020 figures by less than 1 per cent'.<sup>27</sup>

### *NTEU estimates*

- 7.36 Using only government data, it is difficult to determine the exact number of individuals employed in higher education institutions, and their employment status and function. This data is complicated by the fact that universities do not typically publish their workforce information individually.

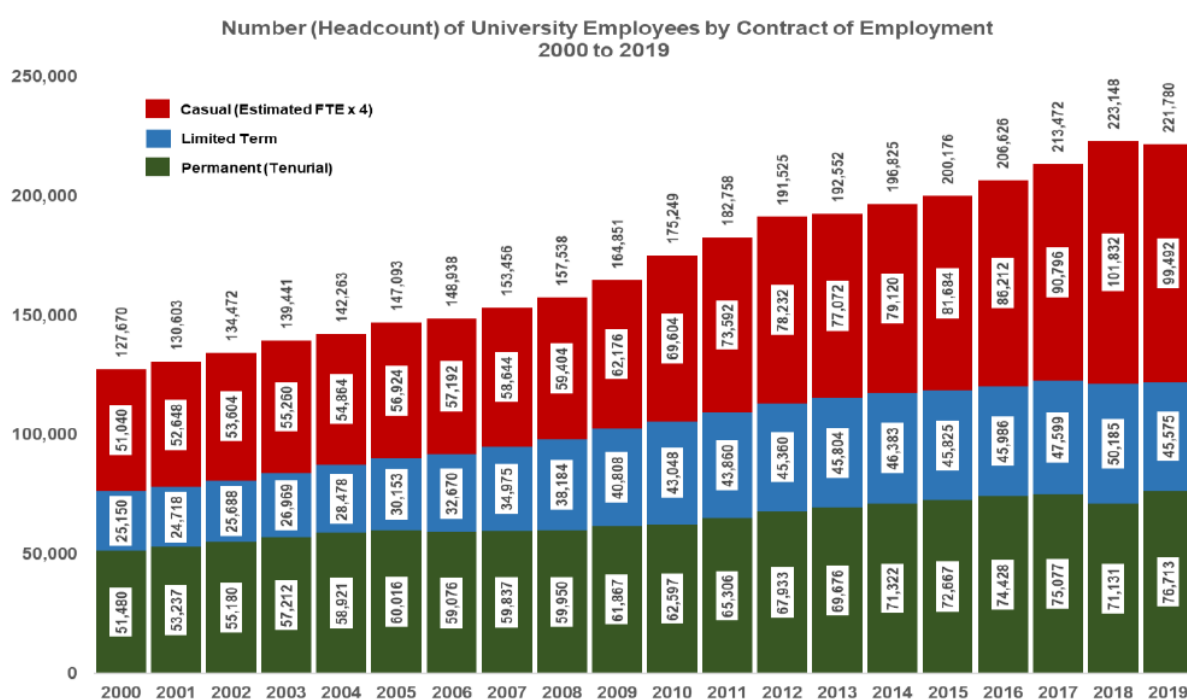
<sup>26</sup> Australian Government, WGEA dataset, 31 March 2021, <https://data.gov.au/dataset/ds-dga-4d35cd80-2538-4705-82f3-d0d18e823d98/details?q=WGEA> (accessed 17 August 2021).

<sup>27</sup> Andrew Norton, *How many jobs are there in higher education?*, 16 April 2021, <https://andrewnorton.net.au/2021/04/16/how-many-jobs-are-there-in-higher-education/> (accessed 13 August 2021).

7.37 In its submission, the NTEU provided its own data analysis—see **Figure 7.5** below. The NTEU described its approach:

The Department of Education publishes employment data for universities in numbers of Full Time Equivalent staff (FTEs), rather than number of persons employed. Figures [below] are based on the assumption that 1 FTE of casual employment equates to four persons (excluding those engaged on a one-off basis, such as occasional or guest lecturers or general staff employed for one day). This seems to be a fair, if conservative, estimate based on the analysis of the number of active superannuation accounts that correspond to casual employment, universities' reports to the Workplace Gender Equality Agency, and declarations made by employers in connection with the approval of enterprise agreements.<sup>28</sup>

**Figure 7.5 The growth in insecure employment in higher education**



Source: National Tertiary Education Union, Submission 47, p. 7.

7.38 From this analysis the NTEU identified the following trends:

- the sector employed 221 780 individuals in 2019;
- the number of casual and fixed term staff in the sector has increased by 89 percent since 2000;
- the number of permanent staff has increased by only 49 percent over the same period; and
- casual and fixed term staff now account for 66 percent or two-thirds of all persons working in higher education, versus 60 percent in 2000.<sup>29</sup>

<sup>28</sup> NTEU, Submission 47, p. 7.

<sup>29</sup> NTEU, Submission 47, p. 7.

7.39 The NTEU advocate for greater transparency in public reporting to avoid data discrepancies and ambiguity:

Universities should be required to report accurate figures for insecure (contract and casual) employment, including by function and gender, such as is currently collected for fixed term and ongoing staff, by headcount. The levels of labour hire and third party contract staff working within our universities should also be accounted for.<sup>30</sup>

*Insecure workers as a proportion of the workforce*

7.40 During the inquiry, the committee heard evidence of increasing levels of insecure employment in universities through the use of casual and fixed-term contracts.

7.41 Dr Barnes argued that universities 'are characterised by one of the highest levels of insecure work in our economy':

Only one in three jobs in our universities is permanent or ongoing – that means that the vast majority of our teaching, research and professional support services are undertaken by workers who are not permanently employed.<sup>31</sup>

7.42 The DESE data, provided below for 1996–2008 (**Figure 7.6**) and 2006–2015 (**Figure 7.7**), show a steady increase in the proportion of FTE over time that is casual. The trend can be observed in the following snapshots:

- in 1996, actual casual employment made up 12.5 per cent of FTE;
- by 2008, actual casual employment was 15.3 per cent of FTE;
- by 2015, casual work was 17.2 per cent of FTE; and
- by 2019, casual work was 17.8 per cent of FTE. (See **Figure 7.2** in the government data section above.)

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<sup>30</sup> NTEU, *Submission 47*, p. 28.

<sup>31</sup> Dr Barnes, NTEU, *Committee Hansard*, 13 April 2021, p. 31.

**Figure 7.6 FTE for Full-time, Fractional Full-time and Actual Casual Staff by Work Contract, 1996 to 2008**

Year	Full-time		Fractional Full-time		Actual Casual		Total	
	FTE	% change on previous year	FTE	% change on previous year	FTE	% change on previous year	FTE	% change on previous year
1996	65,254		7,449		10,396		83,099	
1997	62,771	-3.8%	7,910	6.2%	10,785	3.7%	81,466	-2.0%
1998	61,284	-2.4%	8,290	4.8%	11,164	3.5%	80,738	-0.9%
1999	61,192	-0.2%	8,059	-2.8%	12,082	8.2%	81,334	0.7%
2000	61,568	0.6%	7,973	-1.1%	12,447	3.0%	81,988	0.8%
2001	61,713	0.2%	8,911	11.8%	12,790	2.8%	83,414	1.7%
2002	63,462	2.8%	9,478	6.4%	13,360	4.5%	86,300	3.5%
2003	66,301	4.5%	9,254	-2.4%	13,287	-0.5%	88,842	2.9%
2004	68,358	3.1%	9,831	6.2%	13,563	2.1%	91,752	3.3%
2005	70,123	2.6%	10,341	5.2%	13,530	-0.2%	93,994	2.4%
2006	71,089	1.4%	10,692	3.4%	13,972	3.3%	95,754	1.9%
2007	72,755	2.3%	11,174	4.5%	14,496	3.8%	98,425	2.8%
2008	74,781	2.8%	11,843	6.0%	15,646	7.9%	102,270	3.9%
% of total FTE in 2008	73.1%		11.6%		15.3%		100.0%	

Source: DESE, *Selected Higher Education Statistics – 2008 Staff Appendix – Actual Staff FTE*, [www.dese.gov.au/higher-education-statistics/staff-data/selected-higher-education-statistics-2008-staff-data](http://www.dese.gov.au/higher-education-statistics/staff-data/selected-higher-education-statistics-2008-staff-data) (accessed 13 August 2021).

**Figure 7.7 FTE for Full-time, Fractional Full-time and Actual Casual Staff by Work Contract, 2006 to 2015**

Year	Full-time		Fractional Full-time		Actual Casual		Total	
	FTE	% change on previous year	FTE	% change on previous year	FTE	% change on previous year	FTE	% change on previous year
2006	71,089	1.4%	10,692	3.4%	13,972	3.3%	95,754	1.9%
2007	72,642	2.2%	11,152	4.3%	14,496	3.8%	98,290	2.6%
2008	74,781	2.9%	11,843	6.2%	15,646	7.9%	102,270	4.0%
2009	77,491	3.6%	12,807	8.1%	16,922	8.2%	107,221	4.8%
2010	79,649	2.8%	13,302	3.9%	17,979	6.2%	110,929	3.5%
2011	82,113	3.1%	13,759	3.4%	19,009	5.7%	114,882	3.6%
2012	85,016	3.5%	14,372	4.5%	18,844	-0.9%	118,232	2.9%
2013	86,059	1.2%	14,809	3.0%	19,487	3.4%	120,355	1.8%
2014	87,296	1.4%	15,345	3.6%	20,310	4.2%	122,951	2.2%
2015	87,585	0.3%	15,407	0.4%	21,363	5.2%	124,356	1.1%
% of total FTE in 2015	70.4%		12.4%		17.2%		100.0%	

Source: DESE, *Selected Higher Education Statistics – Selected Higher Education Statistics Staff 2007 report and tables*, <https://www.dese.gov.au/higher-education-statistics/resources/selected-higher-education-statistics-staff-2007-report-and-tables> (accessed 13 August 2021).

7.43 When asked whether the levels of casual employment differed from ten to twenty years ago, Mr Stuart Andrews, Australian Higher Education Industrial Association Executive Director, identified a plateau in permanent employment and a 'continuing increase in casual employment':

I would think in broad terms, if you're looking at the number of individuals employed on a casual basis, it would be 60 per cent or more of the headcount of the university because there are so many who are engaged for small components of time. So if you're looking on a headcount basis, if that's what it's referring to, headcount of casuals, you're probably looking in excess of 60 per cent as a generalisation.<sup>32</sup>

7.44 However, Mr Andrews argued that this shift was not necessarily to the detriment of the university or the employees, and that to simply look at the

<sup>32</sup> Mr Stuart Andrews, Executive Director, Australian Higher Education Industrial Association (AHEIA), *Committee Hansard*, 20 April 2021, p. 67.

rise in the whole figure of casual higher education sector employees was to present a 'distorted' view of the nature of casual employment in the sector.<sup>33</sup>

- 7.45 The increase in these forms of employment has been a 'well-documented shift'.<sup>34</sup> The report of the Independent Inquiry in Insecure Work in Australia, published in 2012, stated that tertiary education had one of the highest levels of precarious employment of any sector.<sup>35</sup>
- 7.46 Dr Yaegan Doran, a member of the Casualised, Unemployed and Precarious University Workers, echoed claims that insecure workers make up an overwhelming percentage of all academic and professional staff. Dr Doran gave university-specific examples:

At The University of Sydney, according to figures tabled in questions on notice to the NSW Legislative Council Inquiry into Tertiary Education in October 2020, of the 19,000 staff employed in 2020, around 10,000 were on casual contracts and another 4,140 were on fixed term contracts, totalling 74% of staff in insecure work.

... At the University of Melbourne, according to its 2019 annual report, of its 18,463 staff, 13,454 were on insecure contracts, totalling 73% of staff. In terms of full-time equivalent numbers, around 50% of the work at both The University of Sydney and at The University of Melbourne is done by casual and fixed term staff.<sup>36</sup>

### *Characteristics of university workers*

#### **Gender**

- 7.47 The committee heard that women were disproportionately employed in insecure work in the higher education sector and are therefore more susceptible to the impacts of insecure work.
- 7.48 From the DESE data, women accounted for 66 897, or 57.2 per cent, of the total workforce in 2020 and were:
- slightly under-represented in full-time work contracts at 53.4 per cent;
  - significantly overrepresented in fractional fulltime work contracts at 78.1 per cent;
  - marginally overrepresented in the teaching-only function at 60 per cent, and;

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<sup>33</sup> Mr Andrews, AHEIA, *Committee Hansard*, 20 April 2021, p. 64.

<sup>34</sup> Name withheld, Submission 120, p. 5.

<sup>35</sup> Australian Council of Trade Unions, *Lives on Hold: Unlocking the Potential of Australia's Workforce* (Melbourne: Australian Council of Trade Unions, 2012), p. 59.

<sup>36</sup> Dr Yaegan Doran, Casualised, Unemployed and Precarious University Workers, *Committee Hansard*, 20 April 2021, p. 65.

- notably underrepresented at higher-duty classification levels—women's representation increases as you move down duty classification levels, accounting for 36.2 per cent of Level E and 54.4 per cent of Level A.<sup>37</sup>

7.49 Dr MacDonald explained that, despite universities typically having a higher number of women employed, the 'bulk of the women' working in universities are in the lower levels, and that men typically hold roles in upper management and at the senior levels.<sup>38</sup>

7.50 The NTEU provided further evidence, arguing:

Research has consistently shown that both insecure and under employment in tertiary education is gendered, with women over represented in all categories of casual and contract work (be this as academic, research, general or professional and technical staff), in part time roles and, most persistently, in the lower levels of both academic, general/professional and technical classifications.<sup>39</sup>

7.51 A 2016 report entitled, *Women, careers and universities: Where to from here?*, from Griffith University, which examined gender and equity in higher education, showed that 'clear patterns of gender inequality remain' in the sector. The major issues uncovered were:

- women were more likely than men to be employed on fixed term or casual contracts;
- women were not equal to men at senior levels;
- the initial appointment level is lower for women than for men; and
- women were more likely than men to access flexible work provisions in relation to childcare.<sup>40</sup>

7.52 The trends identified in the report have continued, as evidenced in the 2020 WGEA data. As illustrated in **Table 7.3**, the data confirms that since 2016 women have consistently accounted for a larger percentage of the casual workforce than men, making up 59.4 per cent of the of 2020 casual figure.

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<sup>37</sup> DESE, Higher Education Statistics, *Selected Higher Education Statistics – Staff Time Series, 2021* (accessed 30 August 2021); The system of academic titles and ranks in Australia is classified to five levels, A–E, level A being the lowest and Level E the highest.

<sup>38</sup> Dr MacDonald, NTEU, *Committee Hansard*, 13 April 2021, p. 35.

<sup>39</sup> NTEU, *Submission 47*, p. 10.

<sup>40</sup> Griffith University, *Women, Careers and Universities: Where to from here*, March 2016, p. 8.

**Table 7.3 Gender composition division**

	2016		2017		2018		2019		2020	
	Women	Men	W	M	W	M	W	M	W	M
Full time	52.7%	47.3%	53.0%	47.0%	53.1%	46.9%	53.4%	46.6%	53.8%	46.2%
Part time	76.6%	23.4%	76.0%	24.0%	75.9%	24.1%	75.8%	24.2%	75.6%	24.4%
Casual	58.7%	41.3%	58.9%	41.1%	58.7%	41.3%	59.1%	40.9%	59.4%	40.6%

Source: Source: WGEA, 2019-2020 WGEA dataset, <https://data.gov.au/dataset/ds-dga-4d35cd80-2538-4705-82f3-d0d18e823d98/details?q=WGEA> (accessed 30 August 2021).

### Age

- 7.53 In the higher education sector there is a 'clear and unequivocal trend' for casual workers to be younger.<sup>41</sup> Junior classifications are typically held by those without substantial researching or teaching experience. Such individuals are typically young people in the early stages of their career.<sup>42</sup>
- 7.54 While the DESE data does not provide information specifically by age, it does provide a breakdown of work status by Current Duties Classification. In 2019, casual staff comprised 46.7 per cent of 'Level A' classified workers—removing non-academic staff from the equation, this figure grew to 75.2 per cent. In comparison, casual staff comprised only 2 per cent in total—or 3.2 per cent minus non-academic staff—of 'Above Senior Lecturer' classified workers.<sup>43</sup>
- 7.55 Moving up the duty classification hierarchy, it is clear that the proportion of casuals decreases. Full-time staff comprised of only 6.8 per cent of 'Level A' classified workers, or 16.9 per cent minus non academics. The data makes it clear that casuals make up a large proportion of junior level academics.<sup>44</sup>
- 7.56 Science & Technology Australia submitted that, in STEM faculties, insecure work disproportionately affects early-career individuals as they are more likely to be part-time or casual. Between 2012 and 2016 the proportion of young people, working in full-time STEM positions decreased from 62 per cent to 54 per cent—well above the all age average of 25 per cent in 2016.<sup>45</sup>

<sup>41</sup> NTEU, *Submission 47*, p. 15.

<sup>42</sup> Dr Robyn May, 'An Investigation of the Casualisation of Academic Work in Australia', *Griffith University*, September 2013, p. 83.

<sup>43</sup> DESE, *Selected Higher Education Statistics – Staff Time Series*, 2021 (accessed 2 September 2021).

<sup>44</sup> DESE, *Selected Higher Education Statistics – Staff Time Series*, 2021 (accessed 2 September 2021).

<sup>45</sup> Science and Technology Australia, *Submission 61*, p. 3; ABS, *Characteristics of Employment*, cat. no. 6333.0, August 2016 [www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/6333.0Main+Features1August%202016?OpenDocument](http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/6333.0Main+Features1August%202016?OpenDocument) (accessed 31 August 2021).



## Employment arrangements

- 7.57 Broadly speaking, there are three categories of staff in universities; 'permanent or continuing employment, fixed term employment and casual employment'. These categories fall within two 'fundamentally discrete areas'; the academic cohort and the professional or general staff cohort.<sup>46</sup> The bulk of evidence presented during this inquiry concerned the experiences of academics and teaching staff.
- 7.58 Australian universities typically outline employment provisions in their enterprise agreements. Enterprise bargaining was introduced in 1991 for the purpose of facilitating 'improvements at individual enterprise level in wages and conditions in return for efficiency gains or productivity offsets'. They are negotiated every three years by the universities and the NTEU, and are voted on by employees.<sup>47</sup>
- 7.59 The full-time academic has traditionally had their workload divided according to a model of 40 per cent research, 40 per cent teaching and 20 per cent administration and broader university service.<sup>48</sup>
- 7.60 Within the higher education sector, fixed-term academic employment is typically used to staff specific research projects funded by government grants. For this reason, and the fact that under the *Higher Education Industry (Academic Staff) Award 2020* fixed-term employment is prohibited for teaching roles, fixed-term employees are overwhelmingly research-only academics.<sup>49</sup>
- 7.61 Mr Andrews mentioned that fixed-term employees are afforded the same entitlements as permanent employees. However, he said that there is 'obviously uncertainty' that impacts fixed-term employees at the end of a fixed contract when they are 'waiting on advice as to whether their employment is going to continue'.<sup>50</sup>
- 7.62 Casual employment often takes the form of staff employed on a semester-by-semester basis which inevitably results in periods between semesters of no employment. Casual employees do not have leave or severance entitlements and can be dismissed without notice; however they receive 25 per cent loading.<sup>51</sup>

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<sup>46</sup> Mr Andrews, AHEIA, *Committee Hansard*, 20 April 2021, p. 64.

<sup>47</sup> Elizabeth Bare, Ia Marshamn, Teresa Tija and Janet Beard, *A fork in the road for university enterprise bargaining?*, University of Melbourne, LH Martin Institute, 28 April 2021, p. 1, <https://melbourne-cshe.unimelb.edu.au/lh-martin-institute/fellow-voices/a-fork-in-the-road-for-university-enterprise-bargaining>

<sup>48</sup> Dr Barnes, NTEU, *Committee Hansard*, 13 April 2021, p. 34.

<sup>49</sup> CAPA, *Submission 64*, p. 10.

<sup>50</sup> Mr Andrews, AHEIA, *Committee Hansard*, 20 April 2021, p. 68.

<sup>51</sup> Name Withheld, *Submission 120*, p. 3.

7.63 CAPA asserted that both casual and fixed term contract types 'deprive the employee of protections given to permanent employees'.<sup>52</sup>

7.64 The use of employment through labour hire companies in this sector is not currently well understood. Dr MacDonald expressed the NTEU's desire to have greater clarity on the prevalence of labour hire in the sector:

We also have the introduction of labour-hire companies. We know they exist but we don't know how many there are. The labour-hire companies usually come in after a university has done a mass round of redundancies. Usually the redundancies, in the first instance, are targeted at general and professional staff. But the work doesn't go away. So, to fill the gaps, they will bring in labour hire to get the work done. The problem is that there is no reporting of those numbers. So we only know when we hear from our members that a university has an extra 30, 40, 70 or 150 people coming in under labour hire. That's an area we would like to have a bit more transparency about.<sup>53</sup>

7.65 The Australian Higher Education Industrial Association (AHEIA) told the committee that they were 'not aware of any data relating to persons who might be engaged by universities on an "outsourced or independent contractor" basis'.<sup>54</sup>

## Earnings and wages

7.66 The Higher Education Industry (Academic Staff) Award 2020 outlines the terms and conditions of employment in universities. Full-time and fixed-term employees are paid on a scale from classification level A-E and casual staff are paid an hourly rate including 25% loading for work performed such as lecturing and tutoring.<sup>55</sup>

7.67 Registered Enterprise Agreements take the place of the Award for the majority of Australia's public universities, and are typically negotiated by the NTEU.<sup>56</sup> Remuneration rates between universities therefore differ and universities publish their salary scales individually, however most universities pay above the Award rate.<sup>57</sup>

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<sup>52</sup> CAPA, *Submission 64*, p. 10.

<sup>53</sup> Dr MacDonald, NTEU, *Committee Hansard*, 13 April 2021, p. 34.

<sup>54</sup> AHEIA, answers to questions on notice, 3 May 2021 (received 17 May 2021).

<sup>55</sup> Australian Government, Higher Education Industry — Academic Staff—Award 2020, Fair Work Ombudsman, <https://awardviewer.fwo.gov.au/award/show/MA000006#TOPOFBODYPAGE> (accessed 5 September 2021).

<sup>56</sup> Mr Andrews, AHEIA, *Committee Hansard*, 20 April 2021, p. 68.

<sup>57</sup> See for example: The Australian National University, *Schedule 1. Academic staff salary schedule, 2021*, <https://services.anu.edu.au/human-resources/enterprise-agreement/schedule-2-casual-sessional-academic-salary-rates> (accessed 31 August 2021); Fair Work Commission, *University of Sydney*

### *Wage theft*

7.68 Inquiry participants indicated that underpayment and 'wage theft' are systemic in the sector and are exacerbated by the overuse of casual workers.<sup>58</sup>

7.69 The University of Sydney Casuals Network claimed that underpayment is structural in the sector and is not an accident. In its submission it specified that 'wage theft is the business model that university managements are pursuing', and that there is a 'growing body of anecdotal and indicative evidence' to support this claim.<sup>59</sup>

7.70 Dr Joe McCarthy, a lecturer at the School of Sociology at the ANU, concurs. In an article published in November 2020, he argued that:

This theft is embedded and normalised within [enterprise] documents because university pay rates attribute incorrect levels of workload to academic tasks. In other words, casuals regularly cannot finish their work to a standard befitting an academic institution within the hours set by management.<sup>60</sup>

7.71 AHEIA strongly refuted the claim that wage theft is systemic, arguing the notion of wage theft being rife in the sector is 'perverse'.<sup>61</sup> Mr Andrews told the committee that the universities follow the correct procedures when confronting payment irregularities and that they 'should be applauded' in instances where these irregularities are investigated on the university's own volition.<sup>62</sup>

7.72 In its 2020 report, *Over-Worked and Worked Over: Casual Academics Bear the Costs of Covid-19*, the University of Sydney Casuals Network found that '74.1% of respondents were stressed about the amount of unpaid work they completed', and that 'casual workers did an average of 50.58 unpaid hours over the semester'.<sup>63</sup>

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*Enterprise Agreement 2018-2021*, 20 April 2018  
<https://www.fwc.gov.au/document/agreement/AE428081> (accessed 31 August 2021).

<sup>58</sup> See for example: Dr Barnes, NTEU, *Committee Hansard*, 13 April 2021, p. 32; Name withheld, *Submission 120*, pp. 6–7

<sup>59</sup> University of Sydney Casuals Network (USYD Casuals Network), *Submission 59.2*, p. 8.

<sup>60</sup> Dr Joe McCarthy, A casual reflection on academia: before and after the pandemic, *Green Agenda*, 3 November 2020, <https://greenagenda.org.au/2020/11/reflection-on-academia-before-and-after-the-pandemic/> (Accessed 20 August 2021).

<sup>61</sup> Senate Economics References Committee, *Unlawful underpayment of employees' remuneration*, AHEIA, *Submission 113*, p. 1.

<sup>62</sup> Mr Andrews, AHEIA, *Committee Hansard*, 20 April 2021, p. 68.

<sup>63</sup> USYD Casuals Network, *Submission 59.1*, p. 4.

7.73 This is supported by evidence that of Australia's 43 universities, 21 are currently being investigated for underpayments.<sup>64</sup> In August 2020 the University of Sydney admitted to underpaying casual professional staff almost \$9 million and the University of Melbourne agreed to repay almost \$6 million in unpaid wages to casual academic staff.<sup>65</sup>

### *Piece rates*

7.74 Casuals are commonly paid for some of their work using 'piece rates', a term used to describe the rates of pay prescribed to casuals. These rates are mainly used in teaching roles to pay for the marking of exams, essays and other assessable work. Mr Andrews described piece rates:

That regime effectively involves an estimation of the ancillary work associated with the face-to-face tutorial or lecture or whatever. It's an estimation that they've set as the standard, being two hours of other work associated with one hour in front of students – so three hours are paid for.<sup>66</sup>

7.75 Dr Doran explained that under the piece rate scheme the employee gets 'paid by a task done ... not by how many hours it takes'.<sup>67</sup>

7.76 Piece rates were overwhelmingly identified as a key facilitator of wage theft within the sector. This is because piece rate formulas and classifications often don't reflect the nature, level or actual hours of work required, meaning casual and sessional staff often effectively render much of their labour unpaid.<sup>68</sup>

7.77 Despite the fact that tasks such as administrative duties, attending meetings and pastoral care are core and expected within a casual teaching role, they are often not remunerated:

I get no pay for administration hours—for example, meetings—but I have to attend meetings to have fairness across different contracts. I'll get an email saying, 'I know you're not going to be paid for this one-hour meeting, but please come'.<sup>69</sup>

7.78 The next chapter of this report discusses the impacts of the employment arrangements detailed in this chapter on universities, academics and teaching staff, and students.

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<sup>64</sup> Casualised, Unemployed and Precarious University Workers (CUPUW), *Committee Hansard*, 13 April 2021, p. 38.

<sup>65</sup> University of Sydney Casuals Network, *Submission 59.2*, p. 8.

<sup>66</sup> Mr Andrews, AHEIA, *Committee Hansard*, 20 April 2021, p. 68.

<sup>67</sup> Dr Doran, CUPUW, *Committee Hansard*, 20 April 2021, p. 41.

<sup>68</sup> See for example: La Trobe Casuals Network, *Submission 1*, p. 1; NTEU, *Submission 47*, p. 25.

<sup>69</sup> Mx Daniel Cotton, Member, USYD Casuals Network, *Committee Hansard*, 13 April 2021, p. 43.

7.79 The impact of COVID-19 on the sector and its workforce is discussed in Chapter 9, followed by a discussion on proposed reforms and the committee's views in Chapter 10.



# Chapter 8

## Impacts of employment arrangements in higher education

8.1 Inquiry participants—many of whom submitted anonymously—painted a picture of a sector dominated by insecure work and exploitation. One submitter wrote:

... our entire national tertiary education system is characterised by massive under employment, insecure work without sufficient career paths and opportunities, and under payment.<sup>1</sup>

8.2 This chapter details evidence on the positive and negative impacts of higher education employment arrangements for:

- universities;
- academics and teaching staff; and
- university students.

### The universities

8.3 The main arguments that university management teams put forward as to why universities employ casually is a need for flexibility, and a desire to save costs, motivated by risk management principles.<sup>2</sup>

8.4 In a joint submission, the Attorney-General's Department, the Department of Education, Skills and Employment (DESE) and the Department of Industry, Science, Energy and Resources asserted that businesses use part-time employment to 'improve flexibility' and 'respond to cyclical fluctuations in demand for their output'.<sup>3</sup>

8.5 The committee received evidence which suggested that the sessional nature of the university calendar acts as a deterrent for university management to offer permanent employment. Casual contracts allow the university to hire short-term, in line with the university's semesters. Mr Stuart Andrews, Executive Director of the Australian Higher Education Industrial Association

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<sup>1</sup> Name withheld, *Submission 105*, p. 40.

<sup>2</sup> See for example: Council of Australian Postgraduate Associations (CAPA), *Submission 64*, p. 10; Attorney-General's Department, Department of Education, Skills and Employment (DESE) and Department of Industry, Science, Energy and Resources, *Submission 75*, p. 11, and; Name withheld, *Submission 105*, p. 31.

<sup>3</sup> Attorney-General's Department, DESE and Department of Industry, Science, Energy and Resources, *Submission 75*, p. 6; According to the Departments' submission part-time employment includes both permanent employees (with paid leave entitlements) and casual employees (without paid leave entitlements).

(AHEIA), talked about this with regard to casual conversion clauses in the *Fair Work Act 2009*:

[I]n terms of a portion of a year, when somebody might be needed for only two or three weeks and that person needs to establish a pattern of regular employment over the preceding six months, if they were to establish a pattern, then I suppose there's very much an awkwardness in terms of what sort of continuing position does the employer provide for that person who is needed for only small parts of the year.<sup>4</sup>

- 8.6 Witnesses questioned this practice in relation to other university trends. For instance, academic Dr Elizabeth Adamczyk argued that the continuous nature of core fundamental courses that are taught year in and year out are evidence of work that is 'ongoing and repeated':

We see a lot of people in teaching roles who teach the same subjects often semester after semester and year after year. For Paul, it was something like 18 years of teaching the same two subjects in large undergraduate economics courses which are always going to be taught because they are core across many degrees in the university.<sup>5</sup>

- 8.7 University management also uses casual labour as a risk management tool to respond to fluctuating teaching demand and/or uncertain funding. To meet rising teaching demands, for example, casual staff can be 'employed simply to do teaching if that's all the university wants them to do'.<sup>6</sup>
- 8.8 There exist other inflexibilities in current university practices or policies which may limit the capacity of university management to easily reallocate or reorganise teaching work to full-time staff. Mr Andrews explained that the 'rigidity of many of the academic workload provisions that we find in our enterprise agreements' (that is, the mandated allocation of a fixed percentage of time to research) limits universities when they need to reallocate working time to teaching for full-time staff.<sup>7</sup>
- 8.9 In other words, evidence suggests that while universities are using casual employment models—with piece rate payment structures—to maintain flexibility, these models can sometimes, in fact, reduce flexibility.

### *Cost saving – cheaper to use casuals*

- 8.10 As explained in Chapter 7, university funding from public sources has decreased. This has, in turn, incentivised universities to offer more casual contracts as they involve less overhead costs than permanent positions. Casual

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<sup>4</sup> Mr Stuart Andrews, Executive Director, Australian Higher Education Industrial Association (AHEIA), *Committee Hansard*, 20 April 2021, p. 65.

<sup>5</sup> Dr Elizabeth Adamczyk, Member, National Tertiary Education Union (NTEU), *Committee Hansard*, 13 April 2021, p. 48.

<sup>6</sup> Mr Andrews, AHEIA, *Committee Hansard*, 20 April 2021, pp. 65–66.

<sup>7</sup> Mr Andrews, AHEIA, *Committee Hansard*, 20 April 2021, pp. 65–66.



staff are also relatively easy and quick to engage and terminate when compared with fixed-term or permanent staff.

- 8.11 From a university management perspective, greater employee protections that apply to permanent academic staff means that a high-risk cost applies to any appointment made on a continuing basis. This situation acts as a deterrent to the use of continuing employment in cases where it is possible to make a fixed-term or casual appointment instead. Mr Andrews elaborated on high severance costs being a deterrent for universities to engage academics on an ongoing basis:

If you look at redundancy provisions, at the community standards as reflected in the Fair Work Act and the maximum notice and redundancy payment provisions in the act, you've got a maximum of 21 weeks pay—notice and pay combined. If you contrast that with the redundancy entitlements for permanent academic staff, and some professional staff for that matter, in some cases you're up to over 80 weeks in entitlements in pay and notice combined. The very large redundancy payment problem is a big disincentive when we have such uncertain times, especially coming out of COVID.<sup>8</sup>

- 8.12 As public institutions, universities have historically not been subject to the same market forces that cause redundancies in other sectors.<sup>9</sup> The National Tertiary Education Union (NTEU) argued that 'growth in the sector' limits the occurrence of genuine redundancies:

Rather, redundancies have been driven by a culture of constant restructuring, perhaps encouraged by the growth in the number of managerial positions in university administrations. Only a small proportion of the \$50–100m spent on redundancy payments each year by universities is related to functions becoming truly redundant.<sup>10</sup>

- 8.13 In terms of employment models, the 40:40:20 model has been identified as being expensive to maintain as well as inflexible. Former University of Sydney (USYD) Vice-Chancellor Michael Spence described the current 40:40:20 model as 'very expensive' and unsustainable, suggesting instead that:

It is probably more realistic to think about not individuals, but communities of scholars, where some focus on research, some focus on teaching, where the amount of focus ... might vary from person to person.<sup>11</sup>

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<sup>8</sup> Mr Andrews, AHEIA, *Committee Hansard*, 20 April 2021, p. 34.

<sup>9</sup> Name withheld, *Submission 105*, p. 45.

<sup>10</sup> NTEU, *Submission 47*, p. 20.

<sup>11</sup> Jordan Baker, 'Unis must rethink the balance if teaching and research, says Spence', *Sydney Morning Herald*, 5 December 2020, <https://www.smh.com.au/national/nsw/unis-must-rethink-the-balance-of-teaching-and-research-says-spence-20201203-p56kdo.html> (accessed 25 August 2021). As noted in Chapter 7, the traditional workload of a full-time academic is broken down according to a model of 40 per cent teaching, 40 per cent research, and 20 per cent administration and service.

8.14 The universities therefore have 'a very strong financial incentive to keep casual workers as casual', due to the relative cheapness of hiring casuals compared to full-time employees, who have to abide by their enterprise agreement workload provisions.<sup>12</sup> Dr Alison Barnes, NTEU National President, told the committee:

They're not paid 40-40-20 ... Casuals don't have that same work model. It might be 100 or 80 per cent teaching, so they save money in the time that is allowed for research and that broader community service that academics provide in going to schools to talk to school leavers about what they might like to study. They're excluded from those things; therefore, they are cheaper to use.<sup>13</sup>

### Academics

8.15 While some academics may benefit from a flexible arrangement, as it may suit their specific circumstances, for others casual work merely means insecurity—of employment, income, and lifestyle.

8.16 The flexibility afforded by use of casual work suits the circumstances of some employees and allows the universities to benefit—a "win win". Particularly, this can apply to contract lecturers who are experts or professionals in a specific discipline area, and who provide professional accreditation services. Their principal employment is outside of a university, and they are often contracted to teach their expertise within degree programmes. Such employees are typically not financially dependent upon their university employment.<sup>14</sup> Mr Andrews elaborated:

We've got another cohort of often ex-university students for the university concerned who are employed in industry or professional commercial practice, who come in for effectively guest-type lectures and tutorials for which they paid, and they are put on the casual payroll system for that purpose. We have retired academics who, likewise, might be engaged in a casual basis.<sup>15</sup>

8.17 Another large cohort of casual workers is PhD students. It is common for them to take up casual work in order to complement their research and gain necessary teaching experience for their career trajectory. Mr Andrews gave the example that within one of the Group of Eight<sup>16</sup> universities a significant

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<sup>12</sup> Dr Yaegan Doran, Member, Casualised, Unemployed and Precarious University Workers (CUPUW), *Committee Hansard*, 13 April 2021, p. 40.

<sup>13</sup> Dr Alison Barnes, National President, NTEU, *Committee Hansard*, 13 April 2021, p. 32.

<sup>14</sup> Name withheld, *Submission 105*, p. 46.

<sup>15</sup> Mr Andrews, AHEIA, *Committee Hansard*, 20 April 2021, p. 64.

<sup>16</sup> The Group of Eight (Go8) comprises Australia's leading research-intensive universities—the University of Melbourne, the Australian National University, the University of Sydney, the University of Queensland, the University of Western Australia, the University of Adelaide, Monash University and UNSW Sydney.

number of the 2000 or 3000 casually employed academics would be PhD students:

A significant number of those [casual] appointments are PhD students who are provided with paid work that they can have hand in hand with the currency of their scholarship as a PhD student or masters student at the university. Those large numbers are part of the numbers that we're talking about here in terms of the percentage of staff that are engaged on a casual basis.<sup>17</sup>

8.18 The Council of Australian Postgraduate Associations (CAPA) explained that many postgraduate students do not cumulatively benefit from such employment but 'cling to this precarious environment', as gaining teaching experience is necessary for advancement in academia.<sup>18</sup>

8.19 These examples indicate that casual employment is circumstantially appropriate within a university's workforce, but that such circumstances are not uniform and should not be applied to all individuals within the cohort.<sup>19</sup> The NTEU observed that:

... a certain level of fixed term and casual employment in higher education is necessary... on these few legitimate foundations has now been built an edifice of low-quality teaching and research and staff exploitation.<sup>20</sup>

8.20 When asked if university employees preferred the flexibility of casual employment, Dr Yaegan Doran, a member of the Casualised, Unemployed and Precarious University Workers, asserted that:

The flexibility is not flexibility for staff; it's flexibility for university managers.<sup>21</sup>

### *Financial impacts*

#### **Instability and inability to plan ahead**

8.21 Casual academics have no guarantee of work from one semester to the next and contracts can be cancelled at short notice and without compensation.<sup>22</sup> Fixed-term workers also have no assurance that their contract will be extended or if they will receive another one once their current contract expires. For academics, these circumstances facilitate ongoing financial instability and the inability to plan for the future.

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<sup>17</sup> Mr Andrews, AHEIA, *Committee Hansard*, 20 April 2021, p. 64.

<sup>18</sup> CAPA, *Submission 64*, p. 7.

<sup>19</sup> Name withheld, *Submission 105*, p. 31.

<sup>20</sup> NTEU, *Submission 47*, p. 4.

<sup>21</sup> Dr Doran, Member, CUPUW, *Committee Hansard*, 13 April 2021, p. 43.

<sup>22</sup> Name withheld, *Submission 105*, p. 51.

8.22 The lack of regular predictable income makes it difficult for casual employees to present evidence of ongoing employment and impedes their ability to secure a lease or home loan.<sup>23</sup> Dr Doran told the committee:

Not only do we worry about how we can pay rent this week and for the rest of our lease, for example, but trying to get something like a house deposit or even going to a bank and asking for a home loan is simply laughable.<sup>24</sup>

8.23 The 25 per cent loading that casuals receive is insufficient to make up for the beneficial conditions that they do not receive. The NTEU identified that not having access to sick leave could compromise an individual's earning capacity for not only the period in which they were sick, but an 'indefinite period':

It is common practice to work while sick—sometimes severely sick. This is because to take a step back from your work not only risks not being paid for that day or that week, but not being able to take up another contract that comes your way, and so risking your income for an indefinite period.<sup>25</sup>

8.24 The inability to adequately save for retirement is also typical of insecure working arrangements. Casuals do not receive the same superannuation contributions as full time staff (generally receiving the minimum 9.5 per cent, instead of the premium 17 per cent that permanent staff receive), and if they do not meet the minimum levels for monthly income earned under the Superannuation Guarantee provisions, they may not receive any superannuation at all.<sup>26</sup>

8.25 The brevity of casual university contracts has led to academics having to take up multiple teaching contracts, often across different universities, in order to earn a liveable wage.<sup>27</sup>

### **Box 8.1 Financial impacts—testimony from academics**

'Usually, the period between Christmas and the start of university semester offers no work in my role. The return date to regular shifts is not something that is announced before the holiday period. I work an additional casual job outside the university. Most of my colleagues do the same'—anonymous casual academic.<sup>28</sup>

'Precarity at work pervades personal life and impedes the ability to take opportunities such as marriage, family and, increasingly, retirement planning. It

<sup>23</sup> University of Sydney Casuals Network, *Submission 59*, p. 2.

<sup>24</sup> Dr Doran, CUPUW, *Committee Hansard*, 13 April 2021, p. 33.

<sup>25</sup> NTEU, *Submission 47*, p. 47.

<sup>26</sup> NTEU, *Submission 47*, p. 15.

<sup>27</sup> Name withheld, *Submission 105*, p. 41.

<sup>28</sup> Name withheld, *Submission 120*, p. 3.

creates anxiety, which persists as a matter of course in my everyday life and intensifies each Christmas, when I again become unemployed, leaving me wondering whether I'll be picked up again in three months time and contemplating my ability to cope in the meantime.' —Mr Paul Morris, casual academic.<sup>29</sup>

'We've been able to purchase a house and maintain a mortgage and basic living costs because Paul works three jobs across three different institutions in the higher education sector.'—Dr Elizabeth Adamczyk, casual academic.<sup>30</sup>

'As a casual and fixed-term worker at university for 10 years now, I have battled ... I just don't know whether I'm going to have work in another three months ... These personal impacts are constant and are really intrinsic to everything we do at every single stage.'—Dr Yaegan Doran, casual academic.<sup>31</sup>

### **Wage theft**

8.26 The committee heard that casual pay rates, including piece rates and activity misclassification, are the primary facilitators of wage theft.<sup>32</sup> In 2020, the La Trobe Casuals Network administered a survey of casual staff, and of the 140 respondents:

- 63% indicated that they had been unpaid for work in 2020
- 71% had had to work on public holidays or outside normal business hours (casuals are not paid penalty rates)
- 32% had been instructed to fill in time sheets inaccurately
- 43% had been instructed to alter their marking practices to speed up the process
- 49% feared repercussions if they asked to be paid for all hours worked.<sup>33</sup>

8.27 Comments from survey participants revealed the extent to which insecure working arrangements facilitated financial loss from underpayment:

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<sup>29</sup> Mr Paul Morris, Member, NTEU, *Committee Hansard*, 13 April 2021, p. 44.

<sup>30</sup> Dr Adamczyk, NTEU, *Committee Hansard*, 13 April 2021, p. 48.

<sup>31</sup> Dr Doran, CUPUW, *Committee Hansard*, 13 April 2021, p. 40.

<sup>32</sup> See for example: Dr Barnes, NTEU, *Committee Hansard*, 13 April 2021, p. 32; Name withheld, *Submission 120*, pp. 6–7

<sup>33</sup> La Trobe Casuals Network, *Submission 1*, p. 2.

### **Box 8.2 La Trobe University wage theft survey—testimony on underpayments<sup>34</sup>**

'The subject co-ordinator designed a piece of assessment that required students to submit a tutorial 'answer' each week for marking. I had approximately 120 students, so that meant 120 papers to mark each week over ten weeks of tutorials. I claimed this as marking time under my contract. After submitting my first timesheet, the subject coordinator emailed me to dispute my claim for payment: he didn't understand why I was claiming this marking time. I had to push back quite firmly to get this time recognised and remunerated. If I hadn't, he was expecting me to mark 1,200 papers over the semester for free.'—casual academic

'Unrealistic expectation to get marking complete in a short period of time. Casuals need to take on a lot of marking to earn enough money. Expectation to help subject coordinator with final results without payment.'—casual academic

'I have been paid less than half the amount I have worked marking assignments this year.'—casual academic

'Constantly being asked to claim less than what I was paid. Doing the job of the unit coordinator because she had so much extra work to do and was swamped also. In a strange way I was relieved to be unemployed this semester because it greatly helped my mental health, despite now being broke.'—casual academic

'I haven't had one correct pay cycle in 2020—I have to constantly follow up with my supervisors, school admin, and HR to find out why my hours aren't being approved. There have been multiple issues with my approver changing and confusion as to who my hours for approval are being sent to and why. I'm essentially performing unpaid work to make sure I'm paid properly.'—casual academic

'For roles where I was only involved in marking for a subject some coordinators/lecturers have directed all student queries and emails to me and requested me to provide individual consultation to large numbers of students on how their assessment was marked etc. all while I was only paid for a few hours of marking.'—casual academic

### *Professional development—publish or perish*

8.28 Insecure work does not encourage career growth and may instead drive academics to leave the sector due to lack of permanent career opportunities. The 2008 *Review of Australian Higher Education* (the Bradley Report) noted the

<sup>34</sup> La Trobe Casuals Network, *Submission 1*, p. 3.

sector's 'increasing difficulty in attracting and retaining high-quality academic staff'.<sup>35</sup>

- 8.29 Advancement as an academic is contingent on demonstrating one's published research. This requires time, access to research funding and other financial assistance and resources. Such conditions are not available to casual academics. Most casual academics will therefore have limited opportunity to transition into full-time positions. Results from a 2020 survey of USYD casuals showed that one third of respondents had worked at the university for more than six years.<sup>36</sup>
- 8.30 Furthermore, the burden of professional development shifts from employer to employee as universities do not acknowledge research as a justification for career advancement. Casual teachers are generally unable to find the hours to write and submit work for publication. Dr Barnes identified 'real impositions' on casuals' 'capacity to perform research', due to high teaching loads.<sup>37</sup> Lack of capacity for casual academics means that they are more likely to leave the sector and seek employment elsewhere rather than succumb to perpetual job insecurity in academia.<sup>38</sup>
- 8.31 Notions of poor professional development prospects are evident in early career academics. An Australian Council of Graduate Research report found that 51 per cent of postgraduates were 'pessimistic about securing related employment upon graduation'.<sup>39</sup>
- 8.32 For fixed-term researchers, career advancement can become dependent upon continuous publication output. The number of academic publications an academic puts out can become a representation for academic productivity and ability. This becomes an issue where a fixed-term contract finishes but the research taking place does not:

Research is, by its very nature, at times amorphous and unpredictable. When the work inevitably goes longer than one's contract, staff are faced with a choice of stopping work on the project and thus risking its results not seeing the light of the day (which is not an option for staff who have to show continual research output to have a chance at gaining secure work) or to work for free to complete and publish the research, that will then be credited to the university's output.<sup>40</sup>

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<sup>35</sup> Australian Government, *Review of Australian Higher Education – Final Report*, December 2008, p. 22.

<sup>36</sup> University of Sydney Casuals Network, *Submission 59.1*, p. 28.

<sup>37</sup> Dr Barnes, NTEU, *Committee Hansard*, 13 April 2021, p. 32.

<sup>38</sup> Name withheld, *Submission 105*, pp. 39–42.

<sup>39</sup> CAPA, *Submission 64*, p. 12.

<sup>40</sup> Dr Doran, CUPUW, *Committee Hansard*, 13 April 2021, p. 39.

- 8.33 A survey of over 1000 researchers, undertaken by the Australian Council of Learned Academies (ACOLA), found that 53 percent of respondents reported that 'uncertain job prospects was the worst thing about a research career'.<sup>41</sup>

### *Academic Freedom*

- 8.34 Not only do insecure working arrangements impact workers' ability to exercise their industrial rights but it also inhibits their ability to participate fully in political and community life in their institutions. Australia is party to international instruments such as the UNESCO Recommendation Concerning the Status of Higher Education Teaching Personnel (1997) which recommends, in part, that:

Security of employment in the profession, including tenure or its functional equivalent, where applicable, should be safeguarded as it is essential to the interests of higher education as well as those of higher-education teaching personnel.<sup>42</sup>

- 8.35 Academic freedom is the 'cornerstone' of Australian universities. Dr Barnes described the effect of academic freedom upon the broader society:

You need academic freedom if you are to act as a public intellectual and engage in and contribute to community debates and debates that affect the livelihood and wellbeing of the nation. But you also need academic freedom if you are to comment fully on the operations of universities. We've seen instances where academics have talked, for example, about the impact of university policies on international students and have then been censured by their institutions. Our public universities are public institutions, and they need to be transparent. We need people to be able to research freely and comment freely. I think any erosion of academic freedom really strikes at universities' capacity to do what they are supposed to do. Their inherent purpose is to provide high-quality teaching and research, and to do that you need academic freedom.<sup>43</sup>

- 8.36 Academic freedom is weakened by insecure work as casual employees, who are not afforded employment protections, may feel speaking up on controversial topics will compromise their employment. In such an environment, innovation is constrained as insecure employees are less likely to present different or challenging concepts for fear of reprisal.<sup>44</sup>
- 8.37 When asked if academic freedom was being compromised by the increase in precarious work, Dr Barnes responded:

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<sup>41</sup> Australian Council of Learned Academies (ACOLA), *Career Support for Researchers: Understanding Needs and Developing Best Practice Approach*, 15 January 2013, p. 16.

<sup>42</sup> NTEU, *Submission 47*, p. 19.

<sup>43</sup> Dr Barnes, NTEU, *Committee Hansard*, 13 April 2021, p. 35.

<sup>44</sup> NTEU, *Submission 47*, p. 19.



Absolutely. Without question, if you are employed insecurely, you are more reticent to speak critically about your institution.<sup>45</sup>

### *Health and wellbeing*

8.38 Insecure employment has been linked to the deterioration of workers' health outcomes, including mental health.<sup>46</sup> This is primarily due to the demanding, stressful, and insecure conditions under which they work, such as the unpredictability of university schedules and having to take on a lot of work in a short period of time.<sup>47</sup>

8.39 Feelings of loss of control and vulnerability are common in academics in insecure working arrangements. Insecure work can erode self-confidence, amplify feelings of helplessness and contribute to a general loss of mental wellbeing.<sup>48</sup> Dr Adamczyk told the committee:

We embody and internalise the emotional costs of these things. For some, it erodes a sense of self. I've seen this in my work as a casual rep. I get a lot of really disturbing emails about how people internalise this sense of shame and guilt at not hitting the social norms, conventions and progressions by which we mark ourselves in life, in society – career, family and all of those kinds of things.<sup>49</sup>

8.40 Insecure work can be detrimental to a worker's physical wellbeing as well. Casual workers may work whilst they are sick as they cannot afford to forgo the money they would lose from taking time off, often exacerbating sicknesses and ultimately leading to further loss of work hours.<sup>50</sup> Mx Morgan Jones, University of Sydney Casuals Network member, stressed that casualisation is a health concern, particularly for workers performing physical labour:

From a manual labour and physical job point of view, when we're working in those intense periods, it often leads to injuries. For example, at the end of last year, knowing I was coming up to a period of a month or two of no work, I tried to work a lot. I ended up with quite a bad back injury and it took two months to recover. It took my entire period of work to recover from that back injury. And, being casual, there's of course no paid leave or sick leave.<sup>51</sup>

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<sup>45</sup> Dr Barnes, NTEU, *Committee Hansard*, 13 April 2021, p. 35.

<sup>46</sup> CAPA, *Submission 64*, p. 12.

<sup>47</sup> Name withheld, *Submission 105*, pp. 39-46; Mx Morgan Jones, Member, University of Sydney Casuals Network, *Committee Hansard*, 13 April 2021, p. 40.

<sup>48</sup> CAPA, *Submission 64*, p. 13.

<sup>49</sup> Dr Adamczyk, NTEU, *Committee Hansard*, 13 April 2021, p. 44.

<sup>50</sup> NTEU, *Submission 47*, p. 47.

<sup>51</sup> Mx Jones, CUPUW, *Committee Hansard*, 13 April 2021, p. 40.

### *Why academics continue to work in the sector*

- 8.41 It is pertinent to ask why academics might continue to work in the higher education sector, despite the seemingly overwhelming negative personal impacts. The committee heard that, for some, persistence in the sector was connected to love of the work and the students.<sup>52</sup>
- 8.42 Another common reason was that external employment options were limited. Many academics do not otherwise find employment that utilises their academic skillset and experience, and further, when taking their skills to the private job market, they 'risk being viewed as over-qualified and undesirable'.<sup>53</sup>
- 8.43 A majority indicated that they would prefer to be employed permanently within the sector. Of his own experience, Dr Doran said:

I would enjoy a permanent job. If anyone higher than me in a university is happy to give me one, I think I would jump at it. I don't choose to be a casual. I don't choose to be a fixed term. I don't choose to move from one year full-time to suddenly not having courses and becoming a casual and then the next year teaching more face-to-face hours now than I was when I was full-time and I'm now getting paid about half by virtue of being a casual staff member.<sup>54</sup>

### **University students**

- 8.44 Insecure working arrangements are to the detriment of university students as well as employees.<sup>55</sup> This relationship has long been forewarned; the 2012 Independent Inquiry into secure work in Australia reported that insecure work 'undoubtedly' posed a threat to the student experience.<sup>56</sup>
- 8.45 The Tertiary Education Quality and Standards Agency (TEQSA), the regulatory agency for higher education, acknowledged that '[u]nusually high reliance on casual staff poses risks for the quality of the student experience'.<sup>57</sup>
- 8.46 The NTEU argued that student-teacher relationships suffer as a result of insecure work:

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<sup>52</sup> See for example: Dr Adamczyk, NTEU, *Committee Hansard*, 13 April 2021, p. 47; Mr Morris, NTEU, *Committee Hansard*, 13 April 2021, p. 47.

<sup>53</sup> Name withheld, *Submission 105*, p. 40.

<sup>54</sup> Dr Doran, CUPUW, *Committee Hansard*, 13 April 2021, p. 43.

<sup>55</sup> CAPA, *Submission 64*, p. 4.

<sup>56</sup> Australian Council of Trade Unions, *Lives on Hold: Unlocking the Potential of Australia's Workforce*, 16 May 2012, p. 59.

<sup>57</sup> Tertiary Education Quality and Standards Agency (TEQSA), Higher Education Standards Framework (Threshold Standards) 2021—Domain 3: Teaching, 2021, <https://www.teqsa.gov.au/hesf-domain-3> (accessed 27 August 2021).

Students seek to have an ongoing relationship throughout the course of their time at university so they can seek feedback on their work, so they've got someone who they can ask questions of, and that is undermined.<sup>58</sup>

8.47 This is particularly true in core university courses with high student enrolment. Poor student-teacher ratios can result in first year university students having 'no ability to maintain contact with the people who taught them'. This also encourages excessive academic workloads and makes teachers more likely to be unable to provide satisfactory support services.<sup>59</sup>

8.48 Casual teaching staff are often not given enough notice at the start of semester to adequately prepare sufficient learning materials for students. Dr Doran said:

I got my contract for this semester on a Tuesday to teach a course of 100 students, starting the next Monday. That is very little time to prepare something with some sort of quality.<sup>60</sup>

8.49 The NTEU underscored that academia thrives when students are being taught by individuals undertaking active research in their discipline. Casual working arrangements do not facilitate this:

Casual academics are often stuck with high teaching loads, and that provides real impositions on their capacity to perform research, and research is really essential to informing people's teaching. Students learn more if they are taught by people who are able to research in the fields within which they're studying.<sup>61</sup>

8.50 The NTEU argued that a decrease in academic learning quality raises questions regarding future sustainability of the sector and what affect this will have on future graduates:

A bigger fear is what it's doing to our graduates and our future graduates. From that point of view, I don't think it's sustainable. The problem is that they have detrimental consequences for the longer term sustainability of universities as places to develop minds and thought, and research as well. If we're inculcating young minds to essentially accept what the organisation that is educating them is doing, that won't work. I think it will create an environment and a society that is, as universities are doing, racing to the bottom in terms of short-term gain and lack of accountability.<sup>62</sup>

8.51 Prior to 2020, the Quality Indicators for Learning and Teaching (QILT) survey, which has surveyed undergraduates since 2012, had consistently reported stable levels of student satisfaction, despite slowly increasing casualisation. This suggests that, outside of COVID-19, there may be a limited relationship

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<sup>58</sup> Dr Barnes, NTEU, *Committee Hansard*, 13 April 2021, p. 35.

<sup>59</sup> Name withheld, *Submission 105*, p. 55.

<sup>60</sup> Dr Doran, CUPUW, *Committee Hansard*, 13 April 2021, p. 40.

<sup>61</sup> Dr Barnes, NTEU, *Committee Hansard*, 13 April 2021, p. 32.

<sup>62</sup> Mr Morris, Member, *Committee Hansard*, 13 April 2021, p. 49.

between casualisation in a university and teaching quality from the student experience.<sup>63</sup>

- 8.52 However, student satisfaction has dropped markedly between 2019 and 2020. The QILT reported that among 565 829 students surveyed about 2020, 68.4 per cent on average 'were satisfied with their undergraduate education'—a ten percent drop from 2019.<sup>64</sup>
- 8.53 The results of the QILT over time would appear to support testimony from workers that casual academics and teaching staff are likely over-compensating—working hard to ensure the circumstances of their employment will have limited impacts on their students in the immediate short-term.
- 8.54 However, evidence suggests the loss of potentially talented and promising academics and teachers from the profession (especially those from less privileged backgrounds), due to punishing conditions in early years, has long-term impacts on the sector, on students, and for the nation's academic future.

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<sup>63</sup> Quality Indicators for Learning and Teaching (QILT), *2020 SES National Report*, [https://www.qilt.edu.au/surveys/student-experience-survey-\(ses\)#latest](https://www.qilt.edu.au/surveys/student-experience-survey-(ses)#latest) p. 15 (accessed 27 August 2021).

<sup>64</sup> QILT, *2020 SES National Report*, p. 15 (accessed 27 August 2021).

# Chapter 9

## COVID-19 and insecure work in higher education

- 9.1 The higher education sector has been forced to rapidly respond to the COVID-19 pandemic, which has exposed it to new financial risks and revealed its over-dependence on international markets.
- 9.2 This chapter discusses the short to medium term impacts of COVID-19 upon insecure workers in the sector, including job losses, pressures created by online teaching and learning, and reported increases in wage theft. The chapter then concludes with a discussion on the long term viability of the sector after COVID-19.

### COVID-19 and the higher education sector

- 9.3 The higher education sector was hit hard and fast by COVID-19 and associated border closures. As a result, insecure workers in universities have faced both external issues—such as the downturn in international student revenue—and internal issues—including the Australian Government excluding them from financial support schemes.
- 9.4 This combination of factors has negatively affected the sector and intensified existing issues, particularly those faced by insecure workers.

### *Border closures and international students*

- 9.5 Australian universities have been steadily relying more on revenue from international students as part of their business models. In 2019, 32 per cent of all full-time-equivalent enrolments at Australian universities were international students. Between 2004 and 2018 international students grew, as a proportion of all revenue, from 14.7 per cent to 24 per cent.<sup>1</sup>
- 9.6 The onset of the pandemic was predicted to interrupt the flow of international students enrolling in Australian universities, and travel restrictions were announced for travellers from mainland China on 1 February 2020, then for all foreign nationals from 20 March 2020.<sup>2</sup>

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<sup>1</sup> Universities Australia, *2020 Higher Education Facts and Figures*, October 2020, p. 27, [www.universitiesaustralia.edu.au/wp-content/uploads/2020/11/200917-HE-Facts-and-Figures-2020.pdf](http://www.universitiesaustralia.edu.au/wp-content/uploads/2020/11/200917-HE-Facts-and-Figures-2020.pdf) (accessed 1 September 2021).

<sup>2</sup> The Hon Scott Morrison MP, Prime Minister, Senator the Hon Marise Payne, Minister for Foreign Affairs, the Hon Peter Dutton MP, Minister for Home Affairs, and the Hon Greg Hunt MP, Minister for Health, 'Joint media release: Updated travel advice to protect Australians from the

- 9.7 The border closures had an immediate impact upon international student enrolment numbers. The Department of Education, Skills and Employment (DESE) reported that between 2019 and 2020 there was a 5.1 per cent decline in international student enrolments—the first decline since 2012. Commencements also declined by 23.2 per cent, which is significant considering that since 2016 average annual commencements grew at a rate of 1 per cent.<sup>3</sup>
- 9.8 The decline in international student commencements became more severe in semester two. In the period July–November 2020 international student commencements in higher education were 50 540, compared with 76 358 in the same period of 2019—a decline of almost 34 per cent.<sup>4</sup> Australian international student enrolments typically peak in semester two and this downward trend suggests that as students complete their education, there are less commencing students taking their place.
- 9.9 Recent Australian Bureau of Statistics (ABS) data have quantified the ongoing effects of border closures on international student enrolments. In June 2021 there were 470 international student arrivals to Australia, which represented a 99 per cent decrease compared with pre-COVID levels in June 2019. This is a small improvement of 410 arrivals in June 2020, but suggests the return of international students to Australia will be slow.<sup>5</sup>
- 9.10 The effect of declining international student enrolments was reflected in Australian universities reported revenues for 2020. Australian university net profits plummeted by \$1.6 billion to just \$669 million in 2020—the lowest since

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novel coronavirus', *Media Release*, 1 February 2020, [www.foreignminister.gov.au/minister/marise-payne/media-release/updated-travel-advice-protect-australians-novel-coronavirus](http://www.foreignminister.gov.au/minister/marise-payne/media-release/updated-travel-advice-protect-australians-novel-coronavirus) (accessed 1 September 2021); The Hon Scott Morrison MP, Prime Minister, Senator the Hon Marise Payne, Minister for Foreign Affairs, and the Hon Peter Dutton MP, Minister for Home Affairs, 'Joint media release: Border restrictions', *Media Release*, 19 March 2020, [www.pm.gov.au/media/border-restrictions](http://www.pm.gov.au/media/border-restrictions) (accessed 1 September 2021).

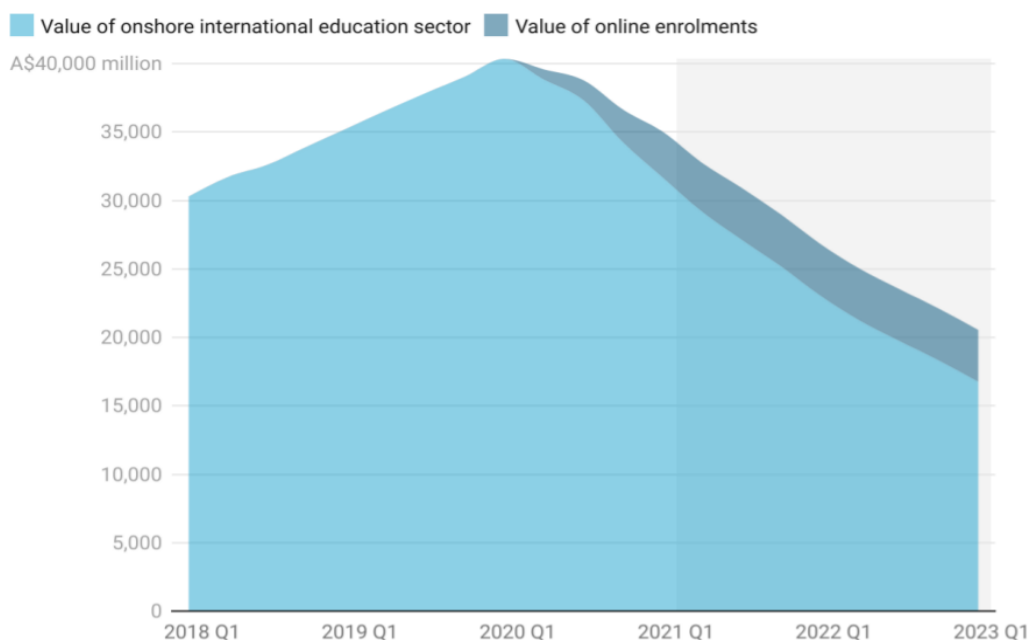
- <sup>3</sup> The Department of Education Skills and Employment (DESE), *2020 International student data summary*, <https://internationaleducation.gov.au/research/international-student-data/Documents/MONTHLY%20SUMMARIES/2020/Full%20year%20summary.pdf> (accessed 13 September 2021); Enrolments are students studying a course. A commencement is a new student enrolling in a particular course at a particular provider. See also, DESE, *Explanatory notes for student enrolment data*, <https://internationaleducation.gov.au/research/international-student-data/Pages/ExplanatoryNotesforAEIStudentEnrolmentData.aspx> (accessed 13 September 2021).
- <sup>4</sup> DESE, *Student commencements in the period July–November 2020, Research Snapshot January 2021*, [https://internationaleducation.gov.au/research/researchsnapshots/Documents/RS\\_CommencementsOctober2020.pdf](https://internationaleducation.gov.au/research/researchsnapshots/Documents/RS_CommencementsOctober2020.pdf) (accessed 13 September 2021).
- <sup>5</sup> Australian Bureau of Statistics (ABS), *Overseas Arrivals and Departures, Australia*, 17 August 2021, [www.abs.gov.au/statistics/industry/tourism-and-transport/overseas-arrivals-and-departures-australia/latest-release](http://www.abs.gov.au/statistics/industry/tourism-and-transport/overseas-arrivals-and-departures-australia/latest-release) (accessed 1 September 2021).

2009. Fifteen of the 38 universities reported a deficit in 2020, with most barely breaking even and only three universities reporting significant surpluses.

9.11 The Australian Government has indicated that border closures are likely to be retained into 2022.<sup>6</sup> This will have a significant effect on university budgets with an August 2021 report from the Mitchell Institute estimating that 'every missed six-monthly intake of international students is costing universities about \$1 billion to \$1.2 billion'.<sup>7</sup>

9.12 As illustrated in **Figure 9.1**, the Mitchell Institute estimated that by the end of 2022, the revenue of Australia's international higher education sector will have halved, decreasing by \$19.8 billion since the onset of the pandemic.<sup>8</sup>

**Figure 9.1 Annualised value of Australia's international education sector (actual and forecast)**



Source: Mitchell Institute, *Stuck in transit: International student update*, April 2021, p. 9, [www.vu.edu.au/sites/default/files/mitchell-institute-stuck-in-transit-international-student-update.pdf](http://www.vu.edu.au/sites/default/files/mitchell-institute-stuck-in-transit-international-student-update.pdf) (accessed 1 September 2021).

9.13 ANU Vice-Chancellor, Professor Brian Schmidt, identified the return of international students as an imperative:

<sup>6</sup> David Crowe, 'Budget plan: Australia to open borders next year to bring back migrants', *Sydney Morning Herald*, 10 May 2021, [www.smh.com.au/politics/federal/budget-plan-australia-to-open-borders-next-year-to-bring-back-migrants-20210509-p57qah.html](http://www.smh.com.au/politics/federal/budget-plan-australia-to-open-borders-next-year-to-bring-back-migrants-20210509-p57qah.html) (accessed 1 September 2021).

<sup>7</sup> Mitchell Institute, *Australian investment in higher education*, August 2021, p. 4, <https://www.vu.edu.au/sites/default/files/australian-investment-in-education-higher-education-mitchell-institute.pdf> (accessed 1 September 2021).

<sup>8</sup> Mitchell Institute, *Stuck in transit: International student update*, April 2021, p. 9, [www.vu.edu.au/sites/default/files/mitchell-institute-stuck-in-transit-international-student-update.pdf](http://www.vu.edu.au/sites/default/files/mitchell-institute-stuck-in-transit-international-student-update.pdf) (accessed 1 September 2021).

The cumulative effect of border closures on international student numbers will lead to other universities catching up with my university's budget woes this year, and worse in the years beyond.<sup>9</sup>

### *JobKeeper*

- 9.14 The \$130 billion JobKeeper Payment scheme was announced on 30 March 2020 to support businesses affected by COVID-19.<sup>10</sup> Under the scheme, employers whose revenue had fallen by 30 to 50 per cent over a specified time were able to participate in the scheme, which provided a wage subsidy for workers. Employers nominated all employees that they were entitled to claim for, then received a subsidy from the government to continue paying wages for those workers, regardless of whether they had work for them. The income loss threshold was later amended to 15 per cent, but the scheme specifically did not apply to universities.<sup>11</sup>
- 9.15 Under further changes to the JobKeeper program announced on 1 May 2020, universities were required to use the six-month period of January to June 2020 as the period for revenue changes compared to 2019. Other eligible organisations were able to choose any month or quarter from April to September 2020. Given universities saw greater falls in revenue in semester two of 2020, the amendment further restricted universities from accessing the JobKeeper scheme.
- 9.16 The rules effectively blocked universities from being able to access government support, and no public university qualified for the final iteration of the JobKeeper.<sup>12</sup>
- 9.17 Inquiry participants, including the University of Sydney Casuals Network, argued that the government's decision not to include the university sector in the scheme 'greatly exacerbated the precarious financial position of casual academics'. This is because individuals currently enrolled in a PhD or Masters by Research were unable to access government financial support such as

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<sup>9</sup> Brian Schmidt, ANU Vice-Chancellor, 'Universities have been left to bleed in the budget but we are pivotal to the recovery', *Media Release*, 12 May 2021 [www.anu.edu.au/news/all-news/australian-unis-are-too-important-to-be-left-to-bleed](http://www.anu.edu.au/news/all-news/australian-unis-are-too-important-to-be-left-to-bleed) (accessed 1 September 2021).

<sup>10</sup> The Hon Scott Morrison MP, Prime Minister and the Hon Josh Frydenberg MP, Treasurer, '\$130 billion JobKeeper payment to keep Australians in a job', *Media Release*, 30 March 2020, <https://www.pm.gov.au/media/130-billion-jobkeeper-payment-keep-australians-job> (accessed 1 September 2021).

<sup>11</sup> Australian Government, *Fact Sheet – Economic response to the coronavirus – JobKeeper Payment: Supporting businesses to retain jobs*, 25 April 2020, [https://treasury.gov.au/sites/default/files/2020-04/Fact\\_sheet\\_supporting\\_businesses\\_0.pdf](https://treasury.gov.au/sites/default/files/2020-04/Fact_sheet_supporting_businesses_0.pdf) (accessed 27 August 2021).

<sup>12</sup> Andrew Norton, *Would universities have received JobKeeper under more favourable rules?*, <https://andrewnorton.net.au/2021/07/06/would-universities-have-received-jobkeeper-under-more-favourable-rules/> (accessed 27 August 2021).



Youth Allowance, Austudy or Rent Assistance.<sup>13</sup> This left many without income during the lockdowns.

### Short to medium term impacts

9.18 As the COVID-19 pandemic is ongoing, the effects upon the higher education sector will likely be realised over multiple years.

#### *Job losses*

9.19 Job losses in the higher education sector were experienced immediately and dramatically. Universities Australia reported that at least 17 300 jobs were lost from Australian universities in 2020.<sup>14</sup>

9.20 Acknowledged by industry, unions, and university management alike, the loss of jobs was mainly attributed to the decline in revenue from international students. Dr Alison Barnes, National President of the NTEU, contended that:

The impact of COVID-19, with the Government refusing to allow universities access to Jobkeeper and the loss of international student fee income, has driven the mass loss of jobs.<sup>15</sup>

9.21 To offset falling revenue, many universities implemented a financial mitigation strategy, which included a reduction in staff.<sup>16</sup> The University of New South Wales (UNSW) reported 500 planned job cuts, or 7.5 per cent of its total staff—265 of which were forced redundancies.<sup>17</sup> The Australian National University (ANU) reportedly cut 465 staff—Vice Chancellor Brian Schmidt acknowledged in March 2021 that 1 in 10 of the ANU's staff have departed since 2019.<sup>18</sup> The University of Sydney (USYD) also initiated a voluntary redundancy program, and received 252 expressions of interest. However, USYD reported a 4 per cent increase in international student revenue in 2020.<sup>19</sup>

9.22 Job cuts have reportedly continued in 2021. A recent media release from Deakin University announced 'a significant change to the University's overall

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<sup>13</sup> The University of Sydney Casuals Network (USYD Casuals Network), *Submission 59.1*, p. 29.

<sup>14</sup> Science and Technology Australia, *Submission 61*, p. 3.

<sup>15</sup> Dr Alison Barnes, National President, National Tertiary Education Union (NTEU), *Committee Hansard*, 13 April 2021, p. 31.

<sup>16</sup> USYD Casuals Network, *Submission 59*, p. 3.

<sup>17</sup> Jean Kennedy, 'University of NSW to cut almost 500 jobs because of challenged posed by coronavirus', *ABC News*, 15 July 2021, <https://www.abc.net.au/news/2020-07-15/almost-500-jobs-cut-at-unsw-due-to-coronavirus-impact/12459228> (accessed 2 September 2021).

<sup>18</sup> Brian Schmidt, Universities have been left to bleed in the budget but we are pivotal to the recovery, *Australian National University*, 12 May 2021.

<sup>19</sup> The University of Sydney, *Annuals Report 2020*, April 2021, p. 43, [www.sydney.edu.au/content/dam/corporate/documents/about-us/values-and-visions/annual-report/annual-report-final.pdf](http://www.sydney.edu.au/content/dam/corporate/documents/about-us/values-and-visions/annual-report/annual-report-final.pdf) (accessed 1 September 2021).

structure' that will include a 'reduction in positions of between 180 and 220'. Vice-chancellor, Professor Iain Martin, said the changes were 'necessary to secure Deakin's financial future'.<sup>20</sup>

- 9.23 La Trobe University have also reported a new proposal that would result in the further loss of 200 FTE positions—this is following the redundancy of 300 staff in 2020. The job losses are in response to the university reporting a \$165 million revenue deficit in 2020, which Vice-Chancellor John Dewar attributed to an 'over-reliance on fee-paying international students'.<sup>21</sup>
- 9.24 Not all inquiry participants agreed that the extensive job cuts were necessary. One submitter argued that the money was 'there for' university management to be able to retain academic staff, but instead they have treated COVID-19 as a 'cover to further reduce costs that in many cases they could still have afforded'.<sup>22</sup>
- 9.25 When asked to comment on the suggestion that a lot of the job cuts were targeted at unviable courses, where student enrolments had declined, Dr Yaegan Doran, from the Casualised, Unemployed and Precarious University Workers (CUPUW), argued that was not always the case:
- I think that was pretty rubbish, in general. The courses that were cut were not always the lowest. They were typically the ones that would make it easier to sack people.<sup>23</sup>
- 9.26 The University of Sydney Casuals Network argued that USYD needs to 'offer transparency about its budgetary constraints as it pertains to casual workers'. Citing the high salaries of university executives, it highlighted the disparity inherent in the fact that the 'smallest number of workers receive the bulk of the benefits, while the majority of workers bear its burdens'.<sup>24</sup>
- 9.27 Dr Barnes said that 'university management ... are often paid excessive and offensive wages'.<sup>25</sup> For example, even after an \$89 000 salary cut from 2020,

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<sup>20</sup> Deakin University, *Deakin reimagines a sustainable and vibrant future*, 31 August 2021, <https://www.deakin.edu.au/about-deakin/news-and-media-releases/articles/deakin-reimagines-a-sustainable-and-vibrant-future> (accessed 1 September 2021).

<sup>21</sup> La Trobe University, *La Trobe University Change Proposal*, 14 July 2021, [www.latrobe.edu.au/news/articles/2021/release/la-trobe-university-change-proposal](http://www.latrobe.edu.au/news/articles/2021/release/la-trobe-university-change-proposal) (accessed 1 September 2021).

<sup>22</sup> Name withheld, *Submission 105*, p. 39.

<sup>23</sup> Dr Yaegan Doran, *Casualised, Unemployed and Precarious University Workers, Committee Hansard*, p. 42.

<sup>24</sup> USYD Casuals Network, *Submission 59.1*, p. 32.

<sup>25</sup> Dr Barnes, *NTEU, Committee Hansard*, 13 April 2021, p. 34.

UNSW Vice-Chancellor Ian Jacobs reportedly still earned a salary of \$1.435 million.<sup>26</sup>

### **Insecure workers disproportionately affected**

9.28 The NTEU maintained that university management were able to use the flexibility of their insecure workforce to offset the detriments of reduced international student income.<sup>27</sup> While data showing some of these impacts is not yet available, evidence to the inquiry suggests fixed-term and casual employees may have been among the first to lose their positions or to have their contracted hours reduced.<sup>28</sup>

9.29 Chapter 7 outlined the limitations of the DESE data. Those limitations, combined with the delay in reporting, means the proportion of casuals affected by job loss in the sector due to COVID-19 is difficult to establish. COVID-19's true impact on the sector's workforce composition will likely be made more fulsome with the release of the DESE actual casual 2020 data. However a decrease in estimated casual FTE still emerges in the DESE data between 2019-2020:

- 3.6 per cent increase in full-time FTE;
- 4.3 per cent increase in fractional FTE;
- 3.7 per cent decrease in estimated casual FTE—the only work contract type to decrease.<sup>29</sup>

9.30 Anecdotal and industry evidence placed the loss of casuals as much higher than the DESE estimate. From a survey of casual members in March 2020, the NTEU found that 41 per cent of respondents had 'lost work due to COVID-19 in semester one, primarily due to course cancellations or less contact hours with courses moved online.'<sup>30</sup>

9.31 The UNSW Casuals Network report, 'Under the Pump, Unpaid and Uncertain', stated in April 2020 that one in three casuals had already lost work in semester one 2020, and 81 per cent were 'concerned about losing their job'.<sup>31</sup>

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<sup>26</sup> Jordan Baker, Vice-chancellors' pay cut as NSW universities feel heat over salaries, *Sydney Morning Herald*, 10 June 2021, [www.smh.com.au/national/nsw/vice-chancellors-pay-cut-as-nsw-universities-feel-heat-over-salaries-20210609-p57zkh.html](http://www.smh.com.au/national/nsw/vice-chancellors-pay-cut-as-nsw-universities-feel-heat-over-salaries-20210609-p57zkh.html) (accessed 2 September 2021).

<sup>27</sup> NTEU, *Submission 47*, p. 23.

<sup>28</sup> Name withheld, *Submission 105*, p. 39.

<sup>29</sup> Department of Education, Skills and Employment (DESE), *Selected Higher Education Statistics – 2020 Staff data*, [www.dese.gov.au/higher-education-statistics/staff-data/selected-higher-education-statistics-2020-staff-data](http://www.dese.gov.au/higher-education-statistics/staff-data/selected-higher-education-statistics-2020-staff-data) (accessed 2 September 2021).

<sup>30</sup> NTEU, *Submission 47*, p. 23.

<sup>31</sup> NSW Casuals Network, *Under the pump, Unpaid and Uncertain: Casuals workers at UNSW during COVID-19*, April 2020, p. 3.

9.32 Dr Doran said the 'bulk' of the staff that lost their job in 2020 were 'casual and fixed staff':

I was one of those—I had a full time contract that ended in July 2020 and despite there being work for me at the beginning of the year, the units I and others were meant to teach were cut, and I along with most of my colleagues in similar situations lost their jobs.<sup>32</sup>

9.33 The Australian Higher Education Industry Association (AHEIA) undertook a survey of its 37 member universities in 2020 'to provide some initial indication of the severe financial and staffing impact of the COVID-19 pandemic on universities'. AHEIA's data is consistent with claims made by submitters and witnesses that casuals have been dismissed disproportionately. As shown in **Figure 9.2, Figure 9.3 and Figure 9.4**, between 30 June 2019 and 30 June 2020, there were:

- 8895 fewer staff engaged on a casual basis, representing an 11.36 per cent reduction in twelve months;
- 290 fewer staff employed on fixed-term contracts;
- 1279 more in staff engaged in an on-going basis; and,
- for both casual and fixed-term staff, the reduction in professional staff was greater than for academic staff.<sup>33</sup>

9.34 According to the AHEIA, the 11.36 per cent reduction in the number of casual staff has been 'the biggest impact arising from universities' deteriorating financial situations'.<sup>34</sup> The decline in the percentage of casual work apparent in the data provided by the AHEIA presents a stark contrast to the DESE's estimated casual data.

**Figure 9.2 Casual staff**

		2020	2019	Variance 2020 vs 2019	Variance 2020 vs 2019 %
		Total	Total		
<b>FTE</b> <b>1 Jan to 30 June</b>	Academic	5,383.67	5,838.90	-455.23	-7.80%
	Professional	2,966.21	3,620.17	-653.96	-18.06%
	<b>Total</b>	<b>8,349.88</b>	<b>9,459.07</b>	<b>-1,109.19</b>	<b>-11.73%</b>
<b>Headcount *</b> <b>as at 30 June</b>	Academic	42,010.00	44,417.00	-2,407.00	-5.42%
	Professional	28,439.00	34,927.00	-6,488.00	-18.58%
	<b>Total</b>	<b>70,449.00</b>	<b>79,344.00</b>	<b>-8,895.00</b>	<b>-11.21%</b>

Source: Australian Higher Education Industry Association (AHEIA), answers to written questions on notice, 3 May 2021 (received 17 May 2021), p. 3.

<sup>32</sup> Dr Doran, CUPUW, *Committee Hansard*, p. 39.

<sup>33</sup> Australian Higher Education Industrial Association (AHEIA), answer to written question on notice, 3 May 2021 (received 17 May 2021), p. 4.

<sup>34</sup> AHEIA, answer to written question on notice, 3 May 2021 (received 17 May 2021), p. 4.

**Figure 9.3 Fixed term staff**

			2020	2019	Variance 2020 vs 2019	Variance 2020 vs 2019 %
			Total	Total		
Fixed Term as at 30 June	FTE	Academic	11,464.06	11,464.70	-0.64	-0.01%
		Professional	12,784.05	13,036.83	-252.78	-1.94%
		<b>Total</b>	<b>24,248.11</b>	<b>24,501.53</b>	<b>-253.42</b>	<b>-1.03%</b>
	Headcount	Academic	13,947.00	13,947.00	0.00	0.00%
		Professional	14,710.00	15,000.00	-290.00	-1.93%
		<b>Total</b>	<b>28,657.00</b>	<b>28,947.00</b>	<b>-290.00</b>	<b>-1.00%</b>

Source: AHEIA, answers to written questions on notice, 3 May 2021 (received 17 May 2021), p.3.

**Figure 9.4 On-going staff**

			2020	2019	Variance 2020 vs 2019	Variance 2020 vs 2019 %
			Total	Total		
Continuing as at 30 June	FTE	Academic	19,524.99	19,090.18	434.81	2.28%
		Professional	31,962.17	31,272.01	690.16	2.21%
		<b>Total</b>	<b>51,487.16</b>	<b>50,362.19</b>	<b>1,124.97</b>	<b>2.23%</b>
	Headcount	Academic	20,779.00	20,298.00	481.00	2.37%
		Professional	34,620.00	33,822.00	798.00	2.36%
		<b>Total</b>	<b>55,399.00</b>	<b>54,120.00</b>	<b>1,279.00</b>	<b>2.36%</b>

Source: AHEIA, answers to written questions on notice, 3 May 2021 (received 17 May 2021), p.4.

9.35 Given the ongoing lockdowns across much of Australia, including its most populous states, it is likely that the downward trend of job loss in casual and fixed-term staff will continue.

*Transition to online learning*

9.36 The Australian Council of Learned Academies (ACOLA) submitted that the 'uptake of advanced digital technologies and platforms is significantly transforming the nature of "work", and the Australian workforce and workplace environments more broadly'.<sup>35</sup>

9.37 Campus closures necessitated the uptake of digital learning with a large portion of face-to-face university work rapidly transitioning to an online model. As a result academics have been forced to quickly adapt to the shifting job requirements, often at their own expense.<sup>36</sup>

**Increased workload**

9.38 The transition to online learning has 'increased workloads' for academics and inquiry participants suggested university management have been 'negligent in assuming that this extra workload would be shouldered by casual staff'.<sup>37</sup>

9.39 Ms Barnes said that, even before the pandemic, the workload of casual academics was significant:

They are expected to write lectures in a period of time that nobody can write lectures in. They are required to mark and to provide pastoral care.

<sup>35</sup> Australian Council of Learned Academies (ACOLA), *Submission 48*, p. 1.

<sup>36</sup> Name withheld, *Submission 105*, p. 40.

<sup>37</sup> USYD Casuals Network, *Submission 59.1*, p. 30.

In my own experience, in that unit I was talking about, because it was first year, you often had students who had mental health issues and were struggling with university. Our casuals are expected to provide that care with absolutely no remuneration, or concern for their own welfare.<sup>38</sup>

9.40 In its report, *Over-worked and worked over: Casual academic bear the costs of Covid-19*, the USYD Casuals Network surveyed casual academics to understand the impact that the pandemic has had 'on their job and financial insecurity'. Of its respondents:

- 82% reported doing extra unpaid work in Semester 1 2020;
- 75% of casuals reported experiencing an increased workload in Semester 1, 2020, with an average of 50 unpaid hours per worker, and;
- 85% have incurred additional expenses in the move to online teaching.<sup>39</sup>

9.41 Administrative duties and remodelling course content to suit online delivery were the main identified areas that 'increased dramatically', adding to workloads. Casual academics also played a substantial role in offering extra pastoral care to students that struggled with the transition to online learning 'as well as broader issues arising as a result of COVID-19'.<sup>40</sup>

9.42 The NTEU submitted that while 'casual and sessional staff were very much involved in the move of courses online', only a minority of them 'expressed that they were being adequately supported by the university in this process'.<sup>41</sup>

9.43 USYD Casuals gave similar evidence, contending that, in the case of USYD:

The University has not adequately dealt with—let alone acknowledged—the stresses and insecurity endured by casuals during the rapid transition to online teaching, nor casuals' working conditions more generally.<sup>42</sup>

9.44 **Box 9.1** includes anecdotal evidence provided by the USYD Casuals Network concerning increased workloads due to COVID-19.

**Box 9.1 USYD Casuals Network survey— comments from casual academics on increased workloads during COVID.**<sup>43</sup>

'The transition to online learning has meant that I have had to put in significantly more time and effort, without compensation'.

<sup>38</sup> Dr Barnes, NTEU, *Committee Hansard*, 13 April 2021, p. 33.

<sup>39</sup> USYD Casuals Network, *Submission 59.1*, p. 3.

<sup>40</sup> USYD Casuals Network, *Submission 59.1*, p. 24.

<sup>41</sup> NTEU, *Submission 47*, p. 23.

<sup>42</sup> USYD Casuals Network, *Submission 59.1*, p. 33.

<sup>43</sup> USYD Casuals Network, *Submission 59.1*, pp. 23–25.

'the change [to online learning] requires of us more individual feedback, individual communication with students. Therefore it doubles or triples our workload'.

'Increased time spent communicating with students and ensuring their wellbeing, making alternative arrangements for them (unpaid). Increased admin load'.

'The biggest add on of unpaid work has been managing emails from students. Many students have been anxious, requesting extensions, many more emails than usual had to be sent out about their lack of engagement in the unit'.

'I am doing approximately double the amount of preparation hours as we move online'.

'Moving online actually means a lot more admin, prep time to ensure that 1) teaching is actually interesting and 2) everything records and uploads smoothly or, when live, that everyone can be understood and that each student has time to contribute'.

### *Wage theft*

9.45 The USYD Casuals network argued that during the pandemic 'contingent workers in universities have been highly exposed' and the 'features of casual work have been exacerbated by the pandemic'.<sup>44</sup> COVID-19 has reportedly 'intensified underpayment and non-payment for casual staff' which was already an 'untenable' problem within the sector.<sup>45</sup>

9.46 Not only has COVID exacerbated wage theft issues, it has also further encouraged a culture of reluctance to speak up on underpayment issues—employees are increasingly fearful that by raising an instance (or repeated instances) of underpayment they will place their career in jeopardy:

Virtually every university in the country had workers ringing us who were fearful and really reluctant to speak publicly about their experiences. They are losing income. These are people who are often very poorly paid. They don't have many hours of work. They are expected to work for free.<sup>46</sup>

9.47 An October 2020 interim report into wage theft at USYD by the USYD Casuals network, found that:

<sup>44</sup> USYD Casuals Network, *Submission 59.1*, p. 1.

<sup>45</sup> La Trobe Casuals Network, *Submission 1*, p. 4.

<sup>46</sup> Dr Barnes, NTEU, *Committee Hansard*, 13 April 2021, p. 33.

- 84% of participants performed unpaid work during the audit. Their stolen wages totalled \$47,897 over a six-week period.
- Participants performed 753 hours of unpaid work over a six week period, equivalent to each person working close to one day (6.6 hours) unpaid every week.
- On average, for every dollar casuals were paid, they were not paid 75 cents. This is equivalent to 43% of work going unpaid, or someone in a 9-to-5 job not being paid for work performed after 1:30pm.<sup>47</sup>

9.48 Similar evidence reported by the Monash Casuals, the UNSW Casuals Network and La Trobe Casuals indicated that underpayment in the sector exacerbated by COVID-19 is widespread. The report concluded that its findings strengthened evidence of 'sector-wide and systemic exploitation of precarious university workers'.<sup>48</sup>

### Long-term viability of the sector

9.49 The consequences of insecure working arrangements threaten the sustainability of the higher education sector—a major contributor to Australia's economy and society. Participants in the inquiry agreed that COVID-19 was the catalyst, not the cause, for many of the present challenges.

9.50 Dr Barnes explained what impact ongoing insecure employment may have on the future of the sector:

While the level of casual and contract work is already excessive, it is continuing to grow ... the passing of the Jobready graduates package last year means that universities now must teach more students with less funding, on average, per student. With international education fee income, which subsidised domestic teaching and research, unlikely to return soon, job losses are set to continue – but the work of teaching the growing number of domestic students remains. This creates a perfect storm which would see insecure work become the only real form of employment in our universities.<sup>49</sup>

9.51 A recent EY report, *The Peak of Higher Education*, included interviews with 32 senior executives in Australian and New Zealand institutions. The report suggested that international student enrolments may have peaked in 2019 and will never return. It stressed that in the coming years 'winning universities' will 'pivot early' toward accessibility and 'embrace learning platforms and acquire new capabilities'. It ominously forecasts that by 2030 a quarter of

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<sup>47</sup> USYD Casuals Network, *Submission 59.2*, p. 1.

<sup>48</sup> USYD Casuals Network, *Submission 59.2*, p. 32.

<sup>49</sup> Dr Barnes, NTEU, *Committee Hansard*, 13 April 2021, p. 31.



universities could 'go bankrupt, merge, restructure or close' as the sector is 'reinvented'.<sup>50</sup>

9.52 There are impacts for staff currently working in the sector, such as postgraduate researchers, who may leave the sector due to unrealized career goals. This 'lost generation' is devastating for not only the individual researchers who have been forced out of the sector, but also for students, whose educations may suffer.<sup>51</sup> Combined, both serve to significantly reduce the capacity of Australian universities to produce quality benefits for the broader community.

9.53 One submitter reflected on the importance of academics to Australia at large as 'the single largest national knowledge resource', and stressed that:

By constantly cutting academic employment and casualising the sector, and applying arbitrary metrics of 'demand', we have continuously reduced the knowledge resource that our universities are capable of being. Consequently, academics are increasingly unable to contribute to any wider community role, even allowing that other requisite pre-conditions make that possible. There appears to be no adequate appreciation of how university-based knowledge is communicated to or benefits the wider community, and what flow-on economic contributions it might make.<sup>52</sup>

9.54 Mr Paul Morris of the NTEU spoke on his experience in the sector since 2004 and how the shift to precarious work has been to the detriment of staff and students alike:

I have seen change in the workplace pit employee against employee in an increasingly competitive environment as opposed to the collegiate environment that academia has traditionally been founded upon. In the main, the spoils go to the organisation rather than the employees, and very rarely to our students. Change has ensured a race to the bottom for all except those making the decisions, who invariably move on to better things.<sup>53</sup>

9.55 At present, there is no indication that universities will take steps to address the significant issues stemming from insecure work in the sector—instead insecure work will 'continue to grow after the COVID-19 crisis'.<sup>54</sup> Dr Doran and the CUPUW shared this view, contending that it would be irrational to expect 'university managers to self-correct' their employment practices.<sup>55</sup>

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<sup>50</sup> EY, *The peak of higher education – a new world for the university of the future*, 16 August 2021, pp. 4–6, [www.ey.com/en\\_au/government-public-sector/the-peak-of-higher-education](http://www.ey.com/en_au/government-public-sector/the-peak-of-higher-education) (accessed 1 September 2021).

<sup>51</sup> Council of Australian Postgraduate Associations (CAPA), *Submission 64*, p. 11.

<sup>52</sup> Name withheld, *Submission 105*, p. 56.

<sup>53</sup> Mr Paul Morris, Member, NTEU, *Committee Hansard*, 13 April 2021, p. 44.

<sup>54</sup> CAPA, *Submission 64*, p. 4.

<sup>55</sup> Dr Doran, CUPUW, *Committee Hansard*, p. 40.

9.56 Casualisation also has implications for the future of employees already on permanent contracts. A September 2021 report by The Australian Institute, *An Avoidable Catastrophe: Pandemic Job Losses in Higher Education and their Consequences*, reported that in 2021, 'permanent staff are facing the main job losses' representing 84 per cent of job losses from February to May. By comparison casual staff represented 22.4 per cent of the total employment across the same period, up by half from the previous year. The report concluded that permanent job loss and some stability returning to the sector is 'causing resurgence in the overall incidence of casualisation in Australian universities'.<sup>56</sup>

9.57 Dr Barnes pointed out the dichotomy between attempting to educate a future workforce and having a large percentage of academics employed insecurely:

We think there is going to be a bit of a shift where there might be more pressure on university budgets to teach more students for less ... Universities are responsible for teaching the next generation of professionals— teachers and nurses; and engineers are also impacted by the reduction in cost—yet we are going to be doing that with people who themselves are not going to be securely employed.<sup>57</sup>

9.58 A further departure of human capital from the sector is possible. The USYD Casuals COVID-19 report noted that 'many respondents alluded to the significant possibility of their being forced to leave the sector entirely in future' primarily due to 'lost jobs and lost opportunities to gain teaching experience' in the context of COVID-19. More specifically:

- 60% are likely to leave academia
- 60% of casuals feel they are either 'very likely' or 'likely' to leave academia permanently
- 71% of respondents are 'highly concerned' that university austerity measures will have long-term negative impacts on their career development.<sup>58</sup>

**Box 9.2 USYD Casuals Network survey—testimony from casual academics on sector job prospects after COVID-19.<sup>59</sup>**

'I'm thinking more and more that academia won't be a viable career option.'

<sup>56</sup> The Australia Institute, *An Avoidable Catastrophe: Pandemic Job Losses in Higher Education and their Consequences*, September 2021, p. 3, [https://d3n8a8pro7vhm.cloudfront.net/theausinstitute/pages/3830/attachments/original/1631479548/An\\_Avoidable\\_Catastrophe\\_FINAL.pdf?1631479548](https://d3n8a8pro7vhm.cloudfront.net/theausinstitute/pages/3830/attachments/original/1631479548/An_Avoidable_Catastrophe_FINAL.pdf?1631479548) (accessed 17 September 2021).

<sup>57</sup> Dr Barnes, NTEU, *Committee Hansard*, 13 April 2021, p. 32.

<sup>58</sup> USYD Casuals Network, *Submission 59.2*, p. 3.

<sup>59</sup> USYD Casuals Network, *Submission 59.2*, pp. 15–17.

'I have given up on bothering to seek employment in the tertiary sector. I have a strong publication record, and have coordinated and tutored numerous subjects, but I think COVID-19 is the final nail in the coffin for the sector, and so I will [be] transitioning out of the industry'.

'There is incredible uncertainty about my future employment, which leaves me worried and not particularly productive'.

'This will all contribute to the loss of a generation of early career researchers and PhD students who have worked tirelessly for institutions that have failed to recognise their contribution. This has left me questioning my choice of career and the waste of years to get to this point which appears to be fruitless'.

- 9.59 It is difficult to conceive of how the sector will continue to remain competitive and to maintain a standard of excellence in educational quality when a large portion of its staff are subject to insecure working arrangements with such pervasive individual and communal consequences.

### **Concluding comments**

- 9.60 It is clear that the issues affecting the higher education sector since the onset of the COVID-19 pandemic are not new, but rather a clear continuation and intensification of existing trends. The COVID environment has accentuated flaws in insecure working arrangements that are long overdue for policy reform and correction. Proposals for improving the long-term sustainability of the sector by increasing job security are discussed in Chapter 10.



# Chapter 10

## Higher education: proposals for reform

- 10.1 The previous three chapters have outlined the higher education sector as it currently exists and the prevalence of insecure work within it. This chapter considers how past regulatory settings in the sector have facilitated an increasing trend of insecure work, and contemplates the need for reform.
- 10.2 The chapter then considers evidence from inquiry participants on how to improve job security in higher education. The committee's views and recommendations are provided subsequent to each proposed reform.

### The need for reform

- 10.3 The current structure of the higher education sector has its roots in the Dawkins reforms of 1988 which were introduced to 'facilitate uniformity in higher education funding arrangements, regulation, rules, and controls'.<sup>1</sup> The Hon John Dawkins MP, then Minister for Education, led the reforms which had explicit economic objectives, and were intended to ensure that graduates were equipped with the skillset and knowledge to 'contribute to and adapt within a changing economic environment'.<sup>2</sup>
- 10.4 This section briefly:
- outlines the lasting impacts the Dawkins reforms and more recent reforms to the higher education sector;
  - discusses how COVID-19 has accelerated the need for further reform; and
  - considers *who* bears responsibility for job insecurity and job losses in the sector.

### *Impacts of the Dawkins reforms*

- 10.5 The Dawkins reforms were outlined in *Higher education: a policy discussion paper*, a Green Paper published in December 1987, which was then followed by a White Paper, *Higher education: a policy statement*, in July 1988. The key reforms were:
- the introduction of income contingent loans for tuition costs through the Higher Education Contribution Scheme (HECS);
  - the conversion of all Colleges of Advanced Education (CAEs) into universities; and

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<sup>1</sup> Dr John H Howard, *Rethinking Australian higher education: towards a diversified system for the 21<sup>st</sup> century*, 2021, p. x, [www.howardpartners.com.au/assets/rethinking-australian-higher-education---towards-a-diversited-system-for-the-21st-century-\(uts-final\).pdf](http://www.howardpartners.com.au/assets/rethinking-australian-higher-education---towards-a-diversited-system-for-the-21st-century-(uts-final).pdf) (accessed 17 September 2021).

<sup>2</sup> Name withheld, *Submission 105*, p. 47.

- a series of provisions for universities to provide plans, profiles and statistics to justify courses and research.<sup>3</sup>
- 10.6 In his 2021 report, *Rethinking Australian higher education: Towards a diversified system for the 21<sup>st</sup> century*, Dr John Howard (not the former Prime Minister John Howard) observed that there were some concerns about the reforms when they were implemented 30 years ago. Dr Howard contended that these concerns have been borne out, because:
- The system now lacks diversification in terms of institutional forms and education delivery options that can meet the distinct educational needs of students and businesses in a growing service-oriented knowledge economy.<sup>4</sup>
- 10.7 Inquiry participants argued a new approach is needed in higher education. One academic submitter (name withheld) asserted that the Dawkins reforms directly influenced the status of universities today and specifically 'resulted directly in the casualization of a majority of academics'.<sup>5</sup>
- 10.8 More recently, John Dawkins himself has called for a 'major renovation' of higher education policy. In a 2016 letter headed 'higher education reform malaise', he said that the system he unveiled thirty years ago is 'completely out of date for current circumstances'.<sup>6</sup>
- 10.9 Dr Howard argued that over the past decade the Australian government has not implemented a 'consistent or coherent governance framework', and current governance measures in the sector have 'emerged haphazardly'.<sup>7</sup>

### *Recent reforms to the sector*

- 10.10 Recent Australian Government reforms outlined in Chapter 7, such as the Job-Ready Graduates package, have been targeted at encouraging student enrolments in industry-specific courses such as nursing and science, technology, engineering and mathematics (STEM).

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<sup>3</sup> Department of Employment, Education and Training and Dawkins, John, *Higher education: a policy statement*, Australian Government Publishing Service, Canberra 1988, <https://nla.gov.au/nla.obj-2518053881> (accessed 23 September 2021).

<sup>4</sup> Dr John H Howard, *Rethinking Australian higher education: towards a diversified system for the 21<sup>st</sup> century*, 2021, p. x.

<sup>5</sup> Name withheld, *Submission 105*, p. 48.

<sup>6</sup> Tim Dodd, 'John Dawkins says his university reforms are "completely out of date"', *Australian Financial Review*, 26 September 2016, [www.afr.com/work-and-careers/management/john-dawkins-says-his-university-reforms-are-completely-out-of-date-20160924-grnt3e](http://www.afr.com/work-and-careers/management/john-dawkins-says-his-university-reforms-are-completely-out-of-date-20160924-grnt3e) (accessed 17 September 2021).

<sup>7</sup> Dr John H Howard, *Rethinking Australian higher education: towards a diversified system for the 21<sup>st</sup> century*, 2021, p. 11.

10.11 The Job-Ready Graduates package has yet to have a tangible effect on the sector, however many commentators are pessimistic about its benefits. When giving evidence to a New South Wales state inquiry, the Community and Public Sector Union (CPSU) NSW Branch, argued that the reforms are 'incredibly damaging':

[The] new funding and fees package for universities, if implemented in its current form, will result in a further decline in Commonwealth funding per student at a time when universities are in crisis and at a time when they need funding the most.<sup>8</sup>

10.12 As discussed in Chapter 7, government funding received by universities has been decreasing over the past two decades. Australian government grants to universities in 2019 made up only 33.3 per cent of university revenue compared to 40.9 per cent in 2002.<sup>9</sup> The National Tertiary Education Union (NTEU) argued that the level of funding per student for teaching, and the way university research is funded, encourages systemic precarious employment.<sup>10</sup>

### *Pandemic accelerates need for reform*

10.13 The impact of the pandemic on university workers has been significant. A September 2021 report by The Australia Institute, *An Avoidable Catastrophe: Pandemic Job Losses in Higher Education and their Consequences*, reported that since the beginning of 2021, 40 000 or around one-in-five employees have lost their job in the sector.<sup>11</sup> Despite this employment crisis, Australian National University (ANU) Vice-Chancellor Brian Schmidt has put forward a view that the government has left universities 'to bleed'.<sup>12</sup>

10.14 Dr Howard argued that the lack of a targeted policy framework has resulted in the sector having an 'absence of overall strategic orientation and capacity to respond to major economic change and social imperatives'.<sup>13</sup> This is

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<sup>8</sup> Parliament of New South Wales, 'Future development of the NSW tertiary education sector', 22 February 2021, p. 9, [www.parliament.nsw.gov.au/lcdocs/inquiries/2597/Final%20report.pdf](http://www.parliament.nsw.gov.au/lcdocs/inquiries/2597/Final%20report.pdf) (accessed 17 September 2021).

<sup>9</sup> The Australia Institute, *An Avoidable Catastrophe: Pandemic Job Losses in Higher Education and their Consequences*, September 2021, p. 6, [https://d3n8a8pro7vhm.cloudfront.net/theausinstitute/pages/3830/attachments/original/1631479548/An\\_Avoidable\\_Catastrophe\\_FINAL.pdf?1631479548](https://d3n8a8pro7vhm.cloudfront.net/theausinstitute/pages/3830/attachments/original/1631479548/An_Avoidable_Catastrophe_FINAL.pdf?1631479548) (accessed 17 September 2021).

<sup>10</sup> National Tertiary Education Union (NTEU), *Submission 47*, p. 3.

<sup>11</sup> The Australia Institute, *An Avoidable Catastrophe: Pandemic Job Losses in Higher Education and their Consequences*, September 2021, p. 1.

<sup>12</sup> Brian Schmidt, ANU Vice-Chancellor, 'Universities have been left to bleed in the budget but we are pivotal to the recovery', *Media Release*, 12 May 2021 [www.anu.edu.au/news/all-news/australian-unis-are-too-important-to-be-left-to-bleed](http://www.anu.edu.au/news/all-news/australian-unis-are-too-important-to-be-left-to-bleed) (accessed 1 September 2021).

<sup>13</sup> Dr John H Howard, *Rethinking Australian higher education: towards a diversified system for the 21<sup>st</sup> century*, 2021, p. 11.

particularly true in the wake of the COVID-19 pandemic. Inquiry participants agreed that the pandemic has emphasised existing flaws in the higher education system, including an over-reliance on precarious employment.<sup>14</sup>

10.15 However, it was put to the committee that responsibility for the excessive use of casual and fixed-term employment, and the experience of universities during the pandemic, is shared. The NTEU argued that university managers also share responsibility as 'autonomous institutions responsible for their own industrial relations practices'. Motivated by cost cutting measures, universities have expanded the limits of casual academic use to unsustainable levels.<sup>15</sup>

10.16 Director of Policy and Research at the NTEU, Dr Terri MacDonald, further explained the relationship between government and universities:

Universities are public institutions. They receive public funding. One of the reasons that we're in this mess, in a sense, is because, while government funding per student has been declining overall, in terms of proportion, for some time, quite a few years—decades, you could even say—universities have been leveraging off that as well. They've been able to do as they wish with their own workforces, without any kind of justification, without any kind of explanation.<sup>16</sup>

10.17 One academic submitter (name withheld) made a similar observation, arguing that in order for universities to remain sustainable, 'the sector must be effectively regulated by government, not left to the decision making of university management'.<sup>17</sup>

10.18 According to the University of Sydney (USYD) Casuals Network, the job losses and increased pressure university staff have endured during the pandemic has been 'entirely predictable' and 'part of the design of the University workforce'. This is because in times of crisis insecure workers are useful in that they are both 'easier to exploit and ... offload'. The USYD Casuals Network argued that university managers have 'taken advantage' of casuals, and decasualising the sector is the only way forward:

The only way, then, to solve the problems of exploitation, chronic uncertainty, and vulnerability caused by casual work is to decasualise the workforce and to ensure that those working in the university sector are employed in secure jobs.<sup>18</sup>

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<sup>14</sup> NTEU, *Submission 47*, p. 3; Name withheld, *Submission 105*, p. 3, and; Dr Yaegan Doran, Member, Casualised, Unemployed and Precarious University Workers (CUPUW), *Committee Hansard*, 13 April 2021, p. 39.

<sup>15</sup> NTEU, *Submission 47*, p. 3.

<sup>16</sup> Dr Terri MacDonald, Director, Policy and Research, NTEU, *Committee Hansard*, 13 April 2021, p. 36.

<sup>17</sup> Name withheld, *Submission 105*, p. 43.

<sup>18</sup> University of Sydney (USYD) Casuals Network, *Submission 59*, p. 4.



10.19 When asked if there was a connection between precarious employment in universities and the erosion of academic staff and student representation on university councils, Dr MacDonald said there is a clear cultural shift occurring where university stakeholders are 'given less and less of a voice':

What's happened is that universities are now corporatised. They are institutions that are run like corporate businesses. They have onshore and offshore campuses, they're concerned about branding, they're concerned about reputation, they're concerned about the bottom line. The boards have changed and there's less collegiality.<sup>19</sup>

10.20 The combination of these factors has led to the sector having 'one of the highest levels of precarious employment in Australia'. The NTEU submitted this has caused:

[U]ntold damage to the lives of thousands of Australian workers, as well as significant damage to the quality of provision of education, and to the public interest.<sup>20</sup>

10.21 Dr Yaegan Doran, member of the Casualised, Unemployed and Precarious University Workers, stressed the need for intervention. As noted earlier in the report, Dr Doran said that university managers cannot be expected to 'self-correct' as there are strong incentives for universities to keep casual workers casual.<sup>21</sup>

10.22 The Australia Institute quantified the scale of job loss to date in Australia due to the pandemic and underscored the urgency in rectifying policies that have contributed to mass casualisation:

Without urgent measures to limit casual hiring (including sessional instructors and other casual teaching staff), and protect permanent employment, the scourge of casualisation in Australian universities will clearly get worse in coming years.<sup>22</sup>

10.23 The report also estimated how much the Australian Government would have to spend on the sector in order to keep it viable. According to The Australia Institute, 'the sector would now require about \$3.75 billion per year to restore the estimated 35 000 jobs lost from public universities in 2021'. This \$3.75 billion would represent only 1.2 per cent of the total cost of the government's financial COVID response.<sup>23</sup>

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<sup>19</sup> Dr MacDonald, NTEU, *Committee Hansard*, 13 April 2021, p. 36.

<sup>20</sup> NTEU, *Submission 47*, p. 3.

<sup>21</sup> Dr Doran, CUPUW, *Committee Hansard*, 13 April 2021, p. 40.

<sup>22</sup> The Australia Institute, *An Avoidable Catastrophe: Pandemic Job Losses in Higher Education and their Consequences*, September 2021, p. 3.

<sup>23</sup> The Australia Institute, *An Avoidable Catastrophe: Pandemic Job Losses in Higher Education and their Consequences*, September 2021, p. 3.

*Committee view*

- 10.24 The issues affecting the higher education sector since the onset of the COVID-19 pandemic are not new, but rather a continuation of established structural issues that have been exacerbated by the pandemic. The committee recognises that the crisis faced by universities during the pandemic has affected all individuals in the higher education sector. It is regrettable that academics, researchers, non-academic staff and students have all suffered as a result of a crisis that was—if not entirely preventable—certainly foreseeable.
- 10.25 The biggest losers have been the universities' large insecurely-employed casual teaching workforce, who lead a precarious existence on the margins of university life, providing an underpaid and overstretched workforce.
- 10.26 It is the committee's view that the increase in casualisation over the last few decades is not a result of the seasonal nature of the university semesters; it is a feature of cost-cutting and the corporatisation of the sector. Insecure workers are cheaper and easier to get rid of, and, over time, exploitative workforce practices such as piece rates have become the contractual norm.
- 10.27 The excessive reliance on casuals pre-pandemic, and the ease with which insecure workers have been discarded during the pandemic, represent a clear failure by the sector to value these workers. This cannot continue.
- 10.28 It is deeply concerning that the ongoing employment crisis in Australia's public universities is not receiving the critical attention it should be. It is the committee's view that there have been insufficient efforts by government, universities and industry bodies to address the underlying systemic causes for the prevalence of insecure work in the sector.
- 10.29 The committee notes that the Department of Education, Skills and Employment is currently developing a strategy for international education, which will address Australia's approach to international education until 2030. The committee is concerned that the strategy focus is too narrow, and excludes pressing domestic concerns—the entire education sector industry needs to be reviewed.
- 10.30 There is a real opportunity for reforms to facilitate a sustainable higher education system that delivers quality educational outcomes, generates greater economic and social prosperity, and promotes high-quality secure employment.
- 10.31 The committee believes that the industry would benefit from improved data-sets to increase the government's understanding of the factors that contribute to insecure work in the sector; and how they can be mitigated in the future.
- 10.32 Furthermore, the committee believes that the sector is in dire need of additional public funding, and that universities themselves must diversify

their revenue streams to offset their excessive reliance on international students.

### **Recommendation 21**

**10.33 The committee recommends that the Australian Government urgently develops a new National Higher Education Funding Strategy for the period 2021–2025. The new strategy should recognise and address:**

- **the real cost of delivering high quality tertiary education including administration, marking, and ensuring staff and student wellbeing;**
- **the role of research as a core university function;**
- **increasing casualisation in university workforces;**
- **revenue stabilisation and diversification, particularly with regard to the shift in international student enrolments;**
- **the role for government in mandating and enforcing secure and fair employment practices in tertiary education; and**
- **the need for an increase in government funding to the sector.**

### **Recommendation 22**

**10.34 The committee recommends that the Australian Government provides temporary additional annual funding universities to restore jobs and rectify the damage inflicted upon the sector as a result of the COVID-19 pandemic and funding cuts, until the new Higher Education Strategy has been developed and implemented.**

### **Proposals for reform**

10.35 The committee received a significant amount of evidence on the impacts of insecure work on higher education workers, their families and communities. However, evidence in relation to solutions—and specific proposals for reform—were somewhat limited. The committee thanks the NTEU for its comprehensive submission, which outlined a number of proposals for reform. Many of the proposals outlined below are supported by the NTEU's submission, although evidence from other witnesses has also been considered.

10.36 This section outlines and discusses a number of proposals for reform, including:

- reforms to strengthen pathways to permanency, including through changes to casual and fixed-term conversion provisions;
- reforms relating to reporting transparency for universities;
- reforms relating to funding obligations; and
- reforms to casual payment mechanisms.

10.37 It includes the committee's views and recommendations in relation to each of the proposed reforms.

### *Strengthen pathways to permanency*

10.38 Chapters 8 and 9 discussed some of the impacts that come from being employed under casual or fixed-term contracts. While there are some legitimate uses for casual and fixed-term workers, inquiry participants argued that permanent work should be the norm, and it should be easier for casual and fixed-term employees to gain a permanent position.

### **Casual conversion**

10.39 On 22 March 2021, the Parliament passed an amended version of the Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020 (Amended Omnibus Bill). The Bill amended the *Fair Work Act 2009* to incorporate a statutory definition of a 'casual employee', and added the ability to request or be offered conversion from casual to permanent employment.<sup>24</sup>

10.40 The NTEU argued that the Amended Omnibus Bill did not adequately 'deal with the problems that [casuals] face and the nature of work in universities', that is, the semester structure of university work. The NTEU asserted that the reality of university work is that it is 'routine and repetitive'. However, under the current requirements for casual conversion, casuals could be employed indefinitely with no opportunity to convert:

The recent changes are really just too weak to help our members. As long as there has been an advance commitment made by the employer to indefinite ongoing work, then that covers it. You also need the employee to be on a regular work pattern. That, again, is a problem with the sessional situation. You could essentially put your casual academics on four- to five-month contracts and keep employing them for years that way and it wouldn't trigger any of the conversions. What we actually need is an improved definition of casual work which actually covers the university sector, and the changes that were made under the [Amended Omnibus Bill] didn't go anywhere near that.<sup>25</sup>

10.41 The USYD Casuals Network agreed with this viewpoint, arguing that university work is 'regular permanent work', and that university workers 'reapply for the same work year on year'. Furthermore, the Network argued that the amendments actually had a *detrimental* effect on ongoing enterprise bargaining:

In fact, many of our legal avenues that we were pursuing, particularly with enterprise bargaining coming up, we had to close off because we now have a consolidated definition of casual that specifies that, because we have nominally been called casuals, we are casuals by definition.<sup>26</sup>

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<sup>24</sup> *Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2021 Explanatory Memorandum*, p. i.

<sup>25</sup> Dr MacDonald, *Committee Hansard*, 13 April 2021, p. 34.

<sup>26</sup> Mx Daniel Cotton, Member, University of Sydney Casuals Network, *Committee Hansard*, 13 April 2021, p. 42.

10.42 The Australian Higher Education Industrial Association (AHEIA) also stated that the amendments were not relevant to casual staff in the sector, due to the 'sessional nature of work'. Executive Director, Mr Stuart Andrews said many university casuals would not be the 'target of the legislative change', but gave a caveat that this may be an issue regarding the pattern of employment for some academics:

Obviously, there's going to be a continuum from people at that end to people who have been employed over a number of years for periods of time with some regularity relating to it.<sup>27</sup>

10.43 Dr McDonald said this 'oversight' demonstrates the need for a 'genuine' definition of casual work that is specific to the university sector, and reflective of the ongoing nature of university work:

Once we've defined that, we need to limit it to those areas, as opposed to what is happening now. The reality is that most of the work that goes on in the universities is work that is routine and repetitive. Economics 101 will be offered every year. We can guarantee that. It's one of those things that really does need to be looked at.<sup>28</sup>

10.44 The Council of Australian Postgraduate Associations (CAPA) contended that strengthening pathways to permanent work could be facilitated through the modification of industrial instruments. Conversion clauses could be added to Modern Awards that would give casuals more rights by allowing them to request permanent employment should they meet an identified conversion criteria.<sup>29</sup>

10.45 The USYD Casuals Network observed that current conversion clauses already exist in some university Enterprise Agreements, such as at the University of Sydney, but are not strong enough:

According to organisers from the NTEU Sydney University branch, management have systematically rejected conversion applications, with very few being successful. As a tool for helping casuals who for all intents and purposes work as ongoing staff, the conversion clauses in the EBA have therefore demonstrably failed.<sup>30</sup>

10.46 In contrast, NTEU member, Dr Elizabeth Adamczyk was critical of the idea of casual conversion, instead arguing that the academic role needed to be overhauled entirely in order for permanent conversion to be applicable:

So this idea of conversion—that you take casual staff in casualised teaching roles—is quite problematic. In the first instance we have decoupled the

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<sup>27</sup> Mr Stuart Andrews, Executive Director, Australian Higher Education Industrial Association (AHEIA), *Committee Hansard*, 20 April 2021, p. 65.

<sup>28</sup> Dr MacDonald, NTEU, *Committee Hansard*, 13 April 2021, p. 36

<sup>29</sup> Council of Australian Postgraduate Associations (CAPA), *Submission 64*, p. 4.

<sup>30</sup> USYD Casuals Network, *Submission 59.1*, p. 28.

idea of what academia is, and we have only casualised teaching. So we've lost the research, and the service work that goes along with it, in that 40:40:20 model. The idea of conversion is something that I would push back on a little bit, in the sense that we want a holistic definition of what an academic is to be reinstated into universities and valued for what it is.<sup>31</sup>

### **Fixed-term conversion**

10.47 The NTEU also advocated for broad based fixed-term employment conversion laws arguing that fixed-term workers should have specific workplace rights to apply for conversion to permanent work and only be employed on a fixed-term contract in specific circumstances. This could be achieved through mandating a limited time that an individual can be employed on a fixed-term employment contract in the same role.<sup>32</sup>

10.48 Another submitter recommended that the scope of fixed-term contracts should be limited, and a justification or 'merit test' should apply when they are first implemented.<sup>33</sup>

10.49 Dr Doran said it should be the norm for long-term casual or fixed-term staff to be able to convert to a permanent contract. Currently it is very difficult to get converted and there is no regulation that would 'allow for conversion as the standard'.<sup>34</sup>

10.50 For both casual and fixed-term staff, the NTEU argued the benefits of such conversion provisions would present a 'fundamental' change and negate many of the effects of insecure work:

For the universities, it would be revolutionary. We would no longer have the problem of insecure employment at the same level as we do now. We would have staff who had permanency of employment, who would be able to do their research and their teaching, who would be able to offer their professional services and their general staff duties without fear or the anxiety of whether or not they had employment next semester or next year.<sup>35</sup>

### **Committee view**

10.51 Evidence received during the inquiry has raised a number of important and complex issues relating to the inability for casual and fixed-term staff to advance to permanent roles within the sector. Evidence suggested that, at present, many staff within the sector would like the opportunity to move to permanent roles, but are prevented from doing so.

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<sup>31</sup> Dr Elizabeth Adamczyk, *Committee Hansard*, 13 April 2021, p. 48.

<sup>32</sup> Dr MacDonald, *Committee Hansard*, 13 April 2021, p. 35.

<sup>33</sup> Name withheld, *Submission 120*, p. 6.

<sup>34</sup> Dr Doran, *Committee Hansard*, 13 April 2021, p. 42.

<sup>35</sup> Dr MacDonald, *Committee Hansard*, 13 April 2021, p. 36.

- 10.52 The committee believes that employment conditions for casual and fixed-term workers need to be substantially improved, and facilitating pathways to permanent work is a crucial step. The Amended Omnibus Bill did not achieve this; in fact, the amendments are unlikely to bring many—if any—casual workers in the sector closer to secure work.
- 10.53 The Fair Work Act casual conversion clauses, as they currently stand, are difficult to apply in a number of sectors, including higher education. Casual and fixed-term workers in the sector are never going to meet the benchmark for conversion due to the sessional nature of their employment. Evidence also suggests that casual and fixed-term workers who may meet a conversion benchmark within university-specific enterprise agreements are often denied this opportunity.
- 10.54 The committee supports measures that would allow casual and fixed-term employees to convert to permanent full-time or part-time work, ensuring that they have access to entitlements such as holiday pay and sick leave.
- 10.55 Such measures could be designed in order to allow the employment of genuine casual workers to continue, and to maintain flexibility for workers who prefer a casual arrangement as they supplement other full-time work with teaching.

### **Recommendation 23**

- 10.56 The committee recommends that the Australian Government Department of Education, Skills and Employment works closely with universities, workers, experts, the National Tertiary Education Union, and relevant sector bodies, to design a system of casual and fixed-term conversion that would be appropriate for the higher education sector.**

**This system should include sector-appropriate definitions of casual and fixed-term work, and limit the use of casual and fixed-term employment to genuinely non-ongoing work.**

#### *Improve collection and reporting of employment statistics*

- 10.57 As discussed in Chapter 7, the scope of casualisation in the higher education sector has been difficult to quantify as universities are not required to report a headcount of casual staff. Many industry bodies and unions have attempted to fill this gap by presenting their own estimations on university workforce data but these rely on anecdotal evidence, different count methodologies, and varying sample sizes.
- 10.58 The NTEU argued that, due to the Department of Education, Skills and Employment (DESE) reporting criteria, universities have been able to 'conceal the true nature of their workforce'. The use of 'vague' and 'outdated' reporting

measures such as Full-time Equivalent (FTE) are not appropriate tools and do not correctly identify the nature and size of the workforce.<sup>36</sup>

10.59 The NTEU pointed to 2019 Victorian Government reforms which mandated that all universities report figures for insecurely employed staff as part of their annual reporting obligations.<sup>37</sup> The NTEU recommend a similar national approach, in which universities would publicly report 'full employment statistics, including headcounts of staff by employment type and gender at regular intervals'.<sup>38</sup>

### **Committee view**

10.60 Casual work has clearly increased over time in the higher education sector. However, the lack of robust data has restricted investigative attempts to identify the exact size and composition of the higher education workforce, particularly with regard to the prevalence of casual work.

10.61 The committee supports greater university transparency on workforce composition, through the enhancement of annual reporting. This should include a greater focus on the collection of casual employee data, including on the staffing balance between teaching-only and researching-only functions, and on the gender and age of casual employees. Additionally, the committee acknowledges the need for better use to be made of available data sources, through improved linkage between data sources.

10.62 The committee supports requiring universities to collect and report this information to DESE, and expanding the powers of DESE to make this information more readily-available.

### **Recommendation 24**

**10.63 The committee recommends that the Australian Government requires all universities to provide a more detailed report of their staffing composition to the Department of Education, Skills and Employment, including:**

- **annualised data on permanent, fixed-term and casual staff in terms of both headcounts and full-time equivalents;**
- **annualised data on the use of labour hire and other external contractors; and**
- **annualised detailed data around gender, cultural diversity, age, earnings, length of service and retention rates for casual staff, and compared with permanent staff.**

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<sup>36</sup> NTEU, *Submission 47*, p. 5.

<sup>37</sup> NTEU, *Submission 47.1*, p. 6.

<sup>38</sup> NTEU, *Submission 47*, p. 5.



### *Tie funding to employment outcomes*

10.64 Some inquiry participants argued that there should be a legislative requirement on government funding linked to employment in universities, particularly with regard to the number of casual employees a university can employ.

10.65 The NTEU argued that the government should play a greater regulatory role in the sector, as a lack of public oversight has led to universities adopting a 'gig economy model', with the level of casualisation as a result 'unacceptable in public institutions'. One solution proposed would be to link university performance funding to 'targets for increased continuing employment'.<sup>39</sup>

10.66 The Casualised, Unemployed and Precarious University Workers conditionally supported this recommendation, 'except in the situation whereby that would lead to an overall decrease in funding'.<sup>40</sup>

10.67 In contrast, the AHEIA was strongly against 'legislative encroachment', contending that if employment composition were to become a 'criteria for university funding', this would not be 'good public policy'.<sup>41</sup> One reason given by Mr Andrews was that universities are not standardised in their structure and workforce composition:

I just can't see a proper basis for some legislative requirement in some form or funding requirement imposed somehow that was based upon the workplace demographics of the university. And, if you think about what the demographics of a sandstone CBD university might be in Sydney and Melbourne compared to a regional university at one of the coastal locations on the east coast, obviously we're talking about quite different types of bodies.<sup>42</sup>

10.68 Another reason argued by Mr Andrews was that 'artificially' implementing a casual employee cap may actually serve to disadvantage individuals attempting to gain experience in the industry, such as PhD students:

... when you think about what I was saying before about universities providing a whole lot of casual work to their PhD students. So what does the university do? Does it just reduce those casual employment opportunities for its student cohort so it can fit under an artificial cap?<sup>43</sup>

### **Committee view**

10.69 The continuing increase in the use of casuals in universities is unacceptable. The committee is supportive of measures that would promote decasualisation.

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<sup>39</sup> NTEU, *Submission 47*, p. 5.

<sup>40</sup> Dr Doran, *Committee Hansard*, 13 April 2021, p. 41.

<sup>41</sup> Mr Andrews, *Committee Hansard*, 20 April 2021, p. 66.

<sup>42</sup> Mr Andrews, *Committee Hansard*, 20 April 2021, p. 69.

<sup>43</sup> Mr Andrews, *Committee Hansard*, 20 April 2021, p. 69.

However, the committee recognises that a universal approach linking government funding to specific permanent employment targets may not be appropriate.

- 10.70 For example, rural and regional universities may have vastly different employment profiles to 'Sandstone universities', and targets may not be appropriate or necessary. The committee therefore suggests that further research be conducted into this proposal.
- 10.71 The committee would support, however, a system whereby universities were required to set their own targets for increasing permanent employment, and decreasing casualisation—suitable to their circumstances—and required to report publicly their progress against these targets.

### Recommendation 25

- 10.72 The committee recommends that the Australian Government requires, as a condition of receiving public funding, universities to set publicly-available targets for increasing permanent employment, and reducing casualisation, and report their progress against these targets on an annual basis. The targets should be established in consultation with industry experts, workers and the National Tertiary Education Union (NTEU).**

**The Department of Education, Skills and Employment should review the impact of this measure after three years, and—if it has not been effective in reducing the level of casualisation—the Australian Government should then work with universities and the NTEU to impose meaningful but achievable funding-linked targets.**

### *Addressing exploitative piece rates*

- 10.73 With 21 of Australia's 43 universities under investigation for wage theft, reforms to the enforcement of fair pay, particularly to the regime of piece rates for casual staff, were widely supported by inquiry participants.
- 10.74 Some participants, including the La Trobe Casuals Network and Dr Doran advocated for the abolition of piece rates.<sup>44</sup>
- 10.75 The USYD Casuals Network called for the University of Sydney, in consultation with the NTEU, to alter existing payment schedules at the University of Sydney, such as through increasing allocated administrative hours for marking, and lecture and tutorial preparation. Such an approach may be suitable for other universities.<sup>45</sup>
- 10.76 The AHEIA contested that piece rates have not been 'unilaterally' implemented by the universities to disadvantage staff. But rather, that they are a

<sup>44</sup> Dr Doran, *Committee Hansard*, 13 April 2021, p. 42.

<sup>45</sup> USYD Casuals Network, *Submission 59.2*, p. 34.

long-standing payment mechanism, struck by the specialist Academic Salaries Tribunal in 1980, that the universities and the NTEU have both been party to:

Whether those estimations are accurate in each and every instance for an individual is another question altogether. But it's not a situation of the universities unilaterally dreaming up some regime that disadvantages casual staff.<sup>46</sup>

10.77 The NTEU said the use of piece rates is 'widespread', particularly for the marking of examinations, essays and other written work, and that they are incorrectly administered:

The relevant enterprise agreements nearly all prescribe that employees are to be paid for this marking on a time-taken basis. Nevertheless, the University of Melbourne and many others instead have payment systems which automatically assign an amount of pay for each piece of work marked, or sometimes for each student irrespective of the actual hours worked. Moreover, these estimates of time taken are often seriously inadequate.<sup>47</sup>

10.78 The NTEU added that 'the current regime of right-of-entry laws prevents the NTEU from uncovering much of the unlawful behaviour involved in the sector'. The NTEU also submitted that unions have 'specialist knowledge of the industries' that their members work in, which is 'not available to government inspectors and bodies such as the Fair Work Ombudsman'.<sup>48</sup>

### **Committee view**

10.79 The committee heard compelling evidence about how the rates of pay used to remunerate certain aspects of casual academics work known as 'piece rates' has contributed to significant underpayment of wages. Manipulation of the piece rate system has led to widespread underpayment of casual workers and is evidence of a failure in university leadership.

10.80 The committee believes that the disparity between the salaries paid to senior university administrators and senior academics, and the wage theft experienced by many of junior staff who conduct the day-to-day teaching and research in universities is indicative of a sector built on exploitative and insecure work.

10.81 The committee recognises that piece rates commonly grossly underestimate the time required to complete marking work, which has resulted in rampant underpayments as evidenced by the 21 universities currently being investigated for wage theft.

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<sup>46</sup> Mr Andrews, *Committee Hansard*, 13 April 2021, p. 68.

<sup>47</sup> Attachment 1 (Unlawful underpayment of employees' remuneration (Wage Theft)), NTEU, *Submission 47*, p. 11.

<sup>48</sup> Attachment 1, NTEU, *Submission 47*, p. 17.

10.82 The committee's view is that the NTEU, with the support of networks of casual academics, has been instrumental in uncovering systemic wage theft in the higher education sector. However, they lack the powers to adequately enforce fair pay and conditions for all tertiary education workers in Australia.

### **Recommendation 26**

**10.83 The committee recommends, in light of the widespread wage theft in the Australian Government-funded higher education sector, that the government legislates improved rights of entry for all registered trade unions. These rights should include a right to inspect the records of both current and former employees, a right to enter a site without providing 24 hours' notice, and the removal of restrictions on trade unions accessing non-member records directly.**

**Part 3**  
**The Australian Public Service and  
Commonwealth procurement**



# Chapter 11

## Job security in the Australian Public Service

### Overview of the Australian Public Service

- 11.1 The Australian Public Service (APS) is a diverse career-based workforce which Australians rely on every day to deliver essential services. It is responsible for a wide range of functions across the Australian economy, such as policy development, regulation, and the delivery of vital programs and services. Its capacity to efficiently and effectively deliver on these responsibilities relies upon it being staffed by highly skilled and knowledgeable workers.
- 11.2 As at 30 June 2020, the APS consisted of 150 474 employees across 98 agencies and 14 portfolios, and operated in over 567 locations domestically and internationally. Women currently make up approximately 60 per cent of the APS workforce, and Aboriginal and Torres Strait Islander people make up 3.5 per cent. Furthermore, 17 per cent speak a language other than English and 22 per cent were born overseas.<sup>1</sup>
- 11.3 It is important to note that these figures do not incorporate the broader workforce used in public service delivery by the Australian Government, such as those individuals engaged as labour contractors and consultants. These arrangements, and their increasing prevalence, are discussed in further detail later in this chapter and in Chapter 12.
- 11.4 In early February 2020, the Australian Government reduced the number of departments from 18 to 14 with the aim of 'streamlining delivery and fostering greater collaboration on complex policy challenges'.<sup>2</sup> At 30 June 2020, the four largest agencies, as measured by APS workforce, were Services Australia, the Australian Taxation Office (ATO), the Department of Defence, and the Department of Home Affairs.<sup>3</sup> These four agencies represented 56 per cent, or 84 217 employees, of the total APS workforce.<sup>4</sup>
- 11.5 More than one in four members of the workforce are involved in service delivery, and roles within call and contact centres are the most common type of work. Reflecting the community-facing nature of their roles, the majority of

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<sup>1</sup> Australian Public Service Commission (APSC), *State of the Service Report 2019–20*, p. 110.

<sup>2</sup> APSC, *State of the Service Report 2019–20*, p. 112.

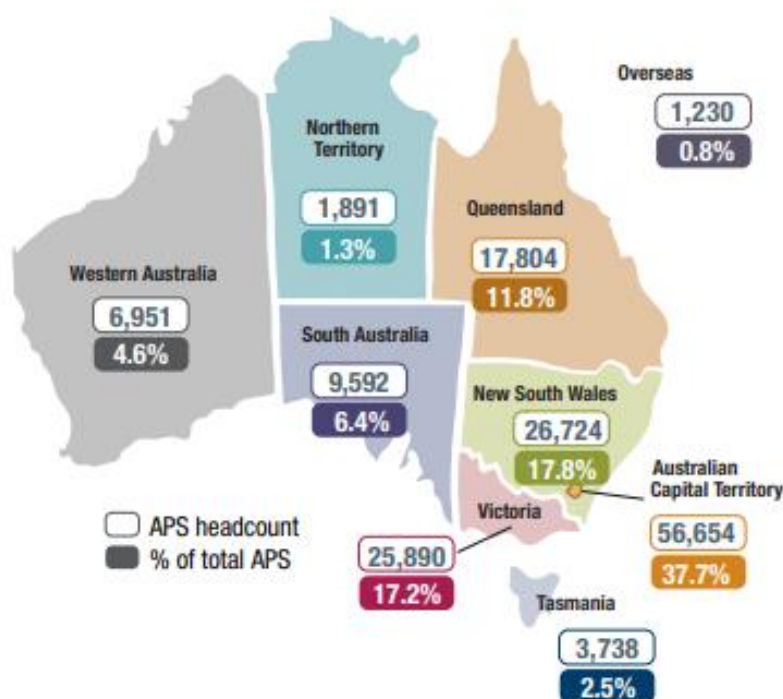
<sup>3</sup> Services Australia represented 21.1 per cent of the workforce; the ATO represented 13.9 per cent; the Department of Defence represented 11.6 per cent; and the Department of Home Affairs represented 9.3 per cent. APSC, *State of the Service Report 2019–20*, p. 112.

<sup>4</sup> APSC, *State of the Service Report 2019–20*, p. 112.

employees working in service delivery and health are located outside of the Australian Capital Territory (ACT).<sup>5</sup>

11.6 Although growing since 2012, the number of employees located in regional areas outside of capital cities has remained relatively stable since 2016 and, as at 30 June 2020, represented 14 per cent of total employees. Between 2003 and 2020, the proportion of employees working in capital cities, apart from Canberra, declined from 55 per cent to 47.5 per cent.<sup>6</sup> **Figure 11.1** below outlines employee numbers by location.

**Figure 11.1 APS employee numbers by location at 30 June 2020**



Source: Australian Public Service Commission, *State of the Service Report 2019-20*, p. 113.

## Workplace arrangements in the Australian Public Service

### *Ongoing and non-ongoing employees*

11.7 As at 30 June 2020, ongoing employees made up 87.8 per cent, or 132 101 employees, of the total APS workforce. This represented a decline of 117 positions over the prior year and resulted in the lowest proportion of ongoing employees in the APS for the last 20 years.<sup>7</sup>

11.8 Supplementing these permanent employees were 18 373 non-ongoing employees, representing 12.2 per cent of the workforce and an increase of 3 809 positions over the prior financial year. The majority of this increase occurred

<sup>5</sup> APSC, *State of the Service Report 2019–20*, p. 113.

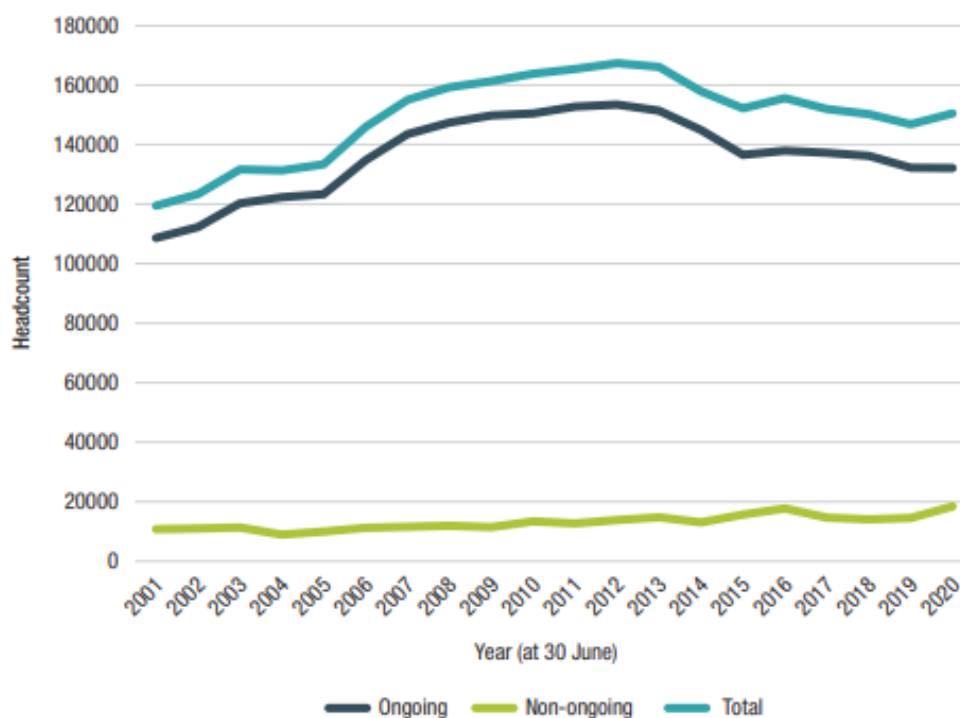
<sup>6</sup> APSC, *State of the Service Report 2019–20*, p. 113.

<sup>7</sup> APSC, *State of the Service Report 2019–20*, p. 110.



between 1 January 2020 and 30 June 2020 as a result of the Black Summer bushfire emergency and the commencement of the COVID-19 pandemic. This increase resulted in the number of non-ongoing employees being the highest it has been over the last two decades.<sup>8</sup> This is illustrated in **Figure 11.2** below.

**Figure 11.2 APS employee headcount from 2001 to 2020**



Source: Australian Public Service Commission, *State of the Service Report 2019–20*, p. 111.

11.9 The majority of these non-ongoing employees, 57.8 per cent or 10 618 people, were employed casually, with the balance (42.2 per cent or 7 755 people) employed for a specific term or task. This resulted in the casual workforce forming 7.1 per cent of the APS workforce; an increase of over 6 per cent since 2001.<sup>9</sup>

11.10 During 2019–20, the ATO, Services Australia, and the National Disability Insurance Agency (NDIA) had the largest net additions of employees:

- The ATO increased its workforce by 2 084 employees, which included 141 ongoing and 1 943 non-ongoing employees.
- Services Australia increased its workforce by 1 242, driven by an increase in 1 776 non-ongoing employees.
- The NDIA increased its workforce by 906, of which 576 were ongoing employees.<sup>10</sup>

<sup>8</sup> APSC, *State of the Service Report 2019–20*, p. 110.

<sup>9</sup> APSC, *State of the Service Report 2019–20*, p. 110.

<sup>10</sup> APSC, *State of the Service Report 2019–20*, p. 110.

### *Separation rates*

11.11 In evidence to the committee, the Acting Deputy Australian Public Service Commissioner, Mr Patrick Hetherington, highlighted that, in 2020–21, the APS saw the lowest separation rate in five years, and that it currently sits at approximately 6.3 per cent. He further explained that about a third of the separations related to age retirement, with the remaining two thirds being accounted for by people looking for alternative employment and other reasons.<sup>11</sup>

11.12 When questioned about the desirability of staff turnover, the General Manager of People at Services Australia, Mr Michael Nelson, stated that it was 'desirable to have a healthy turnover of staff', and submitted that he thought this figure was about 10 per cent per year. Noting that Services Australia's separation rate was currently only slightly over 7 per cent, he considered that 'quite healthy' in the present environment.<sup>12</sup>

### *Labour contractors and external workers*

11.13 Neither the Australian Public Service Commission (APSC), nor the Department of Finance, was able to confirm how many people engaged through labour hire or other external contracting arrangements are working within the Australian Public Service. This data is not collected, and neither agency provided an explanation for why this is the case. This is discussed further in Chapter 12.<sup>13</sup>

11.14 As shown in **Figure 11.3**, below, the utilisation of labour contractors and consultants has increased markedly in recent years. Across a sample of 24 agencies, spending on contractors has more than doubled over the period between 2012–13 and 2016–17. Furthermore, information sourced from AusTender indicated that the total value of consultant contracts across the APS increased from \$386 million to \$545 million during the same four year period.<sup>14</sup>

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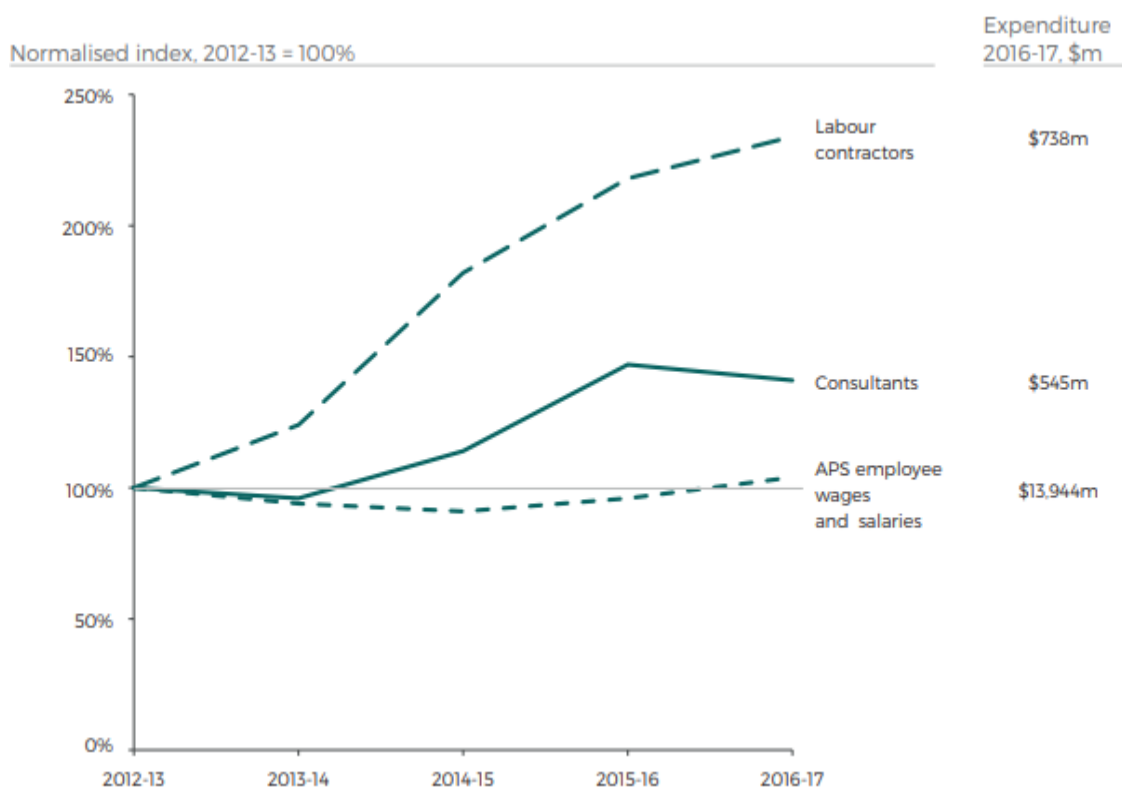
<sup>11</sup> Mr Patrick Hetherington, Acting Deputy Australian Public Service Commissioner, APSC, *Proof Committee Hansard*, 27 August 2021, p. 4.

<sup>12</sup> Mr Michael Nelson, General Manager, People, Services Australia, *Proof Committee Hansard*, 27 August 2021, p. 32.

<sup>13</sup> Mr Matt Yannopoulos, Deputy Secretary, Budget and Financial Reporting, Department of Finance, *Proof Committee Hansard*, 27 August 2021, p. 6.

<sup>14</sup> Department of the Prime Minister and Cabinet (PM&C), *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 2019, p. 186.

**Figure 11.3 Percentage change in spend on employees, labour contractors and consultancies.**



Source: Department of the Prime Minister and Cabinet, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, p. 186.

11.15 In responding to questions about this increase, the Deputy Secretary of Budget and Financial Reporting, Department of Finance, Mr Matt Yannopoulos, stated that government services, generally, have expanded considerably over the recent period, and that the utilisation of labour hire has supported this. He also submitted that the economy and the expectations of Australians, in terms of government service delivery and the utilisation of digital technologies, has evolved considerably in recent years.<sup>15</sup>

11.16 Mr Hetherington noted that departmental secretaries are empowered to make decisions about the workforce they require to achieve the outcomes they are responsible for. He also stated that the APSC believes there will be an ongoing need for contracted support to, amongst other things, handle surge requirements, and submitted that this was 'entirely appropriate'.<sup>16</sup>

11.17 The Community and Public Sector Union (CPSU) submitted conservative estimates that there are about 30 000 people employed across the government

<sup>15</sup> Mr Yannopoulos, Department of Finance, *Proof Committee Hansard*, 27 August 2021, p. 9.

<sup>16</sup> Mr Hetherington, APSC, *Proof Committee Hansard*, 27 August 2021, pp. 2-3.

in 'insecure arrangements', although it noted that data on the utilisation of these arrangements are hard to obtain.<sup>17</sup>

11.18 The Independent Review of the Australian Public Service (the APS Review) also highlighted that information on the use of external workers was hard to source and often inadequate, or not gathered at all. Specifically, in its final report it said:

Data on this topic, as is the case with many APS-wide workforce matters, are not gathered or analysed centrally and are often inadequate. For example, the number of contractors and consultants working for the APS is not counted and data on expenditure are inconsistently collected across the service.<sup>18</sup>

11.19 The final report of the APS Review also noted that:

These increases have occurred against the backdrop of a significant increase in the size of programs administered by the APS but almost no increase in departmental budgets. The review has heard, and data suggest, that contractors and consultants are being used to meet the increased burden of program delivery – work traditionally done by APS employees – as well as policy design and implementation.<sup>19</sup>

11.20 In contrast, representatives from the APSC and the Department of Finance submitted that the general purpose of utilising labour hire is to accommodate surge requirements, non-ongoing activities, and to obtain specific skillsets. Specifically, witnesses from these agencies stated:

... I think the general approach to use of labour hire is to supplement a workforce for surge or terminating activities, where it's not going to be an ongoing program of government.<sup>20</sup>

The other area is where we need a particular skill set for a short period of time and where we know that we don't have an enduring basis upon which to bring them in on an ongoing basis.<sup>21</sup>

11.21 The claim that labour hire is predominantly used for temporary, non-ongoing and surge work was repeatedly contradicted by APS workers in evidence provided by the CPSU. An ATO employee said; 'in my previous team, out of 14 workers, only two were employees [of the ATO]. The rest were labour hire.

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<sup>17</sup> Community and Public Sector Union (CPSU), *Submission 102*, p. 5.

<sup>18</sup> PM&C, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 2019, p. 185.

<sup>19</sup> PM&C, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 2019, p. 187.

<sup>20</sup> Mr Yannopoulos, Department of Finance, *Proof Committee Hansard*, 27 August 2021, p. 3.

<sup>21</sup> Mr Hetherington, APSC, *Proof Committee Hansard*, 27 August 2021, p. 3.

Most had been there 5+ years'. Another ATO employee said: 'our department has had the same labour hire staff for more than 9 years'.<sup>22</sup>

11.22 The evidence provided by ATO employees was echoed in other agencies. An employee of Services Australia told the CPSU: 'Labour hire is very regularly used for ongoing positions. My labour hire teammates do the same job as I do. All have been hired for 5+ years in the same role'. An employee of the Department of Veterans' Affairs added that between a third and half of their agency is staffed by labour hire, in roles that are not specialised, and involve everyday ongoing processing work.<sup>23</sup>

### *Outsourcing*

11.23 In addition to the increased utilisation of labour hire and contractors, the CPSU noted that there has been a rapid escalation in the use of outsourced providers to undertake telephony work in Commonwealth agencies. This is particularly prevalent in agencies including Services Australia, the ATO, Department of Health and Department of Home Affairs.<sup>24</sup>

11.24 Prior to the COVID-19 pandemic, Services Australia had already entered into significant contracts to outsource call centre work, including with Stellar Asia Pacific (\$135 million), Concentrix Services (\$132 million), Datacom Connect (\$120 million) and Serco Citizen Services (\$36 million).<sup>25</sup>

11.25 Similarly, the ATO has substantially increased its spending on outsourced services in recent years, with its annual spend increasing from \$75.45 million in 2012–13 to \$216.31 million in 2016–17, according to the ATO's submission to the Joint Committee of Public Accounts and Audit.<sup>26</sup>

11.26 The lack of service-wide data for external workers and their increased utilisation to perform roles traditionally done by APS employees is further discussed in Chapter 12.

### **APS Workforce Strategy 2025**

11.27 In 2021, the Australian Government released its workforce strategy titled *Delivering for Tomorrow: APS Workforce Strategy 2025* (Workforce Strategy). The Workforce Strategy submitted that flexibility in workforce composition remained an important feature to ensure agency heads can access the right

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<sup>22</sup> Community and Public Sector Union, *Submission 102*, p. 17.

<sup>23</sup> Community and Public Sector Union, *Submission 102*, p. 17.

<sup>24</sup> Community and Public Sector Union, *Submission 102*, p. 43.

<sup>25</sup> Community and Public Sector Union, *Submission 102*, p. 43.

<sup>26</sup> ATO, *Submission 14*, Joint Committee of Public Accounts and Audit, Australian Government Contract Reporting—Inquiry based on Auditor-General's report No. 19 (2017-18), p. 5, [www.aph.gov.au/DocumentStore.ashx?id=279b8c92-142a-49b6-97f9-d30c3200ffb3&subId=563652](http://www.aph.gov.au/DocumentStore.ashx?id=279b8c92-142a-49b6-97f9-d30c3200ffb3&subId=563652) (accessed 13 October 2021).

personnel required to drive delivery.<sup>27</sup> It argued that external workers can provide 'significant benefits to agencies to help them achieve their outcomes', and that they provide specialist skillsets which can supplement the APS workforce during peak periods.<sup>28</sup>

11.28 Noting that the use of labour hire, contractors, and consultants brings risks that must be managed, the Workforce Strategy advocated for agencies which rely on 'mixed workforce arrangements' to take an integrated approach to their workforce planning, especially when key deliverables are reliant on non-APS workforces.<sup>29</sup>

### *Diversity and inclusion*

11.29 Over the last decade there has been an overall trend towards increased diversity within the APS, with higher proportions of Aboriginal and Torres Strait Islander people, women, and people with disability. As at 30 June 2020, women represented 60 per cent of the APS; Aboriginal and Torres Strait Islander people represented 3.5 per cent; employees with disability represented 4 per cent; and employees from non-English speaking backgrounds represented 14.3 per cent.<sup>30</sup> **Figure 11.4**, below, presents the trend information since 2011.

**Figure 11.4 Proportion of APS employees by diversity group**

Diversity group	2011 (%)	2012 (%)	2013 (%)	2014 (%)	2015 (%)	2016 (%)	2017 (%)	2018 (%)	2019 (%)	2020 (%)
Women	57.7	57.7	57.9	58.1	58.5	59.0	59.0	59.0	59.6	60.0
Indigenous	2.6	2.6	2.7	2.8	2.9	3.2	3.4	3.5	3.6	3.5
People with disability	3.4	3.4	3.3	3.6	3.7	3.9	3.9	3.9	3.9	4.0
Non-English speaking background	14.2	14.5	14.5	14.8	14.8	14.8	14.8	14.8	14.8	14.3

Source: Australian Public Service Commission, *State of the Service Report 2019–20*, p. 174.

11.30 The 2019–20 State of the Service Report (the Service Report) highlighted that the Secretaries Board, the APS's principal service-wide governance body, is leading the APS at a whole-of-service level to address diversity and inclusion. Specifically, it noted that the APS:

<sup>27</sup> APSC, *Delivering for Tomorrow: APS Workforce Strategy 2025*, 2021, p. 27.

<sup>28</sup> APSC, *Delivering for Tomorrow: APS Workforce Strategy 2025*, 2021, p. 27.

<sup>29</sup> APSC, *Delivering for Tomorrow: APS Workforce Strategy 2025*, 2021, p. 27.

<sup>30</sup> APSC, *State of the Service Report 2019–20*, pp. 114–115. As highlighted earlier in this chapter, it is important to note that these figures do not incorporate the broader workforce used in public service delivery by the Australian Government, such as those individuals engaged as labour contractors and consultants.

- launched the Commonwealth Aboriginal and Torres Strait Islander Workforce Strategy 2020–24 in July 2020;
- is refreshing the APS Gender Equality Strategy;
- is recruiting and retaining more people with disability through the APS Disability Employment Strategy 2020–25; and
- is supporting mature aged workers who choose to remain in the APS and those who would like to join it.<sup>31</sup>

11.31 The Service Report also highlighted that:

Research shows that business outcomes improve when there is greater gender balance in leadership. In the private sector, organisations with more women in senior leadership positions achieve better performance, productivity and profitability.

These successes are attributed to open, collegiate management approaches more often observed in women, including the ability to build consensus and inclusiveness by encouraging all voices at the table to be heard

These attributes apply to the public sector. APS departments with higher rates of women at the SES level are reported to emphasise communication and networking skills, collaboration, collegiality and a focus on relationships.<sup>32</sup>

11.32 As cited in the Service Report, the Organisation for Economic Cooperation and Development's (OECD) *Government at a Glance* publication noted that Australia performed above the OECD average in terms of gender equality in the public sector. As stated previously, 60 per cent of APS roles are now held by women, and women account for almost 3 in every 5 new employees in ongoing roles.<sup>33</sup>

11.33 Women are highly represented in health (80 per cent), service delivery (72.8 per cent), and human resource (71.5 per cent) roles. Further, women are well represented across all classification levels, including the Senior Executive Service (SES). **Figure 11.5** summarises this below.<sup>34</sup>

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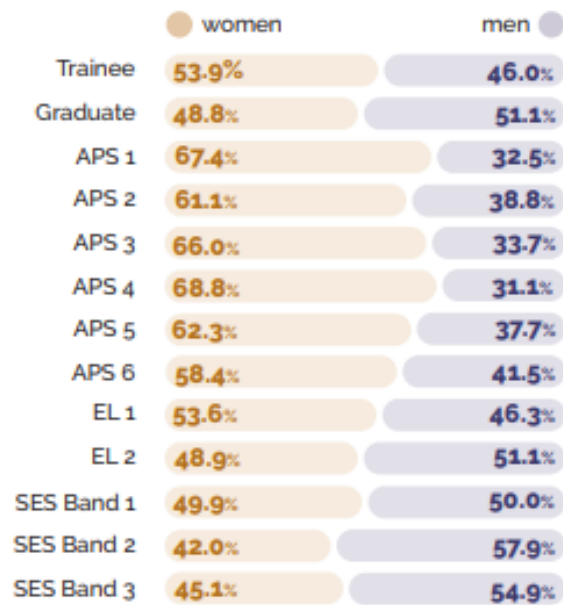
<sup>31</sup> APSC, *State of the Service Report 2019–20*, p. 116.

<sup>32</sup> APSC, *State of the Service Report 2019–20*, p. 131.

<sup>33</sup> APSC, *State of the Service Report 2019–20*, p. 126.

<sup>34</sup> APSC, *State of the Service Report 2019–20*, pp. 127–128.

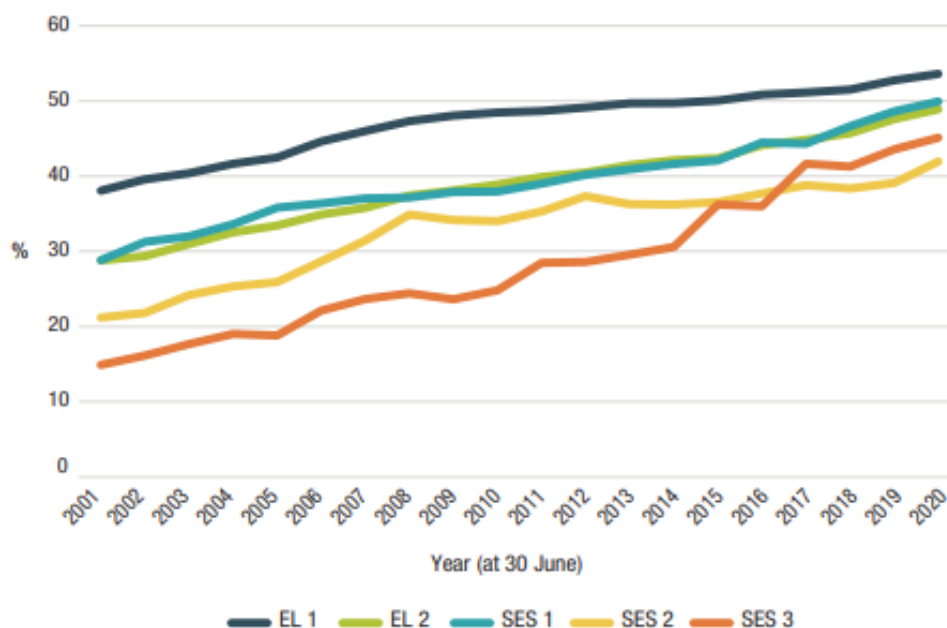
**Figure 11.5 Gender by APS level classification**



Source: Australian Public Service Commission, *State of the Service Report 2019–20*, p. vi.

11.34 Currently women represent less than 50 per cent of the SES; however, this is changing. As shown in **Figure 11.6**, below, the proportion of women in leadership roles has continued to advance since the turn of the century. Significantly, in 2019–20, approximately 60 per cent of all SES promotions went to women.<sup>35</sup>

**Figure 11.6 Proportion of women in leadership roles**



Source: Australian Public Service Commission, *State of the Service Report 2019–20*, p. 128.

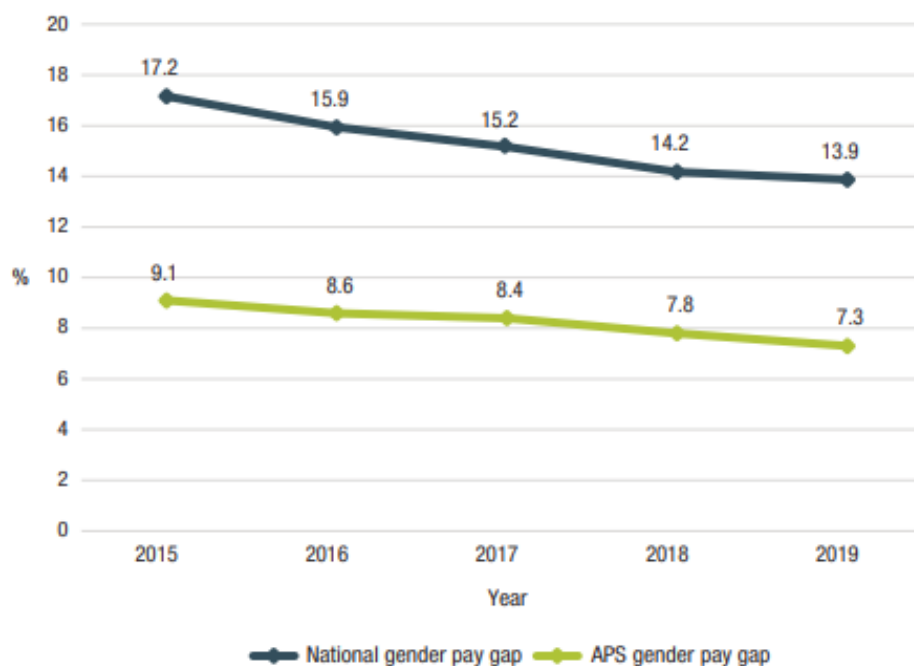
<sup>35</sup> APSC, *State of the Service Report 2019–20*, p. 127.



### Gender pay gap

11.35 Although women are considered to be at pay parity for most APS classification levels, there remains a gender pay gap of 7.3 per cent, in favour of men, across the APS.<sup>36</sup> The gender pay gap is detailed in **Figure 11.7** below.

**Figure 11.7 APS gender pay gap trends**



Source: Australian Public Service Commission, *State of the Service Report 2019–20*, p. 130.

11.36 During 2019, the average base salary in the APS was \$91 016 for women and \$98 149 for men. This represented a pay gap half that of the national average (13.9 per cent); however it was higher than the pay gap of the lowest sector categorisation, Public Administration and Safety, which was at 6 per cent.<sup>37</sup>

11.37 The Assistant Commissioner for Workplace Relations at the APSC, Mr Marco Spaccavento, highlighted that the gap is narrowing and that it has 'basically declined every year that we've [the APSC] been measuring it'.<sup>38</sup> Mr Spaccavento did, however, confirm that casual employees were not included in these figures, and that it would be difficult to ascertain the impact their inclusion would have.<sup>39</sup>

<sup>36</sup> APSC, *State of the Service Report 2019–20*, pp. 129–130.

<sup>37</sup> APSC, *State of the Service Report 2019–20*, p. 129.

<sup>38</sup> Mr Marco Spaccavento, Assistant Commissioner, Workplace Relations, APSC, *Proof Committee Hansard*, 27 August 2021, p. 5.

<sup>39</sup> Mr Spaccavento, APSC, *Proof Committee Hansard*, 27 August 2021, p. 5.

## The COVID-19 pandemic and the Australian Public Service

11.38 The COVID-19 pandemic presented major challenges for the APS, requiring it to scale up almost overnight to cater to the surging demand for key services and payments, and to deliver new government initiatives. For example:

- between March 2020 and early May 2020, the ATO approved the early release of over \$10 billion in superannuation to 1.3 million applicants;
- by the middle of July 2020, 960 000 organisations, and 3.5 million individuals, had received JobKeeper payments worth more than \$30.6 billion;
- over a 55 day period, Services Australia processed 1.3 million JobSeeker claims—a volume equivalent to a normal two and a half year period—while also responding to 3.7 million phone calls, 1.9 million service centre walk-ins, and 250 000 social media interactions;
- ATO responded to increased call volumes of 106 per cent in April 2020 compared to the prior corresponding period;
- the Department of Industry, Science, Energy and Resources handled a 116 per cent increase in the number of business contacts and a 150 per cent increase in variations to business grants between March and June 2020;
- the myGov website handled 2.6 million logins on 25 March 2020, representing a 44 per cent increase on the previous record of 1.8 million daily logins;
- the ABS increased its statistical releases by more than 51 per cent in May and June compared to the average of the previous 13 months; and
- the Department of Health's AskMBS function saw the number of inquiries in mid-March 2020 double compared to pre-pandemic levels, and the social media team saw an increase of over 3 000 per cent on business-as-usual activity between 20 January and 29 May 2020.<sup>40</sup>

11.39 The APS Commissioner, Mr Peter Woolcott AO, stated that:

Critical to our success in managing an effective response was our workforce and willingness to work as one APS. We moved skills and expertise to critical areas of need, broke down traditional silos and adapted quickly to shifting priorities.<sup>41</sup>

11.40 Responding to these challenges, Mr Hetherington noted that since December 2019, the APS workforce increased by approximately 6.5 per cent, or over 9 000 people. He stated that, of these additional employees, about 4 000 were engaged as ongoing employees and 5 000 as non-ongoing employees to handle 'surge requirements'.<sup>42</sup> Mr Yannopoulos also highlighted that staff across the APS had been mobilised to support those agencies which experienced sharp

<sup>40</sup> APSC, *State of the Service Report 2019–20*, pp. 13–15.

<sup>41</sup> APSC, *Delivering for Tomorrow: APS Workforce Strategy 2025*, p. 4.

<sup>42</sup> Mr Hetherington, APSC, *Proof Committee Hansard*, 27 August 2021, p. 8.

increases in demand for their services, such as Services Australia and the ATO.<sup>43</sup>

11.41 Mr Hetherington contrasted the experience of many private sector employees with their counterparts in the public sector:

I'm not aware of any cases of public servants being stood down akin to the way it may have happened in private industry. What I would say, though, is that the Public Service throughout the crisis has continued to operate [and] has continued to deliver on its business outcomes ...<sup>44</sup>

11.42 In their evidence to the committee, the ATO noted that since the onset of the pandemic in early 2020, the organisation has provided paid leave for employees unable to work due to COVID—especially when they are unwell—but also if they are required to isolate and quarantine as a precaution.<sup>45</sup> Furthermore, the Deputy Commissioner for People within the ATO, Mr Bradley Chapman, submitted that the ATO continues to support staff to attend their vaccination appointments by providing access to paid leave.<sup>46</sup>

11.43 When questioned about whether non-ongoing staff are also provided these benefits, Mr Chapman said that casual employees are able to access vaccination services during paid time; however, he couldn't confirm arrangements with external workers, such as labour hire workers and contractors, stating that 'I believe we are encouraging all of our providers to do the same'.<sup>47</sup>

11.44 The Managing Director of Hays, Mr Nick Deligiannis, confirmed that the labour hire staff his firm has placed with the APS do not receive paid leave for isolation and quarantine. Expanding on this point, he stated that:

... regardless of the reason for not being able to be at work, the nature of the temporary arrangement that we have with our employees is that they're paid an hourly rate which has a casual loading attached to it, so it's a higher hourly rate. That offsets the fact that they don't have benefits that would be attached to a more permanent arrangement, like sick leave, annual leave et cetera. The offset, as I said, is the higher hourly rate based on the casual loading that's applied to their rate.<sup>48</sup>

11.45 Mr Hetherington submitted that job security in the public sector continues to be high and that public service employment has been very stable through the

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<sup>43</sup> Mr Yannopoulos, Department of Finance, *Proof Committee Hansard*, 27 August 2021, p. 8.

<sup>44</sup> Mr Hetherington, APSC, *Proof Committee Hansard*, 27 August 2021, p. 8.

<sup>45</sup> Mr Bradley Chapman, Deputy Commissioner, ATO People, Australian Taxation Office (ATO), *Proof Committee Hansard*, 27 August 2021, p. 45.

<sup>46</sup> Mr Chapman, ATO, *Proof Committee Hansard*, 27 August 2021, p. 45.

<sup>47</sup> Mr Chapman, ATO, *Proof Committee Hansard*, 27 August 2021,, p. 45.

<sup>48</sup> Mr Nick Deligiannis, Managing Director, Hays Specialist Recruitment (Australia) Pty Ltd, *Proof Committee Hansard*, 27 August 2021, p. 40.

COVID-19 pandemic. Referencing the annual public service survey, he noted that approximately 95 per cent of employees say they are satisfied with the stability and security of their job; 75 per cent believe they are fairly remunerated; and nearly 90 per cent agree they are satisfied with non-monetary conditions.<sup>49</sup> Importantly, however, these figures do not include the broader non-APS workforce, such as those engaged through labour hire firms and as consultants.

11.46 The National Secretary of the Community and Public Sector Union (CPSU), Ms Melissa Donnelly, stated that the pandemic has highlighted the extent of insecure work across Australia and the damage it causes, and submitted that the Australian Government should be leading the solution to support more secure jobs. Noting that 'the work of the APS is being increasingly casualised, outsourced, and privatised', she concluded that 'clearly ... that is not what is happening at the moment'.<sup>50</sup>

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<sup>49</sup> Mr Hetherington, APSC, *Proof Committee Hansard*, 27 August 2021, p. 3.

<sup>50</sup> Ms Melissa Donnelly, National Secretary, CPSU, *Proof Committee Hansard*, 27 August 2021, p. 12.

# Chapter 12

## Impacts of employment arrangements in the APS

### Casual employment arrangements

- 12.1 As highlighted in Chapter 11, the number of non-ongoing employees in the Australian Public Service (APS) is currently at the highest level it has been over the last two decades. As at 30 June 2020, there were 18 373 non-ongoing employees, representing 12.2 per cent of the APS workforce,<sup>1</sup> with the majority of these employees (57.8 per cent or 10 618 people) being employed casually. As a result, the casual workforce currently forms 7.1 per cent of the broader APS workforce, and represents an increase of over 6 per cent since 2001.<sup>2</sup>
- 12.2 As noted in the 2019–20 State of the Service Report, the majority of this increase occurred between 1 January 2020 and 30 June 2020 as a result of the Australian Government's response to the Black Summer bushfires and the commencement of the COVID-19 pandemic.<sup>3</sup> The Australian Taxation Office (ATO) case study below, however, highlights that some casual employees have been engaged under these arrangements for substantial periods of time prior to these emergencies.
- 12.3 The Community and Public Sector Union (CPSU) submitted that casual workers experience a number of negative outcomes due to their employment arrangements, including:
- a lack of job security;
  - unpredictable pay;
  - inferior rights and entitlements;
  - irregular and unpredictable working hours;
  - no entitlement to various forms of leave, such as annual, personal, carers, and compassionate leave; and
  - uncertainty around the right to request flexible working arrangements and unpaid parental leave.<sup>4</sup>
- 12.4 Given the above, the CPSU noted that casual employees commonly experience difficulty in obtaining home loans and face challenges in planning for significant future purchases.<sup>5</sup> These issues may disproportionately impact

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<sup>1</sup> Please note that these figures do not incorporate the broader workforce used in public service delivery by the Australian Government, such as those individuals engaged as labour contractors and consultants.

<sup>2</sup> Australian Public Service Commission (APSC), *State of the Service Report 2019–20*, p. 110.

<sup>3</sup> APSC, *State of the Service Report 2019–20*, p. 110.

<sup>4</sup> Community and Public Sector Union (CPSU), *Submission 102.1*, [p. 2].

<sup>5</sup> CPSU, *Submission 102.1*, [p. 2].

women in the APS, as 64.1 per cent of non-ongoing roles are occupied by this cohort.<sup>6</sup>

### **Box 12.1 Case study: Casual employment at the Australian Taxation Office**

The ATO is the Australian Government's principal revenue collection agency, and engages a significant number of ongoing, non-ongoing, and casual staff to deliver services for the Australian community. As at 30 June 2020, the ATO had 21 184 employees mostly located across Australia in 22 buildings and 10 shopfront sites.<sup>7</sup> The CPSU submitted that 2 307 members of the ATO's workforce are currently engaged under casual arrangements.<sup>8</sup>

In its 2019–20 annual report, the ATO noted that 'casual employees are engaged to perform duties that are irregular or intermittent'.<sup>9</sup> The CPSU, however, contended that the majority of these employees perform work that is 'ongoing and central to the ATO's functions', and, hence, is not intermittent or irregular work, and that many of these individuals have been engaged on a 'very long-term basis'.<sup>10</sup>

The CPSU stated that a survey of ATO casual employees it undertook in 2019 showed that 62 per cent of respondents working in the regional city of Albury had worked at the ATO for more than two years, while one quarter had worked for nine years or longer. The CPSU argued that, although the work these casual employees undertake is ongoing, stable, and often unchanging, they 'have no pathway to secure, permanent employment'.<sup>11</sup>

Responding to questions regarding the ATO's utilisation of these long-term casual arrangements, the Deputy Commissioner of People at the ATO, Mr Bradley Chapman, stated that:

We certainly do have some casuals who are quite happy with the casual working arrangement because it fits in with their lifestyle, so they may be long-term casual employees.<sup>12</sup>

Notwithstanding the above, Mr Chapman noted that the ATO runs regular recruitment which provides opportunities for casual employees, and others, to apply for ongoing roles. Although acknowledging that not everyone who applies

<sup>6</sup> APSC, *State of the Service Report 2019–20*, p. 128.

<sup>7</sup> Australian Taxation Office (ATO), *Annual Report 2019–20*, pp. 85 and 92.

<sup>8</sup> CPSU, *Submission 102.1*, [p. 1].

<sup>9</sup> ATO, *Annual Report 2019–20*, p. 87.

<sup>10</sup> CPSU, *Submission 102.1*, [p. 1].

<sup>11</sup> CPSU, *Submission 102.1*, [pp. 1–2].

<sup>12</sup> Mr Bradley Chapman, Deputy Commissioner, ATO People, ATO, *Proof Committee Hansard*, 27 August 2021, p. 43.

is successful in securing an ongoing role, he submitted that:

... in the last year, we've certainly seen, across nearly all of our sites, the number of ongoing employees has increased, and the number of casual employees has decreased. So we are seeing a shift to more ongoing employees than casual employees.<sup>13</sup>

In its submission to the inquiry, the CPSU argued that there is a high concentration of casual workers in a number of key ATO sites across Australia. Specifically, it stated that:

- 45 per cent, or 247 workers, of the Wollongong workforce are casual;
- 38 per cent, or 385 workers, of the Albury workforce are casual; and
- 25 per cent, or 197 workers, of the Penrith workforce are casual.<sup>14</sup>

In answering questions regarding the high proportion of casual employees at the ATO's Albury site, Mr Chapman said that it was not indicative of the broader workforce and argued that it was 'higher both due to tax time and because we have a particular function that is very seasonal in Albury with our scan and capture work'.<sup>15</sup>

The CPSU also noted that many casual employees are commonly engaged at the APS 1 and APS 2 classifications, and raised their concern that these individuals 'are paid the lowest rates of pay in the agency, with no annual leave and no paid sick and carer's leave'.<sup>16</sup>

## Labour hire and contracting arrangements

12.5 The utilisation of labour contractors and consultants by the Government has increased markedly in recent years. The CPSU estimates that there are as many as 20 000 labour hire workers across the APS, and that as many as one in five people are engaged either via these arrangements or as contractors.<sup>17</sup>

12.6 As highlighted in Chapter 11, across a sample of 24 agencies, spending on contractors has more than doubled over the period between 2012–13 and 2016–17. Furthermore, information sourced from AusTender indicated that the total value of consultant contracts across the APS increased from \$386 million to \$545 million during the same four year period.<sup>18</sup>

<sup>13</sup> Mr Chapman, ATO, *Proof Committee Hansard*, 27 August 2021, p. 43.

<sup>14</sup> CPSU, *Submission 102.1*, [p. 1].

<sup>15</sup> Mr Chapman, ATO, *Proof Committee Hansard*, 27 August 2021, p. 45.

<sup>16</sup> CPSU, *Submission 102.1*, [p. 1].

<sup>17</sup> Ms Melissa Donnelly, National Secretary, CPSU, *Proof Committee Hansard*, 27 August 2021, p. 12.

<sup>18</sup> Department of the Prime Minister and Cabinet (PM&C), *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 2019, p. 186.

### *External workers and the performance of core public service functions*

12.7 It was argued during the inquiry that labour hire and consultants are being utilised to undertake core public sector work. For example, the National Secretary of the CPSU, Ms Melissa Donnelly, cited a survey the CPSU had recently undertaken of its membership. She submitted that almost 90 per cent of respondents said that labour hire was being used for the normal ongoing work of the agency. She highlighted that this included compliance work at Services Australia and claims processing at the Department of Veterans' Affairs—not seasonal work, but core APS work from the CPSU's point of view.<sup>19</sup>

12.8 Responding to questions regarding this concern, the General Manager for People at Services Australia, Mr Michael Nelson, stated the following:

What we [Services Australia] try to do is to focus on having ongoing APS employees undertaking ongoing work. The primary purpose of labour hire and other forms of employment is to be more demand focused ... for projects, for increasing customer requirements and that sort of thing. The nature of labour hire work should be more short-term. Sometimes that does drag on for a period of time, but it's generally because the demand that we're seeing or experiencing has been longer than we expected when we initially made the determination to engage them for that work.<sup>20</sup>

12.9 Notwithstanding the above, Ms Donnelly contended that the increased expenditure on external workers, as highlighted by the CPSU's internal analysis and the 2019 Independent Review of the Australian Public Service, showed that the labour hire workforce is undertaking 'core APS functions', and not just being utilised for seasonal fluctuations.<sup>21</sup>

12.10 During his evidence to the committee, the Acting Managing Director of ManpowerGroup, Mr David Bruch, was questioned about the types of roles he provides workers for, and whether these roles were ongoing or temporary in nature. He told the committee that:

Overall, the majority of the roles we are providing to the federal government are specialist roles ... On average, monthly attrition in our on-hire workforce is between 10 and 20 per cent. That would imply that most of our on-hire workers turn over within a year.<sup>22</sup>

12.11 The Managing Director of Hays Specialist Recruitment (Hays), Mr Nick Deligiannis, provided a breakdown of the tenure of the

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<sup>19</sup> Ms Donnelly, CPSU, *Proof Committee Hansard*, 27 August 2021, p. 13.

<sup>20</sup> Mr Michael Nelson, General Manager, People, Services Australia, *Proof Committee Hansard*, 27 August 2021, p. 33.

<sup>21</sup> Ms Donnelly, CPSU, *Proof Committee Hansard*, 27 August 2021, p. 13.

<sup>22</sup> Mr David Bruch, Chief Financial Officer and Acting Managing Director, ManpowerGroup, *Proof Committee Hansard*, 27 August 2021, p. 21.



approximately 2900 temporary workers that Hays had deployed to the APS during September 2021. This is shown in **Table 12.1** below.

**Table 12.1 Hays' temporary worker tenure with the APS**

Tenure	Percentage of workers
Less than six months	54 per cent
Six to twelve months	17 per cent
One year	17 per cent
Two years	8.0 per cent
Three years	2.4 per cent
Four years	< 1 per cent
Five years and over	< 1 per cent

*Source: Mr Nick Deligiannis, Managing Director, Hays, answers to questions on notice, 27 August 2021 (received 17 September 2021).*

### *The availability of whole-of-government data*

12.12 During the inquiry, it became clear that there was no person or entity tasked with collecting whole-of-government data regarding the utilisation of external workers, such as those engaged through labour hire arrangements.

12.13 The Acting Deputy Australian Public Service Commissioner, Mr Patrick Hetherington, noted that the Australian Public Service Commission's (APSC) remit only covers people employed under the *Public Service Act 1999* and in public service agencies through its survey work. Given this, he stated that 'we [the APSC] don't actually capture data on the number of labour hire employees in the Public Service'.<sup>23</sup>

12.14 Mr Hetherington also conveyed that, from the APSC's perspective, the workforce mix within agencies, including the percentage of labour hire they utilise, is the responsibility of the head of the respective agency. He submitted that these individuals are 'best placed to determine what the appropriate mix of their workforce should be based on their business outcomes'.<sup>24</sup>

12.15 Upon being asked whether anyone in the Government knew the proportion of the public service workforce engaged through labour hire, the Deputy Secretary of Budget and Financial Reporting within the Department of Finance, Mr Matt Yannopoulos, stated:

<sup>23</sup> Mr Patrick Hetherington, Acting Deputy Australian Public Service Commissioner, APSC, *Proof Committee Hansard*, 27 August 2021, p. 2.

<sup>24</sup> Mr Hetherington, APSC, *Proof Committee Hansard*, 27 August 2021, p. 2.

It is true that there's no central data holding of labour hire information. There is reporting through the AusTender platform of labour hire contracts, but there is no ... aggregated set of data that we possess in [the Department of] Finance—or anywhere else in government, to my knowledge.<sup>25</sup>

### *The average staffing level cap*

12.16 Evidence provided to the committee during the inquiry indicated that the Government's average staffing level (ASL) cap has increased the use of labour hire arrangements across the public service.

12.17 The CPSU was highly critical of the Government's decision to implement an ASL cap, noting that it is regularly informed by managers across a number of Government agencies that the ASL cap is the reason that labour hire workers have been engaged.<sup>26</sup> In its submission to the inquiry, it stated the following:

The policy makes government appear smaller, but at the expense of everything that makes government valuable to communities. Agencies are still required to deliver what the government wants and the community needs.<sup>27</sup>

It's not a limit on how much work is done, or how much money is spent, or even how many people can do work on behalf of the government—it's only a limit on secure employment.<sup>28</sup>

12.18 Although highlighting that there are other drivers and reasons for the growth in labour hire arrangements across the public service, Mr Yannopoulos acknowledged that the ASL cap has also been a contributing factor. Specifically, when asked whether the ASL cap would contribute to the growth in labour hire arrangements to meet the increasing demand for Government services, he stated:

I think that's possibly a fair characterisation. Agencies have needed to manage within a government set ASL cap. If they are needing to get extra workers, then they will use labour hire or direct contracting to support that. But I don't think it's the only reason.<sup>29</sup>

12.19 Mr Nelson was asked whether he believed the ASL cap was a driving force behind Service Australia's use of a blended workforce. In his response, he said:

That's a difficult question to answer in the current environment, simply because the level of demand is something that no-one expected. It does increase and decrease at times, but, over the last little while, the peaks have

<sup>25</sup> Mr Matt Yannopoulos, Deputy Secretary, Budget and Financial Reporting, Department of Finance, *Proof Committee Hansard*, 27 August 2021, p. 2.

<sup>26</sup> CPSU, *Submission 102*, p. 10.

<sup>27</sup> CPSU, *Submission 102*, p. 5.

<sup>28</sup> CPSU, *Submission 102*, p. 5.

<sup>29</sup> Mr Yannopoulos, Department of Finance, *Proof Committee Hansard*, 27 August 2021, p. 9.

been really high in terms of the level of demand that we've experienced, therefore we've had to scale up quite significantly to meet that. We also appreciate that the ASL cap or guidance, if you like, is not something to be under throughout the entire year. There is the ability to be over the cap at points throughout the year, as long as it averages out over the course of the year as close as possible to being at that cap amount.<sup>30</sup>

12.20 The Australian Maritime Safety Authority (AMSA) was questioned about its approach to meeting service requirements once the ASL cap is reached. The Deputy Chief Executive Officer, Ms Sachi Wimmer, said the following:

... it will depend on the situation and what capability we need. If we need specific capabilities, we may go to the market if we're unable to source them. Some of the capabilities, particularly in the Canberra market, are very short at the moment—for instance, data, cybersecurity and those kinds of skills. Otherwise, we will see what we can do about balancing the staff arrangements across our teams. But, as with every agency, it's a balancing act.<sup>31</sup>

12.21 Ms Wimmer acknowledged that the ASL cap 'adds a level of challenge to staffing'; however, she also noted that '[w]e remain productive and are delivering what we need to'.<sup>32</sup>

### **Box 12.2 Case study: The utilisation of labour hire at the Australian Maritime Safety Authority**

The Australian Maritime Safety Authority (AMSA) is the government agency responsible for search and rescue; responding to maritime pollution; the safety and regulation of large ships visiting Australia; and, since 1 July 2018, the safety regulation of domestic commercial vessels.<sup>33</sup>

AMSA consists of approximately 440 employees and, unlike most other public service entities which employ under the *Public Service Act 1999*, AMSA employees are employed directly under its enabling legislation; that is, the *Australian Maritime Safety Authority Act 1990*.<sup>34</sup>

Following a nine year process initiated by the Council of Australian Governments to establish AMSA as the single national regulator for Australia, on 1 July 2018 AMSA took on the responsibility for the safety and regulation of domestic commercial vessels. This involved AMSA becoming responsible for

<sup>30</sup> Mr Nelson, Services Australia, *Proof Committee Hansard*, 27 August 2021, p. 30.

<sup>31</sup> Ms Sachi Wimmer, Deputy Chief Executive Officer, Australian Maritime Safety Authority (AMSA), *Proof Committee Hansard*, 27 August 2021, p. 28.

<sup>32</sup> Ms Wimmer, AMSA, *Proof Committee Hansard*, 27 August 2021, p. 28.

<sup>33</sup> Ms Wimmer, AMSA, *Proof Committee Hansard*, 27 August 2021, p. 25.

<sup>34</sup> Ms Wimmer, AMSA, *Proof Committee Hansard*, 27 August 2021, p. 25.

approximately 31 000 vessels and the issuance of qualifications to over 65 000 seafarers.<sup>35</sup>

In preparation for the national system, AMSA established a contact centre in 2015, known as AMSA Connect. Its purpose was to provide service delivery during AMSA's transition phase to becoming the national regulator. The Deputy Chief Executive Officer of AMSA, Ms Sachi Wimmer, stated that:

The Connect staffing model comprises a small core of permanent staff supplemented with casual employees or contractors. It was intended to provide AMSA with flexibility. This was because we did not know the likely operational impact of full service delivery. The staffing model allows AMSA to expand or contract Connect as we continue to embed the national system and as industry service needs settle.<sup>36</sup>

In evidence provided to the committee during the inquiry, AMSA stated that the 'regulatory and funding models for the national system are yet to be settled'. AMSA also noted that, although the Australian Government has committed to undertake a review of costs and charges this year, as well as an independent review of the legislation which established the national system and came in to force in July 2013, no specific information on their timings have been provided.<sup>37</sup>

#### *Issues raised with AMSA Connect*

AMSA Connect is the customer service call centre within AMSA which provides advisory and administrative functions across four teams. A member of one of these teams described these services as follows:

We [AMSA Connect] have a beacons line, that takes registration for emergency distress beacons, which are life-saving devices. We have an international qualifications line to support qualifications and seafarers who work on foreign- and Australian-flagged vessels. We have a domestic commercial vessels line ... which assists seafarers with domestic commercial qualifications, as well as commercial businesses on vessels. Then we have a reception or triage line, which assists, basically, the entire organisation by dealing with almost any call that comes into the organisation, varying from cold-callers to people calling in with emergency situations or suchlike incredibly serious issues.<sup>38</sup>

Evidence provided to the committee indicated that the call centre usually consists of approximately 35 to 40 customer service officers; however, due to attrition the number is currently below that range. The CPSU submitted that, from the middle of 2018 until March 2021, up to 90 per cent of these officers were engaged through labour hire arrangements with Hudson; however, in April 2021,

<sup>35</sup> Ms Wimmer, AMSA, *Proof Committee Hansard*, 27 August 2021, p. 25.

<sup>36</sup> Ms Wimmer, AMSA, *Proof Committee Hansard*, 27 August 2021, p. 25.

<sup>37</sup> Ms Wimmer, AMSA, *Proof Committee Hansard*, 27 August 2021, p. 25.

<sup>38</sup> Mr Nicholas Thackray, Workplace Delegate, CPSU, *Proof Committee Hansard*, 27 August 2021, p. 14.

ManpowerGroup obtained the labour hire contract and the existing customer service officers were transferred across.<sup>39</sup>

The Acting Managing Director of ManpowerGroup, Mr David Bruch, stated that the contract was for a 12 month term, with an option for extension by AMSA, and his understanding was that it was to provide a transitional workforce until a future operating model was determined and implemented. He also noted that, although he was unaware of any plans to increase the workforce, his firm was actively recruiting to address the attrition of staff.<sup>40</sup>

Mr Nicholas Thackray, a labour hire employee of ManpowerGroup and a team member of AMSA Connect, provided a first-hand account of his work at the call centre and the importance of the services he, and his colleagues, provide. He contended that, although he had been doing the same role for three years and that it involved 'consistent regular work', he still remained a labour hire contractor.<sup>41</sup>

Mr Thackray also highlighted the specialised nature of the role, stating that it required an 'incredible amount of training', and submitted that every person he worked with would have an anecdote about an extremely serious matter—sometimes with life and death implications—that they have had to deal with while working at AMSA Connect. Notwithstanding this, he noted that, due to staffing turnover and attrition, he, and his labour hire colleagues, were usually engaged to train other new labour hire staff.<sup>42</sup>

When reflecting upon the pay and conditions of his employment, and the general security of labour hire arrangements, Mr Thackray stated the following to the committee:

Obviously there's the difference in pay, but then we don't get sick leave, we don't get miscellaneous leave, we don't get carers leave and we don't get things like domestic violence leave. Or if somebody close to you dies, there's no leave like that. So essentially every day, depending on what's happening in your life, you make the choice, 'Am I going to get paid today?'—compared with what else is happening in your life.<sup>43</sup>

We care about this job, we think it really matters, but at the end of the day you have to make a decision about what puts food on the table and what gives you that security and peace of mind.<sup>44</sup>

In its supplementary submission to the inquiry, the CPSU raised a number of issues it saw with the existing workplace arrangements at AMSA Connect. It

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<sup>39</sup> CPSU, *Submission 102.2*, [p. 1].

<sup>40</sup> Mr Bruch, ManpowerGroup, *Proof Committee Hansard*, 27 August 2021, p. 22.

<sup>41</sup> Mr Thackray, CPSU, *Proof Committee Hansard*, 27 August 2021, p. 14.

<sup>42</sup> Mr Thackray, CPSU, *Proof Committee Hansard*, 27 August 2021, pp. 15 and 19.

<sup>43</sup> Mr Thackray, CPSU, *Proof Committee Hansard*, 27 August 2021, p. 15.

<sup>44</sup> Mr Thackray, CPSU, *Proof Committee Hansard*, 27 August 2021, p. 19.

noted that it had received numerous reports from staff of high turnover due to significant workloads; a lack of employment conditions and career progression; and general job insecurity.<sup>45</sup>

The CPSU argued that utilising a labour hire workforce at AMSA has a number of negative impacts for the community and, hence, is not in the best interests of the Australian public. For example, it stated that constant training of new staff reduces the capacity of teams to take calls and provide critical information in a timely manner. Further, it argued that it can create knowledge gaps within the organisation as people who have been trained and have gained significant experience and knowledge leave due to a lack of internal progression opportunities.<sup>46</sup> In conclusion, the CPSU submitted that:

Providing permanent positions through AMSA within the contact centre will ensure these skills are not lost, as well as enhance the institutional knowledge, and overall capacity within these work areas.<sup>47</sup>

Ms Wimmer stated that further definition of AMSA Connect's staffing model would depend on 'key government decisions that are yet to be resolved'.<sup>48</sup> Notwithstanding this, and acknowledging that the transition time had been longer than anticipated, she stated that AMSA had offered longer contracts and increased the proportion of permanent staff within its call centre. On these points she said:

For those engaged with contractors, we've offered 12-month contracts to give greater employment certainty. We've also made a substantial shift towards confirming permanent positions in the last 12 months, and this process is not yet complete.<sup>49</sup>

Ms Wimmer's colleague, Ms Cherie Enders, the Chief Operating Officer of AMSA, noted that the organisation is currently in the process of confirming additional permanent roles and, once finalised, would result in nearly 60 per cent of the AMSA Connect team being permanent staff.<sup>50</sup>

### *Potential impacts of the increased utilisation of external workers*

#### **Reduced capability of the core APS workforce**

12.22 It was argued during the inquiry that the increased utilisation of external workers, such as labour hire, reduced the capability of the core APS workforce.

<sup>45</sup> CPSU, *Submission 102.2*, [p. 2].

<sup>46</sup> CPSU, *Submission 102.2*, [p. 3].

<sup>47</sup> CPSU, *Submission 102.2*, [p. 1].

<sup>48</sup> Ms Wimmer, AMSA, *Proof Committee Hansard*, 27 August 2021, p. 26.

<sup>49</sup> Ms Wimmer, AMSA, *Proof Committee Hansard*, 27 August 2021, p. 26.

<sup>50</sup> Ms Cherie Enders, Chief Operating Officer, AMSA, *Proof Committee Hansard*, 27 August 2021, p. 28.

For example, the CPSU submitted that the loss of experience, the increased short-term nature of employment, and restrictive industrial arrangements have, amongst other things, caused 'enormous problems' for the capability of the APS.<sup>51</sup>

12.23 Further articulating these issues, the CPSU stated that the approach taken by the Government has:

- caused the outsourcing of knowledge and policy;
- compromised service delivery;
- eliminated good jobs and harmed the communities who are reliant on them; and
- abandoned the role as custodian of a career public service, and the institutions and norms which Australian democracy relies upon.<sup>52</sup>

12.24 This issue was also raised by participants during the Independent Review of the Australian Public Service (the Independent Review). In its final report, it noted the following:

Despite the lack of data, members, observers and partners of the APS expressed credible concerns to the review that APS capability has declined. The decline has been observed across key areas of responsibility – policy advice, regulatory oversight, and delivery of services and support to the public, as well as internal enabling functions.<sup>53</sup>

12.25 One of four key reasons the Independent Review identified as causing the decline of capability across the APS was the increased usage of labour contractors and consultants to perform work that was previously 'core in-house capability'. It further noted the disparity between the significant increase in spending on contractors and consultants and the steady level of spending on APS employees.<sup>54</sup>

12.26 The Independent Review acknowledged that not all expertise can be maintained in-house, and noted that there are benefits to leveraging external capability. Notwithstanding this, however, it contended that the use of external capabilities needs to be strategic and well-informed, and that the APS should, at all times, be focused on achieving value for money. On these points, it specifically said the following in its final report:

There is clearly benefit in the APS leveraging the best external capability. It is not possible to have expertise in everything in-house and external providers can be the most efficient way of delivering the best advice,

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<sup>51</sup> CPSU, *Submission 102*, p. 5.

<sup>52</sup> CPSU, *Submission 102*, p. 5.

<sup>53</sup> PM&C, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 2019, p. 183.

<sup>54</sup> PM&C, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 2019, p. 185.

services or support. But the use of external capability needs to be strategic and well-informed, meaning that the APS:

- makes decisions on the use of external capability by reference to a whole-of-service workforce strategy that identifies the core capabilities the APS should invest in building in-house—with external capability used to perform non-core or variable work activity
- manages use of external capability closely, from the contract design stage through to performance of the prescribed tasks, and
- ensures that all arrangements lead to a transfer of knowledge to the APS.

At all stages the APS should be focused on achieving value for money and better outcomes. The APS needs to find the right balance between retaining and developing core in-house capability and leveraging external capability to ensure a sustainable and efficient operating model for the decades ahead.<sup>55</sup>

### **Unnecessary higher expenditure of public monies**

12.27 It was contended during the inquiry that engaging workers through labour hire arrangements cost more than direct APS employment and can result in the unnecessary expenditure of public monies.

12.28 For example, the CPSU argued that evidence provided by individual agencies indicated that labour hire workers cost at least 20 per cent more than directly engaged staff, and can reach as high as 40 per cent in some cases. In its submission, it concluded:

While the failure across the APS to track and analyse the real cost of these working arrangements, all indications are that they cost the Commonwealth more than directly employing staff, resulting in fewer staff employed and the people working under these arrangements having lower pay, lesser conditions, and less job security. A genuine “lose-lose” situation.<sup>56</sup>

12.29 When questioned by the committee as to whether the Department of Finance keeps figures on the wage differential between public service employees and labour hire workers for the same job, Mr Yannopoulos replied; 'No, we do not'.<sup>57</sup>

12.30 The Acting Deputy Secretary of the Commercial and Government Services Division within the Department of Finance, Ms Stacie Hall, said:

My understanding is that the way these arrangements work is that the pay rates applicable to engaging someone through a labour hire arrangement are the same as through an ongoing employment arrangement and then

<sup>55</sup> PM&C, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 2019, p. 187.

<sup>56</sup> CPSU, *Submission 102.2*, [p. 5].

<sup>57</sup> Mr Yannopoulos, Department of Finance, *Proof Committee Hansard*, 27 August 2021, p. 6.



there's the application of on-costs and the service provider margin in addition to the direct salary.<sup>58</sup>

12.31 In their evidence to the inquiry, representatives from ManpowerGroup and Hays Specialist Recruitment, two labour hire firms with employees placed with the APS, provided an insight into how they set their rates. The Acting Managing Director of ManpowerGroup, Mr David Bruch, stated:

We ... seek to recover the base rate of pay, superannuation, payroll tax, workers compensation and some other specific insurance costs. Then our margin would be on top of that, and then GST is applied.<sup>59</sup>

12.32 The Managing Director of Hays, Mr Nick Deligiannis, told the committee:

We comply with all regulations and laws, including payment levels, as per the award, if that's applicable. Using the APS rates and base levels, we then apply casual loading onto that for temporary employees. On top of that, there are all the on-costs that we cover as part of the total charge, and then there's our margin. That's how we arrive at the charge rate.<sup>60</sup>

12.33 When questioned about the margin, or mark-up, Mr Bruch noted that a 25 per cent mark-up would be 'towards the lower end'. He submitted that superannuation, workers compensation, and work cover costs would add up to approximately 20 percent, resulting in a 5 per cent margin, which he contended was 'not a significant component to then administer [the] business with'.<sup>61</sup>

12.34 AMSA confirmed that the mark up rate charged by Hudson Group was 35 per cent during its contract to provide labour for AMSA Connect. After removing the 20 per cent which goes to costs—a rate suggested by ManpowerGroup and which has not been independently verified, and may be overstated—this still would indicate a profit margin of 15 percent for each Hudson employee provided to AMSA.<sup>62</sup>

12.35 AMSA also confirmed that in the most recent financial year, the cost of engaging an employee through labour hire rather than as a direct AMSA employee was approximately 23 per cent higher:

For the financial year ended 30 June 2021—when comparing salary costs spent under the labour hire contract/s to the cost of directly employing the

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<sup>58</sup> Ms Stacie Hall, Acting Deputy Secretary, Commercial and Government Services Division, Department of Finance, *Proof Committee Hansard*, 27 August 2021, p. 7.

<sup>59</sup> Mr Bruch, ManpowerGroup, *Proof Committee Hansard*, 27 August 2021, p. 22.

<sup>60</sup> Mr Nick Deligiannis, Managing Director, Hays Specialist Recruitment (Australia) Pty Ltd, *Proof Committee Hansard*, 27 August 2021, p. 37.

<sup>61</sup> Mr Bruch, ManpowerGroup, *Proof Committee Hansard*, 27 August 2021, p. 23.

<sup>62</sup> Australian Maritime Safety Authority (AMSA), answers to written questions taken on notice, Senator Sheldon, 17 September 2021 (received 1 October 2021), p. 2.

equivalent number of staff—AMSA paid a 'markup' of approximately 23 per cent.<sup>63</sup>

12.36 When asked whether they have ever charged a markup of 40 per cent or higher to a federal agency, ManpowerGroup acknowledged that 'it is possible'.<sup>64</sup>

*Value for money assessments*

12.37 Ms Hall highlighted that there are currently approximately 20 panels across the Government which support the provision of labour hire services and that these panels were originally established through competitive processes. Ms Hall argued that:

... [g]iven that they've been established through competitive procurement processes and the pricing and service arrangements are established through those processes, the agencies that have set those panels up will have tested and will be confident or comfortable in relation to value for money.<sup>65</sup>

12.38 Mr Yannopoulos submitted that the APS operates in a 'devolved accountability environment', and that the Department of Finance does not undertake an overarching audit process on whether labour hire arrangements provide value for money. He noted that it is the responsibility of delegates within each agency to satisfy themselves that they're receiving value for money.<sup>66</sup>

12.39 When questioned about the higher cost of labour hire and its value for money proposition, Mr Hetherington contended that:

... it might be worth paying a premium to secure a workforce that you don't need in the long term rather than bringing on ongoing APS employees. I think that value for money is more than just the cost of something; there are other elements that go to a value-for-money consideration[.]<sup>67</sup>

12.40 When asked whether a 25 per cent premium paid to labour hire companies, in order to 'circumvent' the employment obligations associated with ongoing APS employment, delivers good value for money under the Commonwealth Procurement Rules, the APSC stated that that it 'does not provide direction or guidance for agencies in relation to use or cost of labour hire'.<sup>68</sup>

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<sup>63</sup> AMSA, answers to written questions on notice, Senator Sheldon, 17 September 2021, p. 3.

<sup>64</sup> ManpowerGroup, Answers to written questions taken on notice, Senator Sheldon, 17 September 2021 (received 1 October 2021), [p. 2].

<sup>65</sup> Ms Hall, Department of Finance, *Proof Committee Hansard*, 27 August 2021, p. 7.

<sup>66</sup> Mr Yannopoulos, Department of Finance, *Proof Committee Hansard*, 27 August 2021, p. 10.

<sup>67</sup> Mr Hetherington, APSC, *Proof Committee Hansard*, 27 August 2021, p. 10.

<sup>68</sup> APSC, Answers to written questions taken on notice, Senator Sheldon, 17 September 2021 (received 1 October 2021), [p. 9].

*Conversion fees*

12.41 Ms Enders from AMSA highlighted for the committee that, in AMSA's experience, labour hire firms generally charge a conversion fee for labour hire employees which transition to permanent APS jobs. She noted that the cost is generally based on a percentage of final salary.<sup>69</sup>

12.42 In responding to questions taken on notice, AMSA clarified that under the ManpowerGroup contract it currently has in place, the conversion fee is a reducing amount of approximately \$6500 to \$3500 per employee, and is applicable over the first six months for ManpowerGroup-sourced labour hires. AMSA noted that nil fees were payable for labour hire workers who were transferred from the previous contract AMSA had in place with Hudson, which ended in April 2021.<sup>70</sup>

12.43 This contrasted with the experience of Services Australia, with Mr Nelson stating the following when questioned about labour hire companies charging fees when a labour hire worker is converted to a Services Australia worker:

That certainly hasn't been our experience. I suppose what we do is offer employment to people and, in the case of someone who's applying from a labour hire business, whatever arrangements they have with their employer, those arrangements stay with them. We certainly don't pay an additional fee for engaging someone as an APS employee if they have been a labour hire person before.<sup>71</sup>

**Lower conditions and progression opportunities***Conditions*

12.44 Some inquiry participants highlighted that labour hire arrangements provide lower conditions and less progression opportunities for workers. For example, Ms Donnelly stated the following in her evidence to the committee:

Labour hire workers are excluded from Commonwealth enterprise agreements, and the Fair Work Act limits the use of enterprise agreements to regulate labour hire arrangements and employment conditions. This results in a category of workers with no effective access to bargaining and no job security and often being paid less with fewer conditions and fewer rights.<sup>72</sup>

12.45 In its submission to the inquiry, the CPSU articulated its concerns regarding labour hire arrangements in further detail:

These people do not receive sick, personal, annual, or any other leave entitlements, creating challenges to work-life balance and limited flexibility

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<sup>69</sup> Ms Enders, AMSA, *Proof Committee Hansard*, 27 August 2021, p. 26.

<sup>70</sup> AMSA, answers to written question on notice, 27 August 2021 (received 10 September 2021).

<sup>71</sup> Mr Nelson, Services Australia, *Proof Committee Hansard*, 27 August 2021, pp. 32–33.

<sup>72</sup> Ms Donnelly, CPSU, *Proof Committee Hansard*, 27 August 2021, p. 12.

in planning breaks and time away. This can lead to fatigue and cause further flow-on effects on the efficiency and capacity of the overall workforce.<sup>73</sup>

Permanent APS employees access pay increases through their Enterprise Agreement and annual incremental advancement. People working on these labour hire contracts are not entitled to yearly incremental advancements, or other pay increases negotiated through the Enterprise Bargaining process.<sup>74</sup>

12.46 Labour hire workers at AMSA expressed numerous concerns about the impact of their employment arrangement on their mental and financial wellbeing. One worker, Tara, said that being engaged through labour hire for 3 years without receiving an offer of direct employment or even a pay rise, had made her feel undervalued, stressed and had impacted her self-esteem. Another AMSA worker, Justine, said being engaged through labour hire 'diminishes your worth' and creates financial uncertainty. Multiple workers raised concerns about obtaining a home loan or paying off a mortgage while being engaged through labour hire.<sup>75</sup>

12.47 Although noting that the ATO requires all its labour hire providers to ensure that they're paying their employees in accordance with the relevant award, when asked whether the ATO's outsourced labour hire workers receive the same pay and conditions as its internal employees who are doing the same work, Mr Chapman said:

There are varying and different conditions around leave and all sorts of elements of the employment contract, so I can't give you an assurance as to all the individual employment arrangements of the different providers. I can't give you that assurance, I'm afraid.<sup>76</sup>

12.48 Mr Chapman also submitted that, in instances where the ATO receives a complaint regarding conditions and pay, it 'follow[s] up with the provider and seek assurances as to the matters that have been raised in any complaint to ensure that appropriate arrangements are in fact in place'.<sup>77</sup>

12.49 However, when asked about media reports going back to 2018 that ATO call centre workers engaged by outsourced provider Stellar were being paid just \$20 an hour, while Stellar received a rate per employee from the ATO of approximately \$50 an hour, Mr Chapman said he was not familiar with those arrangements.<sup>78</sup>

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<sup>73</sup> CPSU, *Submission 102.2*, [p. 3].

<sup>74</sup> CPSU, *Submission 102.2*, [p. 3].

<sup>75</sup> CPSU, *Submission 102.2*, [p. 3].

<sup>76</sup> Mr Chapman, ATO, *Proof Committee Hansard*, 27 August 2021, p. 44.

<sup>77</sup> Mr Chapman, ATO, *Proof Committee Hansard*, 27 August 2021, p. 45.

<sup>78</sup> Mr Chapman, ATO, *Proof Committee Hansard*, 27 August 2021, pp. 45–46.

12.50 Mr Chapman was also asked about evidence provided by ATO employees about their experience working alongside labour hire casuals. Specifically, that labour hire workers have been unable to attend ATO Christmas parties as they need to save money for the closedown period, when they wouldn't be receiving any income, and another instance where a labour hire worker was in tears at a bus stop because a power outage had closed the office for the day, leaving her with no pay. Mr Chapman responded that, 'with labour hire contractors, we are not the employer'.<sup>79</sup>

12.51 Evidence provided by an ATO member of the CPSU who worked for an outsourced provider shared similar concerns to those engaged through labour hire:

I worked for an outsource company for the ATO on a casual and full-time basis for one year. Conditions, training, pay, and management expectations are unrealistic. Staff turnover was high. We were constantly being told the ATO was fining them and therefore new KPIs were being implemented. I now work for the ATO where conditions are much better but it is only on a casual contract basis, so job security is still terrible.<sup>80</sup>

12.52 Evidence given by a former labour hire worker at the NDIS added that NDIS employees were being paid up to \$10 an hour more than their labour hire counterparts for the same jobs, and that labour hire agencies prohibit their employees from discussing their pay.<sup>81</sup>

12.53 When asked whether they are ever asked by Commonwealth agencies to match non-salary related conditions offered to their own employees, such as permanent employment, paid leave entitlements or superannuation rates, ManpowerGroup, which is the labour hire provider for AMSA, indicated that they are not.<sup>82</sup>

### *Training*

12.54 The issue of training opportunities for external workers, and how they compared to those provided to internal staff, was also raised during the inquiry. Responding to questions regarding this, Mr Hetherington said that it would depend on the nature of the procurement. For example, he stated that if the purpose of engaging contracted support was to acquire a certain skillset, then the APS would not be looking to upskill those contractors. Alternatively, he submitted that:

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<sup>79</sup> Mr Chapman, ATO, *Proof Committee Hansard*, 27 August 2021, p. 43.

<sup>80</sup> CPSU, *Submission 102.2*, [p. 3].

<sup>81</sup> CPSU, *Submission 102*, p. 22.

<sup>82</sup> ManpowerGroup, *Answers to written questions taken on notice*, Senator Sheldon, 17 September 2021 (received 1 October 2021), [p. 1].

... where we bring in casual labour through labour hire firms, and if you think about the surge context, we certainly would be looking to upskill them in the activities and the jobs we need them to undertake.<sup>83</sup>

12.55 Commenting on whether the labour hire workers engaged by Services Australia receive the same training as those employed directly by the department, Mr Nelson said:

... what we do ... in terms of engaging labour hire people, and other new people, is put them through the same level of training and give them the same level of support, so that they can deliver the same quality outcomes for the Australian community. If we are neglectful in that way, we'll hear about that from the public and we won't be able to deliver and meet their expectations.<sup>84</sup>

12.56 APS employee members of the CPSU said that the widespread use of labour hire was creating significant training and capability issues. A Services Australia employee said:

The training gaps are becoming quite obvious. The idea that you can replace the knowledge held by experienced APS staff by labour hire staff following 'blueprint' instructions will end up costing our customers, and the taxpayer a damn sight more than what it was ever worth.<sup>85</sup>

12.57 This sentiment was echoed by employees of the NDIA, who said:

I have trained 8 people in the last 18 months who have all left before they were skilled enough to be useful. We still don't have these positions filled and are about to do it all again. I am facing burn out due to the increased workload and the extra work of training staff who ultimately do not contribute to the team.<sup>86</sup>

### *Career progression*

12.58 The CPSU submitted that labour hire workers are limited in their career progression opportunities, and that this makes it difficult for workers engaged under these contracts to plan their long-term career. It also contended that these arrangements encourage individuals to find other jobs with higher security, resulting in constant recruitment and training due to heightened turnover.<sup>87</sup>

12.59 Notwithstanding the above, Mr Bruch argued that his teams were telling him that labour hire is a pathway to permanent employment. Specifically, when questioned on this issue by the committee, he said the following:

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<sup>83</sup> Mr Hetherington, APSC, *Proof Committee Hansard*, 27 August 2021, p. 9.

<sup>84</sup> Mr Nelson, Services Australia, *Proof Committee Hansard*, 27 August 2021, p. 33.

<sup>85</sup> CPSU, *Submission 102.1*, p. 24.

<sup>86</sup> CPSU, *Submission 102.1*, p. 25.

<sup>87</sup> CPSU, *Submission 102.2*, [p. 3].

Anecdotally, my teams are telling me—we believe that labour hire is a pathway to permanent employment. We tend to see workers starting in roles in the on-hire workplace and then moving into permanent positions. It's differentiated by those more junior positions and those which are specialist IT, where individuals have committed themselves to a career of project activity; that's where they've looked to specialise.<sup>88</sup>

## Summary and concluding comments

- 12.60 This chapter has provided a discussion of the employment arrangements within the APS, focussing on the impacts of casual employment and the utilisation of labour hire contractors and outsourced providers.
- 12.61 The evidence provided to the committee clearly states that the use of external employment arrangements has increased, in part due to the Australian Government's arbitrary ASL cap and is delivering significantly worse outcomes for the external workers, the APS employees who work alongside them, and the Australian residents and businesses who depend upon effectively delivered public services.
- 12.62 It is also clear that these external arrangements do not deliver cost savings for the Australian taxpayer. While the agencies have highlighted that external and casual workers are cheaper and easier to hire and fire, labour hire companies and outsourced service providers have been allowed to pillage the public purse through excessive profit margins, meaning not only is the Australian public receiving a degraded quality of service, they are also paying more for it.
- 12.63 There is a lack of transparency around the engagement of labour hire and other external workforce arrangements in the APS, and it is particularly concerning that a centralised record of labour hire headcount and expenditure is not recorded by either the APSC, or the Department of Finance.
- 12.64 AMSA's revelation that their labour hire arrangements are 23 per cent more expensive than direct employment is troubling, particularly if this markup rate is reflected in labour hire arrangements across the APS. The contention by the APSC that such markups deliver value for money because they make it easier to hire and fire workers as needed is the clearest indication yet that the APS is not being managed in the best interests of APS workers or taxpayers.
- 12.65 The next chapter, Chapter 13, complements this chapter by focussing on procurement by the Commonwealth and its impacts on job security. Chapter 14 takes an in-depth look at the National Broadband Network, while Chapter 15 brings together the content covered in chapters 11 to 14, and provides a discussion on potential reforms, and the committee's views and recommendations.

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<sup>88</sup> Mr Bruch, ManpowerGroup, *Proof Committee Hansard*, 27 August 2021, p. 21.





# Chapter 13

## Job security and Commonwealth procurement

### Background

- 13.1 The procurement of goods and services is a significant activity for the Australian Government. For example, in 2019–20 there were 81 174 contracts published on AusTender<sup>1</sup> with a combined value of \$53.9 billion.<sup>2</sup>
- 13.2 This significant purchasing power can have a material impact on the socioeconomic outcomes for numerous communities across Australia, and the policies and frameworks under which these goods and services are obtained can have positive and negative implications for the welfare of these communities, including the security of the jobs they create.
- 13.3 In March 2020, the Australian National Audit Office (ANAO) published the *Australian Government Procurement Contract Reporting Update* report (ANAO Report). This report showed that the total contract value for the five year period up to and including 2018–19, was \$305 billion, or approximately \$61 billion per year.<sup>3</sup>
- 13.4 As highlighted in Chapter 1, the five highest-value categories of Commonwealth procurement in the period 2010–11 to 2018–19 were:
- commercial and military and private vehicles and their accessories and components, at 24.1 per cent;
  - management and business professionals and administrative services, at 18.7 per cent;
  - engineering and research and technology-based services, at 8.5 per cent;
  - building and construction and maintenance services, at 8.2 per cent; and
  - information technology, broadcasting, and telecommunications, at 7.6 per cent.<sup>4</sup>
- 13.5 The ANAO Report also noted that the majority of contracts involved the procurement of services, as opposed to goods, and that a small number of areas represented the majority of reported contract value. Further, it reported

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<sup>1</sup> AusTender is the Australian Government's procurement information system. It provides a centralised publication of various opportunities, annual procurement plans, and contracts which have been awarded. For further information, see: <https://www.tenders.gov.au/>.

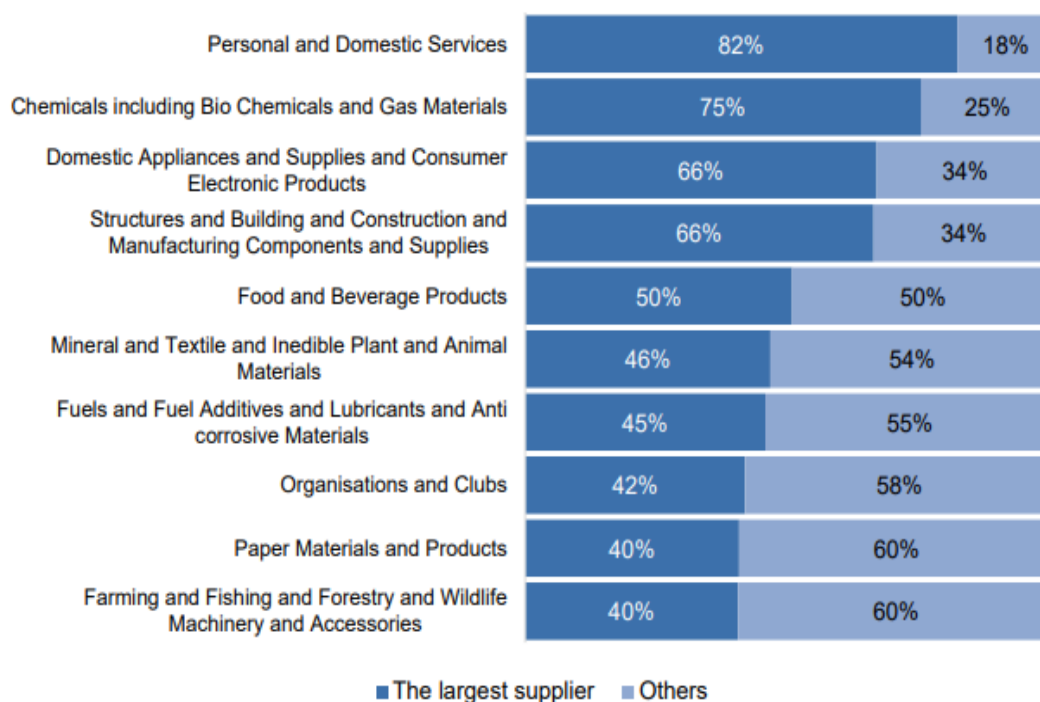
<sup>2</sup> Department of Finance, *Procurement*, <https://www.finance.gov.au/government/procurement> (accessed 23 September 2021)

<sup>3</sup> Australian National Audit Office (ANAO), *Auditor-General Report No. 27 2019–20: Australian Government Procurement Contracting Report Update*, p. 16.

<sup>4</sup> ANAO, *Auditor-General Report No. 27 2019–20: Australian Government Procurement Contracting Report Update*, p. 40.

that a small number of suppliers commonly 'dominate in most of those categories'.<sup>5</sup> See **Figure 13.1**, below, for further information.

**Figure 13.1 Procurement categories with most concentrated markets**



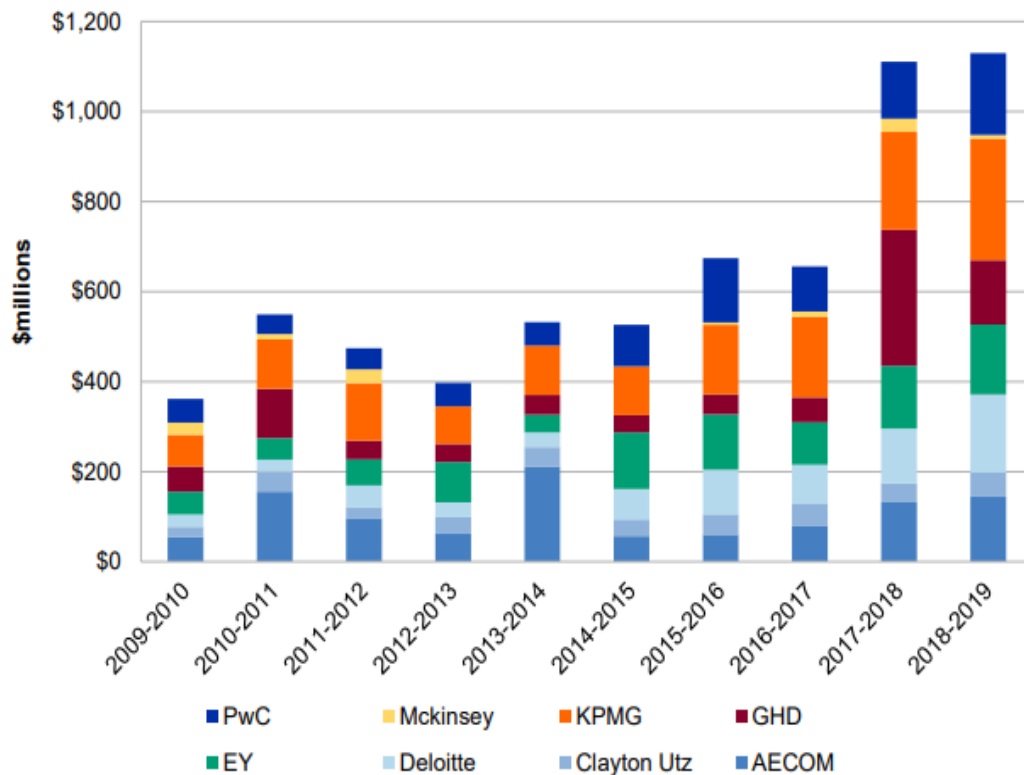
Source: ANAO, Auditor General Report No. 27 2019–20: Australian Government Procurement Contracting Report Update, p. 42.

- 13.6 The utilisation of procurement panels has also grown significantly in recent years, and it was reported that a relatively small proportion of suppliers on these panels are commonly awarded the majority of contract value when the panel is utilised. Further, the ANAO noted that there were indications that some panels are still being accessed after their reported end date.<sup>6</sup>
- 13.7 The ANAO Report listed eight key non-government entities that were reported as providing significant services to the Government across the decade to 2018–19. **Figure 13.2**, below, highlights the aggregated reported contract value for these providers for each year, as well as the proportion reported by each individual entity. As shown, the value of the contracts for these entities has increased from under \$400 million in 2009–10 to over \$1.1 billion in 2018–19.<sup>7</sup>

<sup>5</sup> ANAO, Auditor-General Report No. 27 2019–20: Australian Government Procurement Contracting Report Update, p. 8.

<sup>6</sup> ANAO, Auditor-General Report No. 27 2019–20: Australian Government Procurement Contracting Report Update, p. 7.

<sup>7</sup> ANAO, Auditor-General Report No. 27 2019–20: Australian Government Procurement Contracting Report Update, p. 45.

**Figure 13.2 Contracts value by significant consultancy services providers**

Source: Australian National Audit Office, Auditor General Report No. 27 2019–20: Australian Government Procurement Contracting Report Update, p. 45.

### *Limitations on data*

13.8 Although two thirds of Government entities are obliged to report contract data on AusTender, approximately 34 per cent of these entities do not centrally report the value of their procurement activities as they are not covered by the Commonwealth Procurement Rules (CPRs).<sup>8</sup> The ANAO Report noted that some of these entities are 'engaged in significant procurement activities'.<sup>9</sup>

13.9 The ANAO also highlighted that the Department of Finance advised that the AusTender system had no significant linkages to agency financial management information systems, except an upload capability, and was designed and built to perform a 'gazettal function'. Hence, it only utilises simple data structures and has limited fields. Given this, the ANAO concluded that:

<sup>8</sup> Commonwealth Procurement Rules govern how Government entities buy goods and services. For more information, see: <https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules>.

<sup>9</sup> ANAO, Auditor-General Report No. 27 2019–20: Australian Government Procurement Contracting Report Update, p. 7.

These circumstances affect the extent to which AusTender data can be used to analyse the types of goods and/or services being contracted, and the suppliers being contracted with.<sup>10</sup>

### *Commonwealth Procurement Rules*

13.10 The CPRs aim to ensure that the Government and Australian taxpayers achieve value for money across Commonwealth procurements. They provide a number of rules which govern how entities buy goods and services from external providers and are managed by the Department of Finance.<sup>11</sup>

13.11 In his foreword to the release of the latest CPRs, the Minister for Finance, Senator the Hon. Simon Birmingham, stated the following:

The Commonwealth Procurement Rules are the keystone of the Government's procurement policy framework. They are supported by a range of tools including the AusTender system, guidance material and templates developed and maintained by the Department of Finance to ensure accountability and transparency, and reduce the costs and complexity of conducting business with the Australian Government.

Achieving value for money is the core rule of the Commonwealth Procurement Rules as it is critical to ensuring that public resources are used in the most efficient, effective, ethical and economic manner. However, it is important to remember that price is not the only factor when assessing value for money, and officials are required to consider all relevant financial and non-financial costs and benefits, including environmental sustainability, associated with a procurement.<sup>12</sup>

13.12 The principle of competition during Government procurement is a key element of the CPRs, and these rules aim to limit the use of non-competitive approaches—especially for significant, high-value procurements. Notwithstanding this, it was reported by the ANAO that more than half of all contracts resulted from limited tender processes, rather than through an open tender.<sup>13</sup>

### **The utilisation of procurement policy to promote social and economic objectives**

13.13 It was strongly argued by a number of inquiry participants that federal, state, and local governments have an important role in promoting social and

<sup>10</sup> ANAO, *Auditor-General Report No. 27 2019–20: Australian Government Procurement Contracting Report Update*, p. 39.

<sup>11</sup> Department of Finance, *Procurement*, <https://www.finance.gov.au/government/procurement> (accessed 22 September 2021).

<sup>12</sup> Department of Finance, *Commonwealth Procurement Rules: Foreword*, <https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules/foreword> (accessed 22 September 2021).

<sup>13</sup> ANAO, *Auditor-General Report No. 27 2019–20: Australian Government Procurement Contracting Report Update*, p. 7.

economic objectives, such as job security, through their procurement policies. For example, the Victorian Council of Social Service (VCOSS) said:

As federal, state and local government departments and agencies are the largest purchaser of goods, services and construction projects in Australia, they have an important role in driving the use of public expenditure to improve social and economic outcomes.<sup>14</sup>

13.14 Noting the negative socioeconomic impacts of insecure and precarious work, WEStjustice contended that the Australian Government should be 'leading the way' in ensuring that its procurement policies require businesses tendering for work to have a strong track record of compliance with workplace laws and a demonstrated commitment to diversity targets and work security.<sup>15</sup>

13.15 When procuring goods and services from the market, The Australia Institute argued that governments should preference Australian firms which 'demonstrate adherence to norms of secure employment, including permanency and adequate working hours to support a living wage'. It submitted that:

Governments should make a clear policy statement that they commit to use their economic resources and spending power to reinforce rising wages and stronger labour standards across Australia's economy.<sup>16</sup>

13.16 In their submission to the inquiry, Jesuit Social Services highlighted the capacity for Australian Government procurements to contribute 'social value', and that this should be meaningfully pursued to create sustainable job opportunities for people experiencing disadvantage. It contended that a portion of the spending could be targeted towards achieving positive social outcomes for the long-term unemployed, those individuals who have low skill levels, and people living in areas of high social disadvantage.<sup>17</sup>

13.17 The Victorian Trades Hall Council called for a whole-of-government procurement policy which set the standard required for organisations tendering for public work. In particular it argued that a key part of such a policy should be the inclusion of quotas for apprentices, women, and First Nations workers. It also stated that there should be 'rigorous compliance, auditing and enforcement responsibilities to ensure that social procurement and other procurement policies relating to the supply of goods and services are complied with'.<sup>18</sup>

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<sup>14</sup> Victorian Council of Social Service (VCOSS), *Submission 13*, p. 24.

<sup>15</sup> WEStjustice, *Submission 12*, p. 4.

<sup>16</sup> The Australia Institute, *Submission 41*, p. 19.

<sup>17</sup> Jesuit Social Services, *Submission 91*, p. 8.

<sup>18</sup> Victorian Trades Hall Council, *Submission 31*, [pp. 8–9].

13.18 Unions NSW called for a procurement policy which gives 'financial advantage' to businesses employing workers in secure jobs. It stated that:

... [b]y adopting a holistic approach to assessing tenders for any good or service that spends taxpayers' money, with an emphasis on secure, quality and local jobs, government purchasing can promote job security and better wage and labour standards.

In practice this would mean a procurement policy that requires commitment from suppliers to such things as a preference for permanent employment, a clear avoidance of exploitative gig work practices, job and pay security at change of contract, drawing on local employment pools, the payment of prevailing wages underpinned by a living wage, indexed wage parity for outsourced staff, registered enterprise agreements, trained Health and Safety Representatives, union rights agreements, a right to conciliation and arbitration of disputes, paid domestic violence leave and the right for workers in government supply chains to bargain across the supply chain.<sup>19</sup>

13.19 Unions NSW also contended that contractors in government supply chains should be obligated to provide full and transparent reporting of their adherence to minimum labour standards, and to detail the nature of any sub-contracting relationships with other suppliers. Further, it submitted that lead contractors at the top of these supply chains should also take responsibility for breaches found lower down the supply chain; that is, for such breaches both the breaching organisation and the lead contractor should be held responsible.<sup>20</sup>

13.20 The South Coast Labour Council stated that governments of all levels have a responsibility to ensure that procurements are assessed on the economic and social benefits they deliver; not just their price. Given this, it submitted that:

... the job security of local workers who could benefit from working on Government funded recovery and reconstruction projects must be elevated from an objective to a requirement in the awarding of tenders and the content and enforcement of contracts.<sup>21</sup>

13.21 Kingsford Legal Centre and Redfern Legal Centre, in a joint submission, highlighted the purchasing power wielded by the Australian Government, and contended that it should be used to 'prioritise business with organisations that engage in positive employment practices, beyond mere compliance with minimum legal standards', such as those who provide secure employment for their workers.<sup>22</sup>

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<sup>19</sup> Unions NSW, *Submission 78*, p. 18.

<sup>20</sup> Unions NSW, *Submission 78*, pp. 18–19.

<sup>21</sup> South Coast Labour Council, *Submission 82*, [p. 4].

<sup>22</sup> Kingsford Legal Centre and Redfern Legal Centre, *Submission 91*, p. 21.

13.22 The Australian Council of Trade Unions raised their concerns regarding the lack of acceptance and accountability by the Australian Government of the impact its procurement policies and practices have on insecure working arrangements. It suggested that for procurements above a certain threshold, the Government should:

... require in advance a full and transparent reporting by prospective suppliers regarding their adherence to labour standards (including the principle of paying at least living wages) and compliance with relevant employment law, and the nature of their own sub-contracting and supply chain relationships with other suppliers.<sup>23</sup>

13.23 A number of inquiry participants highlighted the procurement models and frameworks utilised in Victoria and the Australian Capital Territory, contrasting them favourably against the Commonwealth's framework. An overview of both of these frameworks is provided below along with relevant inquiry participant commentary.

### *Victorian Government's procurement policies*

#### **Social Procurement Framework**

13.24 The Victorian Government has implemented a Social Procurement Framework which aims to ensure that value-for-money considerations encompass broader opportunities to 'deliver social and sustainable outcomes that benefit the Victorian community'. The Victorian Government noted that this commitment to social procurement reflects a growing focus, both domestically and internationally, on the strategic use of resources to drive positive social, economic, and environmental outcomes.<sup>24</sup>

13.25 The framework sets out a whole-of-government approach to 'streamline and embed' social procurement within ordinary government processes. It is informed by seven guiding principles, which are listed below:

- A standard and consistent approach across the Victorian Government.
- Easy to understand and adopt with minimal administrative burden for all businesses, especially small and medium enterprises.
- Simple for government to embed in everyday business.
- Scalable for all sizes and types of businesses and suppliers.
- User-friendly and supported with guidance, education, tools, and templates.
- Able to be effectively measured and reported.

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<sup>23</sup> Australian Council of Trade Unions (ACTU), *Submission 98*, p. 36.

<sup>24</sup> Victorian Government, *Introduction to the Social Procurement Framework*, <https://www.buyingfor.vic.gov.au/introduction-social-procurement-framework> (accessed 24 September 2021).

- Demonstrates Government leadership in promoting the use of social procurement across Victoria.<sup>25</sup>

13.26 VCOSS highlighted that Victoria's Social Procurement Framework was Australia's first whole-of-government commitment to social procurement, and that it sets 'a clear expectation that social procurement is standard practice for the Victorian Government'. It noted that supporting safe and fair workplaces is one of the framework's objectives and this requires the utilisation of suppliers who 'comply with industrial relations laws and promote secure employment'.<sup>26</sup>

13.27 Jesuit Social Services submitted that the Social Procurement Framework was a 'positive starting point', and advocated for a Commonwealth social procurement policy which:

- sets clear and ambitious targets;
- is not be limited to largescale, high-spend projects;
- fosters partnerships with employers and other organisations, such as those focussing on generating social value; and
- aims to place disadvantaged jobseekers into secure and sustainable employment.<sup>27</sup>

### Supplier Code of Conduct

13.28 In 2017, the Victorian Government introduced a Supplier Code of Conduct (the Code) which required suppliers to acknowledge a minimum standard of behaviour when conducting business with the state. Specifically, it described minimum expectations around:

- integrity, ethics, and conduct;
- conflicts of interest, gifts, benefits and hospitality;
- corporate governance;
- labour and human rights;
- health and safety; and
- environmental management.<sup>28</sup>

13.29 The Victorian Government stated that it views its suppliers as 'partners' and that it cares about the way they do business when providing goods and

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<sup>25</sup> Victorian Government, *Introduction to the Social Procurement Framework*, <https://www.buyingfor.vic.gov.au/introduction-social-procurement-framework> (accessed 24 September 2021).

<sup>26</sup> VCOSS, *Submission 13*, p. 24.

<sup>27</sup> Jesuit Social Services, *Submission 91*, p. 8.

<sup>28</sup> Victorian Government, *Supplier Code of Conduct*, <https://www.buyingfor.vic.gov.au/supplier-code-conduct> (accessed 24 September 2021).



services. Suppliers are expected to self-assess their compliance with the Code, and to take prompt action to correct any deficiencies or breaches.<sup>29</sup>

13.30 In its submission to the inquiry, the Australian Institute of Employment Rights highlighted the Victorian Government's effort to promote ethical, sustainable, and socially responsible procurement through the Code, and contrasted it with the current approach taken by the Australian Government. It also articulated what it saw as a deficiency with the Code:

... the Victorian Code, whilst referencing compliance with labour and human rights standards, unfortunately does not preference secure employment arrangements. Hence, procurement decisions are not yet incentivised in this way. With the omission, government is incentivising insecure arrangements by promoting a race to the bottom between suppliers to compete on low labour costs.<sup>30</sup>

### **Local Jobs First and Fair Jobs Code**

13.31 The Victorian Government has implemented a Local Jobs First policy which aims to ensure that small and medium-sized businesses are provided a 'full and fair opportunity' to compete for both large and small government contracts. The Victorian Government states that the policy supports businesses and workers, and helps to create opportunities for apprentices, trainees, and cadets.<sup>31</sup>

13.32 In its submission to the inquiry, the Victorian Government highlighted that it was also developing a Fair Jobs Code which would outline standards that apply to businesses that are awarded grants and who supply goods and services to the government. Importantly it noted that '[t]hese standards will seek to ensure that these businesses are providing fair working conditions and are compliant with their workplace obligations'.<sup>32</sup>

### *Australian Capital Territory Government's procurement policies*

13.33 The ACT Government's procurement framework contains legislation, policies, guidance and templates which aim to 'address insecure work practices and unethical work practices' of those entities engaged by the territory to deliver goods and services. In its submission to the inquiry, the ACT Government highlighted the following five key aspects of its procurement framework:

- Government Procurement (Charter of Procurement Values) Direction 2020
- Canberra Region Local Industry Participation Policy

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<sup>29</sup> Victorian Government, *Supplier Code of Conduct*, <https://www.buyingfor.vic.gov.au/supplier-code-conduct> (accessed 24 September 2021).

<sup>30</sup> Australian Institute of Employment Rights, *Submission 6*, p. 52.

<sup>31</sup> Victorian Government, *Local Jobs First*, <https://www.buyingfor.vic.gov.au/local-jobs-first> (accessed 24 September 2021).

<sup>32</sup> Victorian Government, *Submission 16*, p. 30.

- Ethical Supplier Declaration
- Secure Local Jobs Code
- Compliance with workplace laws and standards.<sup>33</sup>

13.34 A key component of this framework, as highlighted and endorsed by inquiry participants, was the Secure Local Jobs Code. For example, VCOSS noted the role of the Secure Local Jobs code in promoting job security in the ACT and reducing the incidence of insecure work. It stated that part of the certification process requires businesses to engage an approved auditor, and submitted that:

... [e]nsuring that companies are independently verified and demonstrate a track record of compliance with workplace laws will help promote the provision of decent and secure work.<sup>34</sup>

13.35 WESTjustice suggested that the Commonwealth Government should ensure that tenders for public work can only be submitted by companies who have an independently verified and demonstrated track record of compliance with workplace laws, as well as a commitment to secure work and diversity targets. In this regard, WESTjustice commended the ACT's Secure Local Jobs Code and certification process.<sup>35</sup>

## A discussion of government procurement in the ICT sector

### *Background*

13.36 The effective utilisation of digital technologies has become essential in delivering government services in the 21<sup>st</sup> century. The importance of digital capability became evident in early 2020 when the COVID-19 pandemic commenced, with ICT technologies allowing for the uninterrupted delivery of basic public services to communities around Australia whilst the majority of APS employees transitioned to working from home for extended periods of time.

13.37 In recognition of this increasing need, over the last decade the Government has made significant investments in the data and digital space, and has undertaken various transformation programs on legacy ICT systems. For example, it has introduced the myGov website, which is a whole-of-government single-sign-on portal which has more than 10 million active users.<sup>36</sup>

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<sup>33</sup> ACT Government, *Submission 49*, pp. 12–14. Further information on each of these five aspects of the ACT Government's procurement framework can be found on pages 12 to 14 of submission 49 (ACT Government) available on the committee's website.

<sup>34</sup> VCOSS, *Submission 13*, p. 24.

<sup>35</sup> WESTjustice, *Submission 12: Attachment 2*, pp. 54–55.

<sup>36</sup> Department of the Prime Minister and Cabinet (PM&C), *Our Public Service, Our Future: Independent Review of the Australian Public Service*, p. 145.

13.38 The Independent Review of the Australian Public Service (the APS Review) acknowledged these investments, stating that they served as a good foundation upon which to 'build and accelerate the APS's digital transformation'. However, it also highlighted that:

Acceleration is necessary because, despite these investments, the APS is not keeping pace with increasing public expectations.<sup>37</sup>

13.39 The CPSU submitted that the Australian community expects government digital services to perform at, or above, the standard of leading private sector companies. Citing a research report, it contended that community satisfaction declined from 71 per cent to 59 per cent over the two years to 2018, and that many people found it difficult to navigate online government resources and services.<sup>38</sup>

13.40 Furthermore, in addition to external-facing digital services, the CPSU also highlighted that ICT systems are essential for APS employees to do their day-to-day jobs. Referencing a survey it undertook of 6 000 public servants, the CPSU contended that approximately half disagreed, or strongly disagreed, that their agency provides quality systems and tools; and that less than one in three agreed, or strongly agreed, that their agency had invested in modern technologies.<sup>39</sup>

13.41 The APS Review also noted that data and digital is 'underutilised in many areas', such as in service delivery and the evaluation of policies and programs. Furthermore it cited a maturity assessment of over 25 agencies undertaken in 2018 which found that the APS, as a single institution, was in an 'early stage of digital literacy'. See **Figure 13.3** below for an international comparison.<sup>40</sup>

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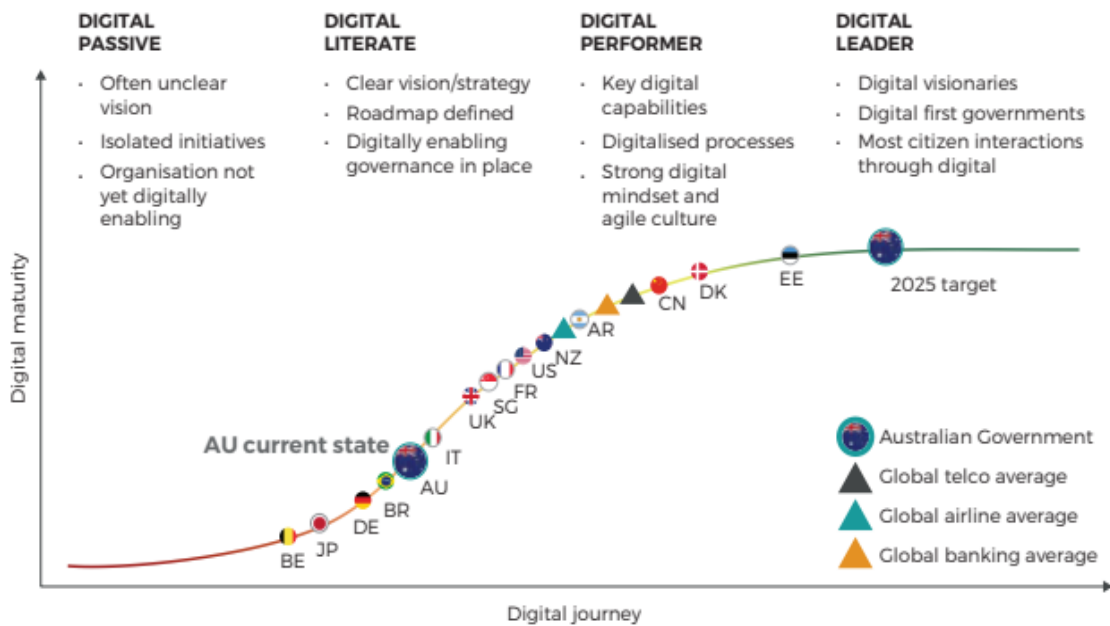
<sup>37</sup> PM&C, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, p. 145.

<sup>38</sup> Community and Public Sector Union (CPSU), *Submission 102*, p. 44.

<sup>39</sup> CPSU, *Submission 102*, pp. 44–45.

<sup>40</sup> PM&C, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, p. 145.

**Figure 13.3 An international comparison of digital literacy**



Source: Department of the Prime Minister and Cabinet, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, p. 145.

### Procurement policy

13.42 A key area of development recognised by the APS Review was ICT procurement—specifically, ensuring that the APS has the skills required to source digital solutions. It noted that:

... the APS needs considerable in-house skills and knowledge to ensure that it is getting the correct products to deliver outcomes, as well as value for money.<sup>41</sup>

13.43 The CPSU also recognised the need for internal skills and knowledge within the APS, commenting that:

[w]hile not everything can be done in-house, the lack of internal ICT has implications for contracting. It is difficult to manage a contract when there is limited in-house knowledge or experience of what is being managed. Having the internal ICT capability to assure and monitor is important and can lead to significant cost reductions[.]<sup>42</sup>

13.44 The CPSU argued that the Government has overly relied on ICT contractors, and that this approach has 'deskilled the APS'. In support of this, the CPSU cited the 2017 ICT Procurement Taskforce Report (ICT Report) published by the Digital Transformation Agency which found that:

- one third of APS ICT workers are contractors;
- over the last five years, the share of external ICT personnel has grown; and

<sup>41</sup> PM&C, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, p. 158.

<sup>42</sup> CPSU, *Submission 102*, pp. 54–55.

- external provides cost substantially more than APS employees.<sup>43</sup>

13.45 The ICT Report concluded that 'technical ICT capability gaps in the Australian Public Service have resulted from an over-reliance on ICT contractors' and stated that:

... [t]his over-reliance on contractors is unsustainable going forward. It is expensive (the average annual cost of an internal ICT employee is around \$132,000 while the cost of a contractor is around \$214,000), and causes ongoing erosion of ICT capability in agencies.<sup>44</sup>

13.46 The CPSU argued that the trend to increased ICT outsourcing and contracting has created 'critical issues with capability, cost, and user experience'. To offset these issues, the CPSU suggested the following:

- A genuine commitment by government, backed by funding, to substantial ongoing investment in ICT systems, staff skills and a properly funded ICT workforce plan.
- Committing to provide the level of funding needed, as recommended in the Independent Review of the APS, to overcome the gap with the private sector and ensure ICT systems at the standard of leading private sector companies.
- Returning externally contracted ICT work and workers back into the APS, particularly where specific skill shortages have already been identified.
- Stopping the 'outsource first' mentality, and instead utilising and building the expertise and knowledge of APS staff in the development and delivery of ICT systems.
- Making the APS an employer of choice for ICT and digital workers through providing distinct career pathways, structured learning and development programs, and appropriate classification and remuneration scales embedded in enterprise agreements.<sup>45</sup>

13.47 Articulating the Government's approach to develop and acquire the skillsets required for the digital economy, in his evidence to the committee the Acting Deputy Australian Public Service Commissioner, Mr Patrick Hetherington, stated:

What I would say about the digital economy and where we're going is that we're acutely aware of the sorts of skill sets that we need to grow into the future. You will have seen through our workforce strategy [APS Workforce Strategy 2025] that was released in March that we paid particular attention to the need to grow skills in the digital and data space in particular. In a sense we've backed that in through the development of professions around those particular skills. We've set up a digital profession, really focused on

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<sup>43</sup> CPSU, *Submission 102*, p. 50. For further information on the ICT Taskforce report, please see: <https://www.dta.gov.au/help-and-advice/ict-procurement/ict-procurement-taskforce-report>

<sup>44</sup> Digital Transformation Agency, *Report of the ICT Procurement Taskforce*, 2017, pp. 45–46.

<sup>45</sup> CPSU, *Submission 102*, p. 8.

how you build and grow and maintain capability in the digital space in the public sector. Equally, we've set up one around the data skill set as well, looking to recruit, retain and grow skills and give people valuable careers in the public sector in those domains.<sup>46</sup>

## **A discussion of government procurement in the care sectors**

13.48 The Commonwealth Government is responsible for numerous aspects of aged care, child care, and disability services in Australia, such as system design, funding, and commissioning.<sup>47</sup> Organisations and individuals operating within these care sectors provide essential services to some of the most vulnerable groups within the Australian community. The Western Australian Council of Social Service (WACOSS) submitted that:

As citizens it is reasonable for us to be concerned about the manner in which public funds are used to deliver public services to vulnerable citizens, and to expect the Commonwealth to have a duty of care to both the recipients and the providers of those services while also being accountable for the appropriate and efficient use of those funds.

Hence, when it comes to the way that Commonwealth agencies design service systems, commission, contract, register, certify or otherwise provide oversight for those services, report on service outcomes and quality standards, it is fair and reasonable to expect them to ensure that working conditions are conducive to the delivery of quality care services and that workers are not being mistreated, exploited or subject to insecure work arrangements.<sup>48</sup>

13.49 Maurice Blackburn contended that providers operating in these sectors have two key commonalities: they are both heavily reliant on government subsidies provided to service users; and engage workforces comprised of vulnerable cohorts.<sup>49</sup>

13.50 A number of inquiry participants raised significant concerns regarding the Government's approach to the care sectors. For example, WACOSS argued that Australia lacks a clear policy and funding mechanism for assessing and responding to the growing demand for these services. It stated that services are 'effectively being rationed and service funding reduced in relation to the trust cost of care', despite clear evidence that these services are highly valued, and make a difference in the health, wellbeing, and quality of life for many people.<sup>50</sup>

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<sup>46</sup> Mr Patrick Hetherington, Acting Deputy Australian Public Service Commissioner, APSC, *Proof Committee Hansard*, 27 August 2021, p. 8.

<sup>47</sup> Western Australian Council of Social Service (WACOSS), *Submission 118*, p. 20.

<sup>48</sup> WACOSS, *Submission 118*, p. 20.

<sup>49</sup> Maurice Blackburn, *Submission 17*, p. 24.

<sup>50</sup> WACOSS, *Submission 118*, p. 20.

13.51 Maurice Blackburn was concerned about the increased 'Uberisation' of the disability, aged care, and healthcare workforces, and submitted that employment arrangements within these sectors make them 'increasingly susceptible to sham contracting arrangements'.<sup>51</sup> It also contended that:

Nowhere in the information provided to potential NDIS [National Disability Insurance Scheme] service providers does it mention any requirement that the organisation must have a good track record in satisfying employment and industrial relations requirements.

Less ethical employers are exploiting a marginalised workforce, through the provision of lesser wages and conditions.<sup>52</sup>

13.52 Maurice Blackburn concluded that chronic underfunding has led service providers to 'cut corners' in order to stay in business, and that, when combined with a workforce largely drawn from marginalised cohorts, has resulted in 'widespread cases of underpayment and exploitation'.<sup>53</sup>

### **Box 13.1 Case study: The utilisation of Mable and Aspen Medical during the COVID 19 pandemic**

During the COVID-19 pandemic there was a genuine need for surge workforces across the residential aged care sector, given that high numbers of staff were required to self-isolate and there were significant outbreaks across a number of nursing homes, such as Newmarch House in New South Wales.

To address this need, in April 2020 the Australian Government chose to implement a scheme to provide additional staffing to the aged care sector through the engagement of platform provider Mable and, if necessary, Aspen Medical. The Government allocated \$5.77 million to fund the wage costs of workers sourced through Mable and up to \$15.7 million to Aspen Medical to provide additional staff in the event of a significant outbreak.<sup>54</sup>

The Health Services Union submitted that the contract with Mable was awarded in a limited tender process and was available to Residential Aged Care, National Aboriginal and Torres Strait Islander Flexible Aged Care Program, and Home Care Package providers. It noted that the 'take up of Mable by providers was low', and attributed this in part due to the platform not having workers available in regional, rural, and remote areas.<sup>55</sup> In conclusion it stated:

The decision by the Federal Government to contract and promote at this time Mable directly contradicts their own public health advice to limit movements and interaction with more people than

<sup>51</sup> Maurice Blackburn, *Submission 17*, pp. 24–25.

<sup>52</sup> Maurice Blackburn, *Submission 17*, p. 25.

<sup>53</sup> Maurice Blackburn, *Submission 17*, p. 24.

<sup>54</sup> Australian Nursing and Midwifery Federation (ANMF), *Submission 27*, pp. 12–13.

<sup>55</sup> Health Services Union (HSU), *Submission 84*, p. 10.

necessary. It demonstrates the lack of understanding and absence of appetite to provide a workforce that is stable, sufficient in size and adequately supported through decent wages and conditions.<sup>56</sup>

Although welcoming the assistance provided by the Government to support residential aged care providers' access qualified staff to fill vacancies for short-term COVID-19 related reasons, the Australian Nursing and Midwifery Federation (ANMF) raised significant concern's with the approach the Government took. Specifically, in its submission to the inquiry it said the following:

In the case of both Mable and Aspen Medical, no alternative labour hire providers were funded nor offered to providers. If a provider needed to access additional staffing and receive funding, they were offered no choice of labour hire online service.

The Royal Commission heard extensive evidence about the risks of insecure work in aged care in relation to quality of care and the difficulties in recruiting and retaining suitably qualified and experienced staff in aged care. The ANMF is extremely concerned that the promotion of short-term labour hire staffing in aged care exacerbates those risks and problems.

Staff engaged through Mable are treated as "independent contractors", which may be a legally questionable characterisation of their employment. It is up to workers who register with Mable to provide details of their qualifications and appropriate checks, such as proof of registration with Ahpra. While Mable advises checks will be conducted, this does create risk of unsuitable workers being engaged in aged care due to a lack of oversight.

The ANMF is also concerned that the Commonwealth Government has moved to promote this form of insecure work as an alternative to providers engaging ongoing workers directly. These would be workers who are familiar with the needs of residents, especially when there have been periods of limited access to nursing homes by families and friends. They are essential to providing quality and safe care.<sup>57</sup>

Professor Sara Charlesworth from RMIT University contended that the Royal Commission's special inquiry into COVID-19 had 'excoriated Mable'.<sup>58</sup> In her evidence to the committee, she said the following:

Mable's staff were found to have been absolutely hopeless coming into Victorian aged-care facilities. They didn't know what they were doing. They had absolutely no experience. That was an unmitigated disaster. But I do think that, in terms of steps that can be put in place, the aged-care royal commission, Commissioner

<sup>56</sup> HSU, *Submission 84*, p. 10.

<sup>57</sup> ANMF, *Submission 27*, p. 13.

<sup>58</sup> Professor Sara Charlesworth, RMIT University, *Proof Committee Hansard*, 19 April 2021, p. 30.



Briggs in particular, recommended that aged care workers be directly employed.<sup>59</sup>

Notwithstanding the above, the Chief Executive Officer of Mable, Mr Peter Scutt, submitted to the committee that:

We have a strong commitment to safeguarding the community that operate via Mable. There are a lot of checks and balances across the platform, including worker screening. But ... the services being provided on Mable are very diverse. If you think about the NDIS, it's all about people being able to find the support they need to live an ordinary life—the sort of life you and I might take for granted. That can be everything from a young boy with autism looking to find a young support worker that shares his passion for sports and wants to go to football games on the weekend. It can be very diverse in nature.<sup>60</sup>

13.53 With regards to aged-care services, Professor Sara Charlesworth from RMIT contended that wages are, to a large extent, determined by government funding and procurement models. She stated that consumer-directed care was initially introduced to provide consumers with choice and to increase competition; however, she submitted that this approach has failed to increase wages and has 'led to a diminution of the quality of care'.<sup>61</sup> On these points she went further:

There's been huge concern from the aged-care advocacy groups about what's happening under consumer directed care. In residential care, for example, there is no evidence that competition in the market provides higher wages or better quality employment. Rather, it's because the federal government, in its procurement of aged care, not only has provided relatively low amounts of funding that would allow the provision of decent wages and income but also has not insisted on any transparency of private providers. So, if we think of non-government providers, both in the for-profit sector and in the not-for-profit sector, particularly the large aged-care providers, there's an absolute lack of accountability or transparency about where funding goes. We simply don't know.<sup>62</sup>

13.54 In a 2018 report, the Joint Standing Committee on the National Disability Insurance Scheme noted that long-term workers in the disability support sector reported that 'working conditions have dramatically deteriorated under the NDIS'. It summarised their concerns as follows:

In short, they [long-term disability support workers] reported a rise in underemployment and insecure work arrangements, inadequate wages and no prospect of professional development opportunities. Under these

<sup>59</sup> Professor Charlesworth, RMIT University, *Proof Committee Hansard*, 19 April 2021, p. 30.

<sup>60</sup> Mr Peter Scutt, Chief Executive Officer, Mable, *Proof Committee Hansard*, 12 April 2021, p. 41.

<sup>61</sup> Professor Charlesworth, RMIT University, *Proof Committee Hansard*, 19 April 2021, pp. 25–26.

<sup>62</sup> Professor Charlesworth, RMIT University, *Proof Committee Hansard*, 19 April 2021, p. 26.

conditions, it is hard to imagine how to retain highly experienced and qualified workers and attract new workers, including young people entering the workforce.<sup>63</sup>

13.55 The National Secretary of the Health Services Union, Mr Lloyd Williams, highlighted the importance of having a quality, secure, and responsive workforce to deliver vital care to those requiring it, submitting that it 'is what makes a difference to their lives'. He concluded that:

Health, aged and disability sectors are leading job creators and government must be doing more to ensure they are good secure jobs that deliver quality care outcomes.<sup>64</sup>

### **Summary and concluding comments**

13.56 This chapter has provided a discussion of Commonwealth procurement policy and the impacts it has on job security. It has highlighted the CPRs, issues around data collection, and the potential to utilise procurement policies to promote economic and social objectives. Two alternative frameworks, utilised by the Victorian and ACT Governments, were also discussed.

13.57 Key issues with government procurement within the ICT and care sectors were examined, and the various concerns raised by inquiry participants with the Government's current approach to outsourcing were discussed.

13.58 The next chapter, Chapter 14, discusses the National Broadband Network, while Chapter 15 brings together the content covered in chapters 11, 12, 13, and 14, and provides a discussion on potential reforms, and the committee's views and recommendations on these matters.

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<sup>63</sup> Joint Standing Committee on the National Disability Insurance Scheme, *Market readiness for provision of services under the NDIS*, September 2018, p. 45.

<sup>64</sup> Mr Lloyd Williams, National Secretary, HSU, *Proof Committee Hansard*, 13 April 2021, p. 9.

# Chapter 14

## Case study: National Broadband Network workforce

- 14.1 The Chief Executive Officer of NBN Co, Mr Stephen Rue, described the National Broadband Network (NBN) as being 'created to provide a fast, reliable broadband access network to benefit all Australians'.<sup>1</sup>
- 14.2 A number of Commonwealth Parliamentary committees have inquired into the NBN since its establishment in 2009. These inquiries have primarily focused on the rollout of the project, regulatory governance, rural and regional importance, and customer satisfaction.<sup>2</sup> It is extraordinary then that, despite its huge cost and importance to the Australian people, little light has been shed on the employment conditions of the technicians—the people responsible for installing, repairing and maintaining the NBN.
- 14.3 This chapter examines the industry labour model of the NBN workforce and how employment arrangements impact the working lives of technicians and others involved in the project.

### The National Broadband Network

- 14.4 The NBN was announced in April 2009 by then Prime Minister the Hon Kevin Rudd MP who said that the creation of the new 'super-fast National Broadband Network' would create on average '25 000 jobs every year'.<sup>3</sup>
- 14.5 The expectation was that this nation-building infrastructure project would create secure, well-paid jobs for technical trades and construction workers throughout Australia. The Communications, Electrical, and Plumbing Union (CEPU) argued that, more than a decade later, 'the reality for the workers installing and maintaining the NBN falls far short of these expectations'.<sup>4</sup>

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<sup>1</sup> Mr Stephen Rue, Chief Executive Officer, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 21.

<sup>2</sup> See for example: Joint Standing Committee on the National Broadband Network, *First report: The rollout of the National Broadband Network*, 29 September 2017, p. 1, and; Joint Standing Committee on the National Broadband Network, *Second Report: The rollout of the NBN in regional and rural Australia*, 19 November 2018, p. 1.

<sup>3</sup> The Hon. Kevin Rudd MP, Prime Minister of Australia, 'New National Broadband Network' *Media Release*, 7 April 2009.

<sup>4</sup> CEPU, *Submission 194*, p. 5.

14.6 In evidence to the committee, the CEPU National President, Mr Shane Murphy, described the projects impact on workers:

A project that was to be a source of pride has developed the highly sinister underbelly of mistreatment and malfeasance that should be a source [of] shame.<sup>5</sup>

### *Current phase*

14.7 In December 2020, the Minister for Communications, the Hon Paul Fletcher MP, announced that the first major construction undertaking of the NBN was completed and that the network was 'fully built and operational'.<sup>6</sup>

14.8 In the same announcement the government also recognised that 'there is continuing work to enhance the capabilities of the network'. In a \$6 billion policy reversal announced in September 2020, the NBN Co stated it would offer last mile fibre access to nearly half of the existing installations on the copper network. The plan was also slated to include other enhancements aimed at supporting gigabit internet speeds for consumers.<sup>7</sup> This increased the cost of the Coalition's NBN rollout from \$51 billion to \$57 billion.<sup>8</sup>

14.9 Under each rollout phase, technicians have been engaged under different employment contracts. This chapter focuses primarily on the conditions experienced during the current upgrade phase.

## **The role of NBN bodies**

### *The NBN Co*

14.10 The NBN is operated by NBN Co. It is wholly owned by the Commonwealth of Australia as a Government Business Enterprise (GBE) and is accountable to two Shareholder Ministers: the Minister for Communications and the Minister for Finance.<sup>9</sup>

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<sup>5</sup> Mr Shane Murphy, National Divisional President, Communications Electrical Electronic Energy Information Postal Plumbing and Allied Services Union of Australia (CEPU), *Proof Committee Hansard*, 14 September 2021, p. 2.

<sup>6</sup> The Hon Paul Fletcher MP, Minister for Communications, Urban Infrastructure, Cities and Arts, 'NBN declared built and fully operational', *Media Release*, 23 December 2020, <https://minister.infrastructure.gov.au/fletcher/media-release/nbn-declared-built-and-fully-operational> (accessed 28 September 2021).

<sup>7</sup> The Hon Paul Fletcher MP, Minister for Communications, Urban Infrastructure, Cities and Arts, '\$4.5 billion NBN investment to bring ultra-fast broadband to millions of families and businesses and create 25,000 jobs', *Media Release*, 23 September 2020.

<sup>8</sup> Jack Gramenz, 'NBN access less affordable as network cost hits \$57 billion', *News.com*, 22 October 2021, [www.news.com.au/technology/online/internet/nbn-access-less-affordable-as-network-cost-hits-57-billion/news-story/3bcd079c4ee1bd002fd9a8362104fc66](http://www.news.com.au/technology/online/internet/nbn-access-less-affordable-as-network-cost-hits-57-billion/news-story/3bcd079c4ee1bd002fd9a8362104fc66) (accessed 10 October 2021).

<sup>9</sup> CEPU, *Submission 194*, p. 5.

- 14.11 Mr Murphy described NBN Co as 'a wholesale monopoly broadband infrastructure provider', and shared concerns that its market dominance has a large bearing on what ultimately prevails as the rate of pay and employment conditions for technicians.<sup>10</sup>
- 14.12 The Australian Competition and Consumer Commission (ACCC) contended that NBN Co comprises a 'significant proportion' of the telecommunications market.<sup>11</sup>
- 14.13 Mr Rue refuted the concept of NBN Co being a monopoly, arguing that, as the telecommunications market is competitive, 'there's no easy way to assess the percentage of work activity that we hold in the current market'. He argued that it was only at 'peak times' when the NBN held up to 80 per cent of the labour market, and that this was mainly contingent on the stage of the NBN rollout:

I think what we are observing—and I'll give you another data point—is that, if you think about two years ago, NBN was connecting 40,000 customers a week. We were building the network to over 100,000 customers a week. That is what I'd call mass-volume rollout. If you compare that to now, we're connecting 8,000 to 10,000 customers per week. The reason for that is that the network build has finished, as has the bulk migration process for customers. More than 8.2 million people have now connected to the NBN, and it's now the residual number of people that connect as they go along. So by definition, with what you've said, the peak of the build has been completed. The peak of the activations is completed. So is there less work in the market? There absolutely is. That would be felt by the industry.<sup>12</sup>

### *Delivery partners*

- 14.14 The companies contracted to deliver construction and maintenance services on the NBN on behalf of NBN Co are called 'delivery partners'. The delivery partners include BSA, Service Stream, Lendlease, Fulton Hogan, Downer and Ventia, all of whom provided evidence to the committee.<sup>13</sup> Each delivery partner is contracted to deliver different outcomes for the NBN.
- 14.15 Ventia, Downer, Lendlease, BSA and Service Stream have all been engaged by NBN Co under the 'unify' project, which was announced in 2020. This project

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<sup>10</sup> Mr Murphy, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 2.

<sup>11</sup> Ms Sarah Proudfoot, Executive General Manager, Infrastructure Regulation, Australian Competition and Consumer Commission (ACCC), *Proof Committee Hansard*, 14 September 2021, p. 32.

<sup>12</sup> Mr Rue, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 25.

<sup>13</sup> Mr Murphy, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 8.

comprises of two main agreements, the unify services agreement and, the unify networks contract.<sup>14</sup>

14.16 Fulton Hogan is not contracted under a unify agreement. Its NBN contract concerns design and construction programs only and identified itself as the 'only [delivery partner] that does not perform maintenance for NBN Co'.<sup>15</sup>

### **Employment arrangements**

14.17 NBN technicians are not direct employees of NBN Co. To deliver their contracted work, the delivery partners engage labour in two primary ways:

- (a) Through direct 'sub-contractors'—'A Communications technician traditionally contracted directly to Delivery Partners to perform sub-contracted construction and maintenance work on the National Broadband Network, on behalf of NBN Co', or;
- (b) Through a 'prime' contractor—'An industry term for an additional third-party contractor who secures contracted work offering from an NBN Co delivery partner and sub-contracts that work again – retaining a self-determined commission on the earnings for works completed, from the sub-contractor'.<sup>16</sup>

14.18 Though the committee did not receive evidence directly from any prime contractors, it did receive information from the NBN Co's delivery partners as to how they engaged their NBN workforce.

14.19 In its submission to the inquiry, BSA specified that they engage workers directly and through a prime in a 50 per cent split. They argued that this arrangement affords better technician pay and flexibility.<sup>17</sup>

14.20 Ventia are contracted under the unified services contract and identified that its contracted NBN workforce comprised of 60 per cent direct employees and 40 per cent prime contractors.<sup>18</sup> Ventia's Group Executive, Telecommunications, Mr Tim Harwood, expanded upon the benefits of using prime contractors:

There's a number of reasons for that. Quite often the primes already have their own internal personnel, so they're not all just subcontracting all of their work out. They have, in some cases, plant and equipment that is used for the projects. In some cases they have plant and equipment that is used

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<sup>14</sup> Mr Leigh Mackender, Managing Director, Service Stream Limited, *Proof Committee Hansard*, 15 September 2021, p. 14.

<sup>15</sup> Mr Lee Revell, Chief Executive Officer, Utilities, Fulton Hogan, *Proof Committee Hansard*, 15 September 2021, p. 24.

<sup>16</sup> CEPU, *Submission 194*, p. 3.

<sup>17</sup> BSA, *Submission 193*, p. 3.

<sup>18</sup> Mr Tim Harwood, Group Executive, Telecommunications, Ventia, *Proof Committee Hansard*, 15 September 2021, p. 2.

for the projects. They also bring another layer, if you like: the ability to supervise resource management of the smaller companies and, perhaps more, the way their businesses are set up they are able to administer and manage work with us. A much smaller company might be very good out on the tools and performing the work, but when it comes to running the business, they might find that a little bit more challenging.<sup>19</sup>

#### 14.21 Service Stream outlined their 'field operations' composition:

We have about 1,700 specialist contractors that are engaged by the business. Approximately 30 per cent of those contracting organisations are the owner of the business, the director, undertaking the field services—electricians, telecommunications technicians et cetera. Approximately 70 per cent of the contractors that we engage across the business have between one to five employees operating within their organisation as well.<sup>20</sup>

#### 14.22 The Managing Director of Service Stream, Mr Leigh Mackender, said that Service Stream chose to sustain such a model for the benefit of the technicians themselves:

Our model really supports flexibility for our contractors. They can choose if they'd like to work for Service Stream, the hours they'd like to work, the days they'd like to work et cetera. We provide that flexibility. And many of our contractors work not just for us but, obviously, for other delivery partners—other third parties both within telecommunications and across the broader infrastructure market.<sup>21</sup>

#### 14.23 Downer explained that, whilst they do contract work out to other organisations, those organisations use an employee-based business model as opposed to primes who further subcontract the work:

From our business model we contract with construction service partners who are independent businesses. We do not directly engage sole traders. We do not engage primes in order to deliver services.<sup>22</sup>

#### 14.24 Downer later stated that it does use independent contractors from 'time to time' but only on an 'ad hoc' basis to complete jobs outside of the remit and skills of their core workforce.<sup>23</sup>

#### 14.25 Mr Damien North, Group Manager, Industrial Relations at Downer, explained that this is due to the nature of Downer's contractual obligations:

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<sup>19</sup> Mr Harwood, Ventia, *Proof Committee Hansard*, 15 September 2021, pp. 3–4.

<sup>20</sup> Mr Mackender, Service Stream Limited, *Proof Committee Hansard*, 15 September 2021, p. 10.

<sup>21</sup> Mr Mackender, Service Stream Limited, *Proof Committee Hansard*, 15 September 2021, p. 10.

<sup>22</sup> Mr Steve Schofield, Group Head, Human Resources and Industrial Relations, Downer Group, *Proof Committee Hansard*, 15 September 2021, p. 17.

<sup>23</sup> Mr Damien North, Group Manager, Industrial Relations, Downer Group, *Proof Committee Hansard*, 15 September 2021, p. 21.

The work that we do doesn't lend itself to being performed by independent contractors. It's more the construction type work that would be done by crews. There may be some fault response to be done by employees of subcontractors. That's why we've applied that model: the type of work that we do, it suits having those companies that are set up to do that work.<sup>24</sup>

14.26 Fulton Hogan, not being engaged under the unify contract, does not engage with any prime contractors and does not allow subcontractors to further subcontract work without its prior approval, meaning that its 'workforce structure is very different to that in the Unify Services contract'<sup>25</sup>, Mr Lee Revell, outlined their workforce arrangements:

Our workforce—those actually doing the work, not supervising the work—is made up of our own employees and a manageable number of key subcontractors, who directly employ their workforce too. Generally speaking, we deliver 50 per cent of the work with our own workforce, our own employees. The other 50 per cent, we deliver through a handful of partner subcontractor organisations in each state, who directly employ their employees.<sup>26</sup>

### *Remuneration*

14.27 Technicians are paid per job on a schedule of rates which provides 'fixed component pricing for the delivery of specified activities within a project'.<sup>27</sup> There are thousands of rates, and each is dependent on a set of variables that may affect the completion of a job, such geographic location and age of technology.<sup>28</sup>

14.28 The schedule of rates is struck during the initial tender process between NBN Co and its delivery partners. Delivery partners then remunerate their labour force on the same basis. Chief Executive Officer and Managing Director of BSA Ltd, Mr Tim Harris explained how the schedule of rates agreement struck between BSA and the NBN Co is used to inform technician rates:

For every job type, technology, region et cetera, you have an agreed rate with NBN which they would pay to BSA, as they would pay it to the other delivery partners. We then use that, obviously, as you'd expect, to set our rates with the subcontractors.<sup>29</sup>

14.29 In its submission to the inquiry, Downer argued that the 'fairest way' to remunerate workers was on the basis of a schedule of rates. Group Manager,

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<sup>24</sup> Mr Schofield, Downer Group, *Proof Committee Hansard*, 15 September 2021, p. 19.

<sup>25</sup> Mr Revell, Fulton Hogan, *Proof Committee Hansard*, 15 September 2021, p. 24.

<sup>26</sup> Mr Revell, Fulton Hogan, *Proof Committee Hansard*, 15 September 2021, p. 24.

<sup>27</sup> BSA, *Submission 195*, p. 3.

<sup>28</sup> Mr North, Downer Group, *Proof Committee Hansard*, 15 September 2021, p. 21.

<sup>29</sup> Mr Tim Harris, Chief Executive Officer and Managing Director, BSA Ltd, *Proof Committee Hansard*, 14 September 2021, p. 17.



Industrial Relations, Mr Damien North, told the committee that the schedule of rates are not 'dictated' by the NBN Co and that a stringent bidding takes place before they are agreed upon:

All of these projects are won on a competitive tender basis, so we and our competitors need to put together a bid, and in putting together that bid we need to understand the various components of the work that we're about to perform. So we say, 'This is how much it's going to cost to do this task.' There could be hundreds, if not thousands of these particular schedules across our business. So we look at what it's going to cost to do the job safely, and then we put together a price based on that rate card that we would do so we have an indicative price.<sup>30</sup>

14.30 Mr Mackender explained that the rate setting process includes extensive consultation with experts and field workers to ensure the agreed upon rates are viable:

When we are tendering on work through a commercial process with our clients, we will first of all build that rate card from the ground up. We will take advice from our subject matter experts in the business. We will engage with some of our contractors in the field and some of our employees and other industry experts, including undertaking time and motion studies et cetera to formulate what we believe is an applicable rate that is commensurate with the works that need to be undertaken. Then we build that up, ultimately, in what we provide back as a rate to our client to cover the services.<sup>31</sup>

14.31 Mr Murphy told the committee that the delivery partners have 'no talks with any of the subcontractors' when updating contracts and rate setting.<sup>32</sup> However, in its submission, BSA asserted that:

We meet with the CEPU on a semi-regular basis. We also continue to seek feedback from technicians directly, through our regular Toolbox Talks, to ensure we maintain positive and mutually beneficial relations.<sup>33</sup>

14.32 The ability to negotiate the payment rates rests solely with NBN Co or the delivery partner.<sup>34</sup> Under this payment mechanism, NBN technicians are prevented from setting their own rates, unlike other typical industrial trade contractors:

[T]he big issue with our members is that they are not like normal contractors you would get out as a plumber or an electrician. They don't

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<sup>30</sup> Mr North, Downer Group, *Proof Committee Hansard*, 15 September 2021, p. 21.

<sup>31</sup> Mr Leigh Mackender, Managing Director, Service Stream Limited, *Proof Committee Hansard*, 15 September 2021, p. 11.

<sup>32</sup> Mr Murphy, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 4.

<sup>33</sup> BSA, *Submission 195*, p. 3.

<sup>34</sup> Mr Murphy, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 2.

have the ability to choose their [rates]. They don't have the ability to control profit and loss. There is a set rate for the job and that's it.<sup>35</sup>

14.33 In response to a question regarding whether technicians get paid for any uncompleted jobs, Mr Richard Bartley, the Executive General Manager of BSA Ltd, said that a number of 'business rules' dictated this outcome:

... it's not true to say they never get paid for an incomplete job; it depends on the reason and the type of rationale for why the job was incomplete. So they get paid an incomplete rate on a number of jobs but not 100 per cent of jobs.<sup>36</sup>

14.34 The committee sought evidence on what the likely average rate of pay or annual salary of a NBN technician was. One witness agreed with a \$100 000 a year revenue figure, not including working costs, indicating that the actual amount he took home per annum would be much lower.<sup>37</sup> Lendlease's Managing Director, Services Division Mr Toby Matthews, was unable to provide the committee with an estimation on the annual salary of a worker engaged on a unify contract:

It's a very difficult thing to calculate. The rates are really based on scopes of work, on output, rather than hourly rates. So it doesn't convert to hourly rates. I suppose it also varies due to the amount of work that an individual technician might choose to do on a given day, or week. That can also have an impact, perhaps, on what their hourly rate ends up being.<sup>38</sup>

### Issues affecting field workers

14.35 As part of its evidence gathering, the committee heard testimony from a number of NBN technicians who shared 'significant concerns about the nature of their engagement with NBN Co and its delivery partners'<sup>39</sup>. These concerns are discussed below with particular reference to:

- unequal job distribution;
- low wages;
- inappropriate and unethical contracting practices; and
- the oversupply of labour.

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<sup>35</sup> Mr Peter O'Connell, NSW Branch Vice President, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 10.

<sup>36</sup> Mr Richard Bartley, Executive General Manager, BSA Ltd, *Proof Committee Hansard*, 14 September 2021, p. 19.

<sup>37</sup> Mr Steve Nedelkovski, Member and NBN field technician subcontractor, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 7.

<sup>38</sup> Mr Toby Matthews, Managing Director, Services, Lendlease, *Proof Committee Hansard*, 15 September 2021, p. 30.

<sup>39</sup> CEPU, *Submission 194*, p. 6.

14.36 Mr Murphy contended that the employment arrangements between NBN Co, its delivery partners, and subcontractors are 'causing real problems', and are depriving technicians of employment entitlements. Specifically, he said:

Under NBN Co's current business model, these essential skilled workers are forced to operate as contractors with no sick pay, annual leave, superannuation or other workplace rights ... They have no say, as employees would, in negotiating their rates of pay, no power to negotiate the term of their contracts to ensure basic workplace safety or reasonable hours.<sup>40</sup>

### *Unequal job distribution*

14.37 The committee received evidence from witnesses that job distribution needs addressing within the NBN labour force. Many workers experience perpetual insecurity about whether or not they would receive jobs:

They roll up every morning not knowing how many jobs they have, whether they're going to get any work at all, where their work location will be and how far from home it might be, how many jobs they will receive and whether they will make a living or not.<sup>41</sup>

14.38 When workers were receiving jobs, they were not always distributed equally between subcontractors. Mr Murphy told the committee that workloads were not being distributed fairly, with 'some contractors favoured and too many exploited'. He said that those working through a prime are reportedly receiving 'the most lucrative category of installation and provisioning work':

When it was in the ebb, not the flow, some subbies as reported that in the morning they get five or six jobs a day, similar to others, but during the day or earlier in the morning they would see a number of jobs disappear from their queue and end up with two or three, while guys working through primes or others would be getting five to eight jobs a day. That's where the disparity was and where people started to become suspicious about why this was happening: 'Why are people getting more work than us working for a prime as opposed to working direct?'<sup>42</sup>

14.39 Furthermore, there is no transparency or follow up as to *why* different workers have been given preference. Mr Nedelkovski said:

All these guys working under these primes were getting all the fibre to the curb jobs. Every time I asked the delivery partner, 'Why aren't these guys getting trained?' or 'Why is this work not being shared evenly?' they would say, 'We're working on it,' but it never eventuated.<sup>43</sup>

14.40 Mr Mohammed Yehia, an experienced NBN field technician subcontractor, supported the assertion that prime contractors seemingly receive more work,

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<sup>40</sup> Mr Murphy, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 2.

<sup>41</sup> Mr Murphy, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 5.

<sup>42</sup> Mr Murphy, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 4.

<sup>43</sup> Mr Nedelkovski, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 12.

and provided the committee with anecdotal evidence of his experience working for a delivery partner:

I have never seen 10 jobs in my life with NBN, never. On maybe one day through the last three years I have taken eight jobs; it was overflow from another technician or whatever. The usual, as I mentioned earlier, is three, four, jobs a day, or five to six if it was good.<sup>44</sup>

14.41 Other witnesses said that not only do technicians engaged by prime contractors get more jobs; the types of jobs are easier and safer. Mr Nedelkovski told the committee that in order to get 'eight or nine jobs in a day' a technician would have to be doing one specific type of job.

I can assure you: to get to eight or nine jobs in a day, it would either have to be a specific type of work, which would probably be fibre to the basement work, or it would be fibre to the curb work, which is a lot simpler.<sup>45</sup>

14.42 CEPU argued that this is in part due to the 'increased complexity of jobs on the mixed technology network'. In the original NBN rollout technicians were completing repetitive work, such as connecting fibre to portals inside premises. This is no longer the case:

Now technicians may be required to repair degraded copper wires or remediate HFC cabling. Often they will arrive at a job to find it is impossible to complete the repairs in the time assigned due to unforeseen faults or degradation of obsolete technologies.<sup>46</sup>

14.43 The old networks present unique difficulties for technicians and can significantly blow out the time a job takes to complete. Referring to how long a typical job may take to complete, Mr Nedelkovski explained:

That can vary. To do three or four jobs, on average, to be honest, it's anywhere from four to six hours, but those four to six hours can become 12 hours because the network that we're working on out there, in particular technologies, is quite old and fragile, and there's not just the one fault; there are faults in multiple locations that require every particular location to be attended to physically so that you can resolve and rectify the issues.<sup>47</sup>

14.44 Furthermore, the mixed technology jobs require technicians to have more qualifications.<sup>48</sup> Experienced technicians, who have invested more time and funding into training, are being allocated more difficult jobs, or being engaged to fix the errors of other technicians:

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<sup>44</sup> Mr Mohammed Yehia, Member and NBN field technician subcontractor, *Proof Committee Hansard*, 14 September 2021, p. 9.

<sup>45</sup> Mr Nedelkovski, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 12.

<sup>46</sup> CEPU, *Submission 194*, p. 7.

<sup>47</sup> Mr Nedelkovski, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 11.

<sup>48</sup> CEPU, *Submission 194*, p. 7.

... if you have a look at a lot of those people's work, some of them are probably the unskilled ones. They are the people that most of us skilled technicians are following around and cleaning up their mess.<sup>49</sup>

14.45 Mr Mackender said that Service Stream 'take into account a number of factors' when allocating work but predominantly it will 'allocate that work based on the competency of the technician, based on their availability and based on what works they'd like to undertake':

As I talked to earlier, the preference of the contractor or specialist contractor that we are engaging and the nature of the work and the activity that we believe will be required are certainly taken into account, and we can take into account other factors such as performance et cetera. So we do look at a range of measures when we are allocating work. We generally try to assure that we can allocate work across our business. It is in our interests to support those small business specialist subcontractors and provide continuity of work wherever possible. But we do take into account some of those other factors.<sup>50</sup>

14.46 This ongoing inequality in work distribution has created a wage disparity amongst technicians, with only a 'select few earning a good salary'. The remainder, despite working up to 60 hours a week, are 'often left unable to earn a living wage'.<sup>51</sup>

14.47 Mr Harwood agreed that the average amount of jobs per day was four. However, that the variance between job numbers that exists is not due to preferential treatment, but due to a number of individual factors:

It really does vary with the individuals. They provide availability into the NBN system—some contractors might provide us a 40-hour week, others may choose to provide certain days and others may choose to provide part of a day as well. We have people today that are doing two jobs a day, equally, we have people today doing eight jobs a day. So there's a wide variation in the numbers of jobs per day. The typical number that you would see and typically expect is around four jobs per day.<sup>52</sup>

14.48 One reason for the disparity in work distribution, offered by Mr Matthews, was that 'the system itself and the distribution of the work doesn't favour independent technicians or small businesses as primes as such':

My understanding is that, again, that varies quite significantly across the individual technicians, with some choosing to do maybe a couple of jobs per day. Maybe they're not working on this contract full time and they've got other opportunities for work elsewhere. I think you can probably achieve, on some days, up to eight jobs, or tickets that they might pick up.

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<sup>49</sup> Mr Nedelkovski, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 12.

<sup>50</sup> Mr Mackender, Service Stream Limited, *Proof Committee Hansard*, 15 September 2021, p. 11.

<sup>51</sup> CEPU, *Submission 194*, p. 9.

<sup>52</sup> Mr Harwood, Ventia, *Proof Committee Hansard*, 15 September 2021, p. 4.

So I think, on average, it probably works out at around four tickets per day.<sup>53</sup>

14.49 Mr Rue told the committee that the company was trying to improve its field service management system and provide delivery partners with work forecasts earlier in an effort to better allocate jobs based on skills and travel time. But, he said, it was 'a complex environment'.<sup>54</sup>

### *Inappropriate and unethical contracting practices*

14.50 Concerning evidence was provided to the committee regarding allegations of corruption and bribery amongst prime contractors. For example, Mr Murphy told the committee of serious allegations reported to CEPU of wilful malfeasance involving the manner in which prime contractors were engaging labour for work on the NBN.<sup>55</sup>

14.51 The committee queried Service Stream as to whether it was aware of allegations of 'kickbacks or preferential work being allocated to particular contractors' amongst its NBN workforce. Mr Mackender indicated that Service Stream was 'aware', but in these instances there had not been 'evidence to substantiate' such claims.<sup>56</sup>

14.52 NBN Co assured the committee that 'if an illegal matter was raised with NBN we would investigate that fully'.<sup>57</sup>

#### **Box 14.1 In-Camera evidence on unethical contracting practices**

The committee heard evidence directly from a number of technicians as part of the inquiry. One of those workers gave their evidence in a private session.

The following sections from in the camera session have been reproduced with the agreement of the participant, have been de-identified to protect the identity of the worker, and are not referenced.

The committee heard evidence from an individual engaged as a manager with a delivery partner. The witness claimed that one prime subcontractor had direct influence over specific people in management and identified instances of malpractice between the delivery partner and the prime including:

- not issuing invoices or paying GST to workers;
- bribery in the form of illegal drugs such as cocaine and cigarettes for

<sup>53</sup> Mr Toby Matthews, Managing Director, Services, Lendlease, *Proof Committee Hansard*, 15 September 2021, p. 31.

<sup>54</sup> Mr Rue, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 25.

<sup>55</sup> Mr Shane Murphy, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 3.

<sup>56</sup> Mr Mackender, Service Stream Limited, *Proof Committee Hansard*, 15 September 2021, p. 14.

<sup>57</sup> Ms Kathrine Dyer, Chief Operating Officer, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 23.

extra work; and

- monetary bribes to terminate workers unlawfully.

The witness said when these instances were brought to their attention, they were reported directly to the delivery partner but they were 'ignored'. The witness said they encouraged the affected technicians to pursue legal action:

I did encourage the technicians to go directly to the police, but there's a level of resistance because they're afraid of things happening to them.

Furthermore, the workers affected by these circumstances were allegedly threatened:

A threat ... would be, basically, 'We know where you live and, if you don't shut up, we're going to shut you up'. It was something to that effect.

### *Low wages*

14.53 In 2020 NBN Co's Chief Executive Officer, Mr Stephen Rue, received a salary package of \$3.1 million and a further \$1.2 million in bonuses. Executives were paid a share of \$11.4 million with six of the head executives receiving a seven-figure total pay check.<sup>58</sup>

14.54 In total, NBN Co paid out \$78 million in taxpayer-funded bonuses in the 2020 financial year, with executives on a salary of \$200 000 or higher, receiving average personal bonuses that year of \$50 000 each.<sup>59</sup> While the Minister for Communications has claimed that 'a substantial proportion of those bonuses were paid to front-line staff',<sup>60</sup> data supplied by NBN Co shows only 179 of 1761 NBN employees earning less than \$100 000 received any bonus at all. Despite this cohort accounting for 30 per cent of NBN Co employees, they received just 2 per cent of the bonuses awarded.<sup>61</sup>

14.55 In comparison, the committee heard that the remuneration rate of many technicians was 'barely a living wage'.<sup>62</sup> Asked if he believed that CEPU

<sup>58</sup> Rob Harris and Jennifer Duke, 'NBN defends boss Stephen Rue's \$3 million pay packet during pandemic', *Sydney Morning Herald*, 20 October 2021, [www.smh.com.au/politics/federal/nbn-boss-stephen-rue-paid-3-million-in-2020-20201020-p566oz.html](http://www.smh.com.au/politics/federal/nbn-boss-stephen-rue-paid-3-million-in-2020-20201020-p566oz.html) (accessed 28 September 2021).

<sup>59</sup> Rob Harris, 'NBNC Co paid some bonuses 'equivalent to 88 Cartier Watches'', *The Sydney Morning Herald*, 26 May 2021, [www.smh.com.au/politics/federal/nbn-co-paid-some-bonuses-equivalent-to-88-cartier-watches-20210525-p57uwl.html](http://www.smh.com.au/politics/federal/nbn-co-paid-some-bonuses-equivalent-to-88-cartier-watches-20210525-p57uwl.html) (accessed 13 October 2021).

<sup>60</sup> The Hon Josh Frydenberg MP, Treasurer, *Press Conference, Parliament House, Canberra*, 18 February 2021, <https://ministers.treasury.gov.au/ministers/josh-frydenberg-2018/transcripts/press-conference-parliament-house-canberra-14> (accessed 13 October 2021).

<sup>61</sup> Rob Harris, 'NBNC Co paid some bonuses 'equivalent to 88 Cartier Watches'', *The Sydney Morning Herald*, 26 May 2021.

<sup>62</sup> Mr Murphy, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 2.

members are paid fairly and able to meet business and statutory obligations Mr Murphy responded 'absolutely not'.<sup>63</sup>

14.56 Committee Chair, Senator Tony Sheldon, probed this point and tabled a question on notice from Budget Estimates 2021-2022. Senator Sheldon stated that in the answer 'I asked whether the NBN ensures that subcontractors are paid enough to at least cover their own expenses. You said that you don't know'.<sup>64</sup>

14.57 NBN technician and CEPU member, Mr Steve Nedelkovski, told the committee that sometimes, workers were not remunerated for jobs at all:

There are certain circumstances where we can go out to a job and spend two to three hours on the job and then come to the realisation that something out of our control is causing us not to be able to finalise the job. We then get zero dollars for that job. We don't get paid anything for jobs that can't be completed.<sup>65</sup>

14.58 This assertion was supported by evidence presented to the committee from a number of NBN technicians who said that current remuneration rates were unsustainable.<sup>66</sup> For example, NBN technician and CEPU member, Mr Burak Sagol, told the committee:

When I started in 2016 the rates were higher, if not on par, with what we're getting now five years later. As you know, the cost of living, inflation and everything has gone up but our rates have not changed over the last five years.<sup>67</sup>

14.59 With 32 years of experience in the industry, Mr Nedelkovski was well placed to comment on this, and contended that the job rates being paid 15 years ago were 'on par with the rates we are being paid today'.<sup>68</sup>

14.60 BSA explained that whilst it may be true that some people may not have seen the rates move a lot, the rates do get 'reset' in an annual review process that takes into account CPI and the movement in rates is largely 'dependent on where they are in terms of the technology mix and where their specialist skills are'.<sup>69</sup>

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<sup>63</sup> Mr Murphy, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 4.

<sup>64</sup> Senator Tony Sheldon, Chair, Senate Select Committee on Job Security, *Proof Committee Hansard*, 14 September 2021, p. 28.

<sup>65</sup> Mr Nedelkovski, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 6.

<sup>66</sup> See for example: Mr Amir Aghamohammadkhan, Member and NBN field technician subcontractor, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 6.

<sup>67</sup> Mr Burak Sagol, Member and NBN field technician subcontractor, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 2.

<sup>68</sup> Mr Nedelkovski, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 3.

<sup>69</sup> Mr Harris, BSA Ltd, *Proof Committee Hansard*, 14 September 2021, p. 18.



14.61 Mr Nedelkovski argued that many technicians were 'consistently [reporting] declining real incomes' due to workers having to pay out of pocket for many 'necessary' tools and materials:

So, if we're getting two jobs a day, that's about \$148 for the day, and then you can take out your fuel and your other expenses—your training and your tools. Since I joined the NBN, the tools that I've had to acquire have cost me in excess of \$10,000 to be able to perform the job in accordance with the customer's requirements and obviously in accordance with NBN's requirements.<sup>70</sup>

14.62 The committee heard that NBN technicians can be required to purchase new costly tools and equipment without compensation, and that while some operations costs such as fuel are highly variable, the rates of pay for technicians remain statically low.<sup>71</sup>

14.63 Further compounding issues of low wages amongst technicians was evidence from an NBN technician who claimed that a prime he engaged with taking as much as 40 to 50 per cent commission from his wages.<sup>72</sup>

14.64 NBN technicians are currently receiving a \$75 top-up fee due to ongoing service app issues. Mr Nedelskovaki said that under the current rates, the \$75 enablement fee was the only thing keeping him financially afloat:

At the moment we're being paid an enablement fee by NBN and it is only because of this am I able to keep working. If the enablement fee is removed by NBN at the end of October, then I will probably have to look for another job; it's that simple.<sup>73</sup>

### *Workforce planning—oversupply*

14.65 CEPU argued that NBN Co's lack of a 'business plan' has had significant shortcomings in the way of workforce planning. According to Mr Murphy, there is a discrepancy between the supply in labour and the demand for work, which is driving an oversupply of workers:

What's occurring here through Gumtree and other platforms, is that we're getting unskilled and many other people applying, coming from many industries who've never worked in this sector, sliding underneath the primes and then creating a mass flood of contractors, referring to the position of Mohammed and others where you only get two or three jobs a day. They are very skilled and multi skilled, have been on the job for many years and have invested in their business and training, and they are now finding themselves unable to make a reasonable living because people

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<sup>70</sup> Mr Nedelkovski, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 6.

<sup>71</sup> Mr Murphy, CPEU, *Proof Committee Hansard*, p. 5.

<sup>72</sup> Mr Aghamohammadkhan, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 6.

<sup>73</sup> Mr Nedelkovski, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 3.

have flooded the market and there isn't a business plan saying how many are actually required.<sup>74</sup>

14.66 Mr Yehia commented that the effects of an oversupply of labour in the market were twofold, in that not only did the influx of unskilled workers detract from work available to experienced, industry established technicians, but that it also affected the 'quality of the network'.<sup>75</sup>

14.67 Mr Murphy explained that this NBN labour market feature was untenable and could be addressed through a 'proper business plan' and cost assessment on the 'required number of people' to carry out the NBN work:

You can't keep operating a system year in, year out, adding more and more workers to the system, many unskilled. That not only creates a quality issue but places pressure on the skilled operatives who have invested in their business over a long period of time. You can't have a situation where you have a bucket of work but the bucket of supply is far greater than the bucket of work.<sup>76</sup>

14.68 Mr Rue said that NBN Co 'do[es] communicate all of [its] build and activations targets—and directly with the delivery partners'.<sup>77</sup> The NBN Co's Chief Operating Officer, Ms Katherine Dyer, supplemented this point by explaining that the NBN Co undertakes forecasting processes and communicates with delivery partners to aid them in generating workforce allocations numbers:

The principle is that we provide the delivery partner with a 12-month forecast and then what we call a near-term forecast—three months, one month, one week, the day before and on the day ... They utilise our forecast and they translate that into how many contractors or how much workforce they need. The delivery partner puts those contractors in the system that we operate within, based on their skill set and the regions that they're allocated to. The delivery partner knows where we are, in areas, with our activations analytics—what we expect to see from a network performance. Utilising that information broadly, they've got to make sure that they have enough of a workforce to be able to perform in that environment.<sup>78</sup>

14.69 Ms Dyer further communicated her confidence in NBN Co's established business practices saying that 'I've got to believe that the commercial environment is working and that the supply and demand of work is working for us'.<sup>79</sup>

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<sup>74</sup> Mr Murphy, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 5.

<sup>75</sup> Mr Yehia, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 3.

<sup>76</sup> Mr Murphy, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 11.

<sup>77</sup> Mr Rue, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 26.

<sup>78</sup> Ms Dyer, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 27.

<sup>79</sup> Ms Dyer, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 27.

14.70 However the committee received evidence that NBN technicians are being engaged for work by unscrupulous contractors through unregulated online marketplaces like Gumtree.<sup>80</sup> It is doubtful this practice is conducive to an effectively managed and planned supply chain.

### **Pyramid contracting concerns**

14.71 Evidence provided by field technicians suggested that the exploitation and undesirable working arrangements experienced by them may be an overarching function of the pyramid contracting model. By 'deliberately precluding adequate reporting and complaints mechanisms' the multiple layers of subcontracting serves to dilute the chain of responsibility and creates an environment that allows noncompliance to flourish.<sup>81</sup>

14.72 The CEPU submitted that NBN Co's operational structure for the engagement of technicians is 'creating widespread job insecurity, underemployment and declining income for workers'.<sup>82</sup> The CEPU therefore argued that for technicians to thrive and remain financially sustainable usage of outsourcing or subcontracting needed to be limited 'to instances of genuine need or efficiency, and cease using such methods to undermine job security and limit wage growth for Australian workers'.<sup>83</sup>

14.73 The Executive General Manager, Consumer and Fair Trading of the ACCC, Mr Rami Gregson, said that issues within a subcontracting model were not 'completely uncommon' and not necessarily a product of the subcontracting itself.<sup>84</sup> However, Mr Gregson did further acknowledge that:

The more parties you get in a supply chain, the more controls and checks and balances the primary contract provider might need to have in place to ensure there's probity throughout that chain.<sup>85</sup>

14.74 NBN Co contended that 'vigilance' within the industry is important but that having multiple business partners encouraged 'healthy' competition for the 'contracting ecosystem'.<sup>86</sup>

14.75 As a technician, Mr Nedelkovski questioned the necessity of the 'middle-men' in the subcontracting arrangements, stating that his daily interactions are with

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<sup>80</sup> Mr Murphy, CEPU, *Proof Committee Hansard*, 13 September, p. 2.

<sup>81</sup> CEPU, *Submission 194*, p. 10.

<sup>82</sup> CEPU, *Submission 194*, p. 5.

<sup>83</sup> CEPU, *Submission 194*, p. 5.

<sup>84</sup> Mr Gregson, ACCC, *Proof Committee Hansard*, 14 September 2021, p. 33.

<sup>85</sup> Mr Rami Gregson, Executive General Manager, Consumer and Fair Trading, ACCC, *Proof Committee Hansard*, 14 September 2021, p. 34.

<sup>86</sup> Mr Rue, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 22.

the NBN and that most subcontractors 'don't even talk to [their] delivery partners':

So I've never been able to understand why the delivery partners have existed, because, as I said, for everything that we do, when we come across a problem out there and are not able to do the work, or we do the work or whatever the case is, our interaction is 100 per cent with NBN.<sup>87</sup>

14.76 Evidence from another technician, Mr Aghamohammadkhan, indicated that multiple levels of contracting had implications on dialogue and information dissemination between NBN Co and its contractors. He contended that a prime contractor he had previously been employed under was terminated by a delivery partner but subsequently went on to receive work with another.<sup>88</sup>

14.77 Ventia's General Manager, Mr Neil Barnes, remarked that, in an instance where a subcontractor was terminated by Ventia, the NBN was notified. It was not expressly stated whether this was a voluntary or mandated process within Ventia's NBN contract.<sup>89</sup> However, NBN Co later clarified in an answer to a question taken on notice that its contracts with delivery partners 'do not expressly require Delivery Partners to proactively notify NBN Co of instances of termination of a sub-contractor, nor for the reason(s) the Delivery Partner took such action'.<sup>90</sup>

14.78 Mr Revell explained that in engaging workers directly, Fulton Hogan had a 'great platform' to create 'sustainable employment' for their workers:

When you have your own employees and/or you're working with fewer partners, you have the opportunity to really invest in that. It's much harder to manage that through hundreds of independent contractors or hundreds of businesses. It's a very hard thing to manage.<sup>91</sup>

### **Assurance measures**

14.79 The committee sought evidence on where along the subcontracting chain the responsibility for worker conditions existed.

14.80 Repeatedly, NBN Co said that responsibility fell to the delivery partners, and that their approaches weren't for NBN Co to comment on. However, Ms Dyer contended that the NBN Co were 'very active, at all layers of NBN's management'.<sup>92</sup>

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<sup>87</sup> Mr Steve Nedelkovski, Member and NBN field technician subcontractor, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 10.

<sup>88</sup> Mr Aghamohammadkhan, CEPU, *Proof Committee Hansard*, 14 September 2021, p. 9.

<sup>89</sup> Mr Barnes, Ventia, *Proof Committee Hansard*, 15 September 2021, p. 6.

<sup>90</sup> NBN Co, Answers to questions taken on notice, public hearing, Canberra, 14 September 2021 (received 12 October 2021), p. 2.

<sup>91</sup> Mr Revell, Fulton Hogan, *Proof Committee Hansard*, 15 September 2021, p. 28.

<sup>92</sup> Ms Dyer, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 23.

14.81 However, when questioned by the committee, many of the delivery partners made it clear that whilst they engage subcontractors, they are not party to how much the prime contractors are paying their workers, and further, that they have limited, if any, oversight of it.<sup>93</sup> Mr Matthews explained:

It's not something that we have visibility of. What we have visibility of is the rates that those primes or individual technicians, the small businesses, receive for the work that they complete.<sup>94</sup>

14.82 The evidence, in this regard, was lacking. However, both the NBN Co and its delivery partners emphasized that, despite the lack direct oversight afforded to them, they do carry out a range of assurance measures addressing contracting activities in their control environments.

### *On payments*

14.83 NBN Co maintained that their governance framework was 'comprehensive and strong'. As part of this 'governance process' the NBN Co 'audit and investigate the arrangements of the contracts that have with delivery partners'.<sup>95</sup>

14.84 The NBN Co clarified that this assurance step emerged during the invoicing process, where delivery partners are required to 'make a declaration that they have paid their subcontractors or their workforce'.<sup>96</sup> When pressed by the committee whether a statutory declaration was a sufficient assurance mechanism, Ms Dyer further communicated the NBN Co's confidence with this arrangement:

So we're confident that, with the arrangement, particularly with the additional governance we have in place with those delivery partners, the system is working well. Like you, from time to time we do hear from people, contacting NBN, who claim that they haven't been paid. We will always work to resolve those issues if the claims are substantiated.<sup>97</sup>

14.85 NBN Co's audit of payments appears to extend only to confirming that a payment has been made, not that the quantum of the payment is fair or appropriate for the task that has been completed. It is clear, based on evidence provided by technicians, that NBN Co is also not auditing the margin withheld by Prime Contractors. When asked if it had any further proactive assurances

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<sup>93</sup> See for example: Mr Neil Barnes, General Manager, Ventia, *Proof Committee Hansard*, 15 September 2021, p. 3;

<sup>94</sup> Mr Matthews, Lendlease, *Proof Committee Hansard*, 15 September 2021, p. 35.

<sup>95</sup> Ms Dyer, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 28.

<sup>96</sup> Ms Dyer, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 28.

<sup>97</sup> Ms Dyer, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 27.

that compliance obligations were being met in accordance with the declaration, Ms Dyer said that the NBN Co 'expect' their delivery partners to act lawfully.<sup>98</sup>

14.86 None of the delivery partners that gave evidence to the committee had a comprehensive payment auditing mechanism of their engaged subcontractors in place.<sup>99</sup>

14.87 Ventia considered the payment arrangements of NBN subcontractors to be something that is 'commercially held between the prime and the individuals underneath' and it does not proactively audit those arrangements.<sup>100</sup> Mr Harwood, acknowledged that it would be 'possible' for a prime to contract with an independent contractor at any rate, even a rate that might be less than minimum wage.<sup>101</sup>

14.88 Similarly to NBN Co, Ventia rely on a statutory declaration for payment assurance from their subcontractors:

We do request that those subcontractors in the payment claim process between us and our contractors declare that they have paid their supply chain the entitlements to which they are due, so that is a check that is put in place.<sup>102</sup>

14.89 Mr Neil Barnes presented evidence of a 'validation' process they undertook regarding a case of underpayment from one of their contractors:

[W]e did receive an escalation from the CEPU recently with one of our primary companies. The suggestion was being made that the payments weren't flowing through to the contractors and hadn't done so for some weeks. We got in touch with that primary contractor and, as a result of that, found that the payment hadn't flowed through as it should have. We checked from our own payment side of things and payment had been made to the primary, so there was no issue in terms of payment. As a result of our investigation into that we parted company with that prime, and the prime moved away. Then, as an outcome of that, we ensured that those secondary subcontractors were paid, which they were, and we picked up a number of those contractors direct—they came on as sole entities—and some of those chose to move as their own preference to work for other primes.<sup>103</sup>

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<sup>98</sup> Ms Dyer, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 28.

<sup>99</sup> See for example: Mr North, Downer, *Proof Committee Hansard*, 15 September 2021, p. 18, and; Mr Harwood, Ventia, *Proof Committee Hansard*, 15 September 2021, p. 2.

<sup>100</sup> Mr Harwood, Ventia, *Proof Committee Hansard*, 15 September 2021, p. 3.

<sup>101</sup> Mr Harwood, Ventia, *Proof Committee Hansard*, 15 September 2021, p. 2.

<sup>102</sup> Mr Harwood, Ventia, *Proof Committee Hansard*, 15 September 2021, p. 3.

<sup>103</sup> Mr Barnes, Ventia, *Proof Committee Hansard*, 15 September 2021, p. 3.

14.90 Fulton Hogan also have a 'stat dec type process' in which it requires subcontractors to 'sign off monthly' that they are paying in accordance with 'appropriate employment laws'.<sup>104</sup>

14.91 BSA said that they can 'request stat decs et cetera where we think behaviours are not happening'. Mr Bartley provided evidence of a such circumstance in which the failure to provide a statutory declaration on lawful payment resulted in the termination of a prime contractor engaged by BSA:

The latest one that we took off the platform we had heard that they weren't paying their subcontractors in full and on time. We asked that prime for a stat dec to declare that they were complying with the law, as per our MSA statement of work. We didn't get that guarantee from that prime and we removed them from the platform. As a result of that, seven of the contractors who worked with that prime came direct to BSA, which was a good outcome for us to retain that expertise on our platform.<sup>105</sup>

14.92 Lendlease was the most explicit that the conditions of its subcontractors engaged through Prime Contractors are not of any interest. Mr Matthews emphasised it is 'just not something that we have visibility of or seek to have visibility of'. When asked why Lendlease chose not to have that visibility, Mr Matthews added: 'A choice would suggest that we've thought about it and decided not to. I don't think that's the case'.<sup>106</sup>

### *On recourse*

14.93 The committee also sought information from NBN Co and a few of the delivery partners as to what, if any, recourse measures were in place for workers. Ms Dyer advised that NBN Co have a comprehensive whistle-blower program operated by an external body.<sup>107</sup> Mr Rue later reiterated the seriousness of this matter:

And that is why I have said on regular occasions at both Senate estimates and in private meetings—and I will say it again here to anyone who is listening—that we have a whistleblower line. When anybody contacts us, we follow those issues up to the extent that is required under whistleblower legislation. We do care. If there are allegations or information you can give us with specifics, we do follow up and we will continue to follow up.<sup>108</sup>

14.94 Service Stream and BSA provided evidence of similar whistle-blower hotlines run by third parties. Workers engaged by Service Stream experiencing distress about their working conditions are able to about to raise them with either

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<sup>104</sup> Mr Revell, Fulton Hogan, *Proof Committee Hansard*, 15 September 2021, p. 26.

<sup>105</sup> Mr Bartley, BSA Ltd, *Proof Committee Hansard*, 15 September 2021, p. 15

<sup>106</sup> Mr Matthews, Lendlease, *Proof Committee Hansard*, 15 September 2021, p. 34.

<sup>107</sup> Ms Dyer, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 29.

<sup>108</sup> Mr Rue, NBN Co, *Proof Committee Hansard*, 14 September 2021, p. 29.

management staff or the 'independent whistle-blower process'. Mr Mackender said this dual measure was in place to address workers who may not feel comfortable raising concerns with direct supervisors. Furthermore, a member of the whistle-blower team reports directly to the Service Stream board, enabling matters to be 'promptly investigated and reported and action is taken if required'.<sup>109</sup>

### **Concluding comments**

14.95 This chapter has provided a case study of Commonwealth procurement policy with regard to the National Broadband Network. It has emphasised issues in multi-layered subcontracting and how this can facilitate malpractice along the contracting chain, and substantial inefficiencies and waste of taxpayer money through margin-clipping by excessive layers of subcontracting intermediaries.

14.96 It has also illustrated the disparity between the generous financial treatment provided to senior NBN Co executives, and the abhorrent conditions for their front-line workers. The next chapter, Chapter 15, provides the committee's view and recommendations on these matters.

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<sup>109</sup> Mr Mackender, Service Stream Limited, *Proof Committee Hansard*, 15 September 2021, p. 14.



# Chapter 15

## APS and procurement: proposals for reform

### Introduction

- 15.1 The Australian Public Service (APS) is a diverse career-based workforce, and its capacity to efficiently and effectively deliver key services relies upon it being staffed by highly skilled and knowledgeable workers.
- 15.2 The committee acknowledges the challenges caused by the COVID-19 pandemic, and recognises and commends the huge amount of work performed by the APS, and its extended workforce of labour contractors and consultants, to cater to surging demand for vital services and payments, and to implement new government initiatives with short delivery timeframes.
- 15.3 The Australian Government has enormous influence as a major employer and through its massive procurement expenditure, to improve the quality and security of jobs across the country.
- 15.4 The various sections of this chapter highlight the key issues raised during the inquiry regarding the APS workforce, the utilisation of labour contractors and consultants, and the Commonwealth's broader procurement policy. These topics were discussed in detail across Chapters 11, 12, 13, and 14, and the following discussion provides the committee's views on these issues and associated recommendations for reform.

### Reducing the prevalence of non-ongoing workers and casual arrangements

- 15.5 Evidence provided to the committee during the inquiry indicated that the number of non-ongoing employees is currently the highest it has ever been over the last two decades. The committee notes that as at 30 June 2020 there were 18 373 non-ongoing employees, representing over 12 per cent of the APS workforce, with the majority of these being employed casually.<sup>1</sup>
- 15.6 Although it was submitted that the majority of this increase occurred as a result of the Government's response to the Black Summer bushfires and the commencement of the COVID-19 pandemic, the committee is concerned about the extent of these insecure arrangements and the substantial periods of time people can be engaged under them. For example, evidence provided by the

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<sup>1</sup> Specifically, 10 618 people, or 7.1 per cent of the APS workforce, were employed casually. Please note that these figures do not incorporate the broader workforce used in public service delivery by the Australian Government, such as those individuals engaged as labour contractors and consultants. Australian Public Service Commission (APSC), *State of the Service Report 2019–20*, p. 110.

Community and Public Sector Union (CPSU) indicated that a number of casual workers within the Australian Tax Office (ATO)'s workforce at its regional Albury worksite had been employed for nine years or longer.<sup>2</sup>

- 15.7 The committee believes that these arrangements can have a significant number of negative impacts. As highlighted in Chapter 12, these relate to:
- a lack of job security;
  - unpredictable pay;
  - inferior rights and entitlements;
  - irregular and unpredictable working hours;
  - a lack of entitlement to various forms of leave; and
  - uncertainty around the right to request flexible working arrangements and unpaid parental leave.
- 15.8 Importantly, the insecure and precarious nature of these arrangements may disproportionately disadvantage women and impact on the ability of these workers to plan for their future and obtain home loans. The committee also notes that many casual workers are also employed at the lowest APS levels.
- 15.9 The committee would like to especially highlight the significant number of casuals at the ATO. Evidence indicated that over 2300 members of the ATO's workforce are currently engaged under casual arrangements.<sup>3</sup> Notwithstanding the ATO's submission that these individuals are engaged to perform duties that are 'irregular or intermittent', the committee believes that some of these individuals undertake ongoing, stable work on a long-term basis.<sup>4</sup>
- 15.10 The committee acknowledges that there needs to be the ability to surge workforces to support seasonal peak workloads and when there is a crisis; however, the committee believes this should only be utilised when necessary to perform work which is genuinely irregular and intermittent and not as a permanent arrangement for stable ongoing work. Given this, the committee is convinced that the Australian Government should provide permanent employment opportunities to all long-term casual employees performing ongoing stable work, and that it should eliminate the ongoing utilisation of long-term casual arrangements for these types of roles across the Australian Public Service, unless genuinely preferred by the employee.

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<sup>2</sup> Community and Public Sector Union (CPSU), *Submission 102.1*, [pp. 1–2].

<sup>3</sup> CPSU, *Submission 102.1*, [p. 1].

<sup>4</sup> Australian Taxation Office (ATO), *Annual Report 2019–20*, p. 87.

### Recommendation 27

**15.11 The committee recommends that the Australian Government offers permanent employment opportunities to all long-term casual employees currently performing roles which relate to ongoing stable work.**

### Recommendation 28

**15.12 The committee recommends that the Australian Government eliminates the utilisation of long-term casual employment across the Australian Public Service for roles which are not irregular or intermittent in nature, unless genuinely preferred by the employee.**

### Addressing the extensive use of labour contractors and consultants

15.13 As discussed in detail in Chapter 11, the utilisation of labour contractors and consultants has increased markedly in recent years. For example, a sample of over 20 public service agencies suggested that expenditure on contractors has more than doubled between 2012–13 and 2016–17,<sup>5</sup> and the CPSU indicated that there are as many as 20 000 labour hire workers engaged across the APS.<sup>6</sup>

15.14 A key concern raised by inquiry participants about the increase in the use of labour hire firms and consultants is that they are being utilised to undertake core public sector work, and not just to address seasonal fluctuations or surging service demand due to unpredictable events such as pandemics and natural disasters. It was argued that this increasing dependency on external workers has significantly reduced the capability of the core APS workforce. It was also contended that engaging workers through these arrangements costs more per worker than direct employment and, hence, results in the unnecessary expenditure of public monies.<sup>7</sup>

15.15 The committee notes that this issue was also raised by contributors to the Independent Review of the APS, with that review submitting in its final report that the increased utilisation of labour contractors and consultants was one of the key reasons for the decline in capability across the APS.<sup>8</sup>

15.16 It was suggested that a key driver of this trend was the imposition of an average staffing level (ASL) cap by the Government. The committee notes that a number of departmental representatives also conceded that this may have

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<sup>5</sup> Department of the Prime Minister and Cabinet (PM&C), *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 2019, p. 186.

<sup>6</sup> Ms Melissa Donnelly, National Secretary, CPSU, *Committee Hansard*, 27 August 2021, p. 12.

<sup>7</sup> See Chapter 12 for more details on these concerns.

<sup>8</sup> PM&C, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 2019, p. 185.

contributed to the growth in labour hire recent years, and that it has caused staffing challenges.<sup>9</sup>

15.17 Through the inquiry, a number of suggestions were made to address these challenges and reduce the APS's reliance on external workers. For example, these included:

- removing the ASL cap;
- abolishing the efficiency dividend and increasing the number of permanent public sector staff;
- identifying work that is currently outsourced but could be internalised;
- identifying skill gaps that have led to the regular use of consultants and contractors, and developing plans to address these gaps;
- mandating the transfer of skills between external workers and internal workers; and
- capping expenditure on consultant and contractors, and utilising the savings to build APS capabilities and capacities.<sup>10</sup>

15.18 The committee is very concerned about the rapid increase in the utilisation of labour contractors and consultants by the Government, and its ongoing reliance on an external workforce to deliver key public services to the Australian community. The committee believes these types of arrangements are precarious and insecure by nature, and that workers engaged under them commonly enjoy lower conditions, less training, and reduced career progression opportunities and certainty.

15.19 Given these deficiencies, the committee strongly supports reforms which will return these roles to the core APS workforce and enhance its internal capabilities. The committee believes that such an approach would promote the career-based nature of the public service and improve community trust in government policy development and service delivery.

## **Recommendation 29**

**15.20 The committee recommends that the Australian Government:**

- **removes the average staffing level cap;**
- **identifies skill gaps that have led to the regular engagement of external workers, and develops plans to eliminate these gaps and build in-house capabilities;**

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<sup>9</sup> See: Mr Matt Yannopoulos, Deputy Secretary, Budget and Financial Reporting, Department of Finance, *Proof Committee Hansard*, 27 August 2021, p. 9; and Ms Sachi Wimmer, Deputy Chief Executive Officer, Australian Maritime Safety Authority (AMSA), *Proof Committee Hansard*, 27 August 2021, p. 28.

<sup>10</sup> CPSU, *Submission 102*, pp. 6-7.

- **internalises work of an ongoing and regular nature which is currently undertaken by contractors and consultants, including labour hire;**
- **encourages the transfer of skills and knowledge from external workers to internal Australian Public Service employees; and**
- **places an upper limit on the expenditure on consultants and contractors, and utilises savings to increase the capability and capacity of the Australian Public Service.**

### **Recommendation 30**

**15.21 The committee recommends that the Australian Government introduces an APS-wide policy requiring all departments, agencies and Government Business Enterprises (GBEs) to directly employ staff in all circumstances other than where the work is genuinely short-term and not ongoing in nature. Where this exception is used, the department, agency or GBE should be required to identify the duration of the engagement, and the approximate additional cost that will be incurred by engaging a third party provider.**

#### *Availability of government data*

15.22 A key problem which became evident during the inquiry was the lack of a person or entity tasked with collecting whole-of-government data. Evidence provided by the Australian Public Service Commission (APSC) indicated that its remit generally only extended to employees engaged under the *Public Services Act 1999*, and the Department of Finance confirmed that it does not collect or maintain such a dataset.

15.23 The committee believes that this situation is completely unacceptable, and is persuaded by the strong arguments for the immediate collection and publication of such information. The committee believes that this lack of transparency undermines public trust in the government, and represents poor corporate governance and a lack of accountability in the use of public monies.

15.24 A number of suggestions were made to address this issue:

- Require the APSC to collect and publish agency and service-wide data on the utilisation of contractors, consultants and labour hire.
- Require the Department of Finance to regularly collect and publish data on service-wide expenditure on contractors, consultants, and labour hire.
- Require labour-hire providers to disclose disaggregated pay rates and conditions.<sup>11</sup>

15.25 The committee endorses these suggestions and believes that their implementation would materially improve the visibility and transparency of the Government's use of labour contractors and consultants across the APS.

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<sup>11</sup> CPSU, *Submission 102*, p. 7.

## Recommendation 31

### 15.26 The committee recommends that the Australian Government requires:

- the Australian Public Service Commission to collect and publish agency and service-wide data on the Government's utilisation of contractors, consultants, and labour hire workers;
- the Department of Finance to regularly collect and publish service-wide expenditure data on contractors, consultants, and labour hire workers, including the cost differential between direct employment and external employment; and
- labour-hire firms to disclose disaggregated pay rates and employee conditions.

### *The Australian Maritime Safety Authority and AMSA Connect*

15.27 As highlighted in Chapter 12, AMSA Connect is the customer service call centre located within the Australian Maritime Safety Authority (AMSA). It currently provides advisory and administrative functions across four teams, and evidence provided to the committee during the inquiry indicated that a significant number of its team members are employed via insecure labour hire arrangements.<sup>12</sup>

15.28 The committee is concerned about reports indicating that there is high staff turnover within the team due to significant workloads; a lack of employment conditions and career progression; and general job insecurity.<sup>13</sup> Further, the committee highlights evidence that labour hire workers employed under these insecure arrangements do not receive a variety of benefits, such as sick leave, carers leave, and domestic violence leave.<sup>14</sup>

15.29 The risks involved in relying on labour hire workers were highlighted during the inquiry. For example, it was submitted that this approach resulted in the ongoing training of new staff, which reduces the capacity of teams to take calls and provide critical information in a timely manner. Further, it was noted that these arrangements can create knowledge gaps within the organisation, as people who have been trained, and have gained significant experience and knowledge, leave due to a lack of internal progression opportunities.<sup>15</sup>

15.30 The committee recognises the vital service that the team members of AMSA Connect provide to its clients on a daily basis, and acknowledges the significant levels of training and knowledge required for them to efficiently

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<sup>12</sup> See: Ms Wimmer, AMSA, *Proof Committee Hansard*, 27 August 2021, p. 25.

<sup>13</sup> See: CPSU, *Submission 102.2*, [p. 2].

<sup>14</sup> See: Mr Nicholas Thackray, Workplace Delegate, CPSU, *Proof Committee Hansard*, 27 August 2021, p. 15.

<sup>15</sup> See: CPSU, *Submission 102.2*, [p. 3].

and effectively perform their role. The committee believes that the constant turnover is not in the best interests of AMSA, its workers, or the community.

15.31 In its evidence to the inquiry, AMSA contended that it is currently waiting on the Australian Government to determine the funding model for the national system for domestic commercial vessel safety before it finalises its staffing model.

15.32 The committee acknowledges that the transition time has been longer than expected; however, this does not justify exposing the community to ongoing heightened risks and putting undue stress on those team members providing vital services to ensure the safety of vessels and seafarers.

15.33 Given this, the committee suggests that the Australian Government expedites the finalisation of the regulatory and funding model for the national system for domestic commercial vessel safety, and that AMSA immediately provides permanent employment opportunities to all long-term labour hire team members of AMSA Connect.

### **Recommendation 32**

**15.34 The committee recommends that the Australian Government finalises the regulatory and funding model for the national system for domestic commercial vessel safety. This will allow the Australian Maritime Safety Authority to determine its staffing model and offer enhanced job security to its workers.**

### **Recommendation 33**

**15.35 The committee recommends that the Australian Maritime Safety Authority immediately offers permanent employment opportunities to all long-term labour-hire workers within the AMSA Connect call centre.**

## **The utilisation of procurement policy to achieve social and economic objectives**

15.36 As highlighted in Chapter 12, it was strongly argued by numerous inquiry contributors that Commonwealth, state, and local governments have an important role to play in promoting social and economic objectives, such as job security, through their procurement policies.

15.37 The committee supports these arguments and believes that governments at all levels have a responsibility to ensure that procurements are assessed on their broader economic and social benefits; not just on their price tags. Further, the committee agrees with suggestions that the Australian Government should be leading the way in ensuring its procurement policies require businesses tendering for work to have a strong track record of compliance with workplace laws, and a demonstrated commitment to diversity targets and work security.

15.38 The committee commends the work of those jurisdictions, such as Victoria and the Australian Capital Territory, which have introduced procurement frameworks that support social and sustainability objectives, and which require a minimum standard of behaviour from suppliers when they undertake government-funded work.

15.39 The committee believes that contractors engaged by the Government should be obliged to provide full and transparent reporting of their adherence to minimum labour standards, and that they must disclose subcontracting relationships where relevant.

#### **Recommendation 34**

15.40 The committee recommends that the Australian Government enhances the Commonwealth Procurement Rules by introducing a social procurement framework. Such a framework would aim to leverage the significant procurement activities of the Government to achieve positive social, economic, and environmental outcomes for the benefit the Australian community.

#### **Recommendation 35**

15.41 The committee recommends that the Australian Government introduces a supplier code of conduct which would, amongst other things, provide minimum expectations around:

- integrity and ethics;
- conflicts of interest;
- corporate governance;
- labour and human rights;
- job security and the utilisation of local workforces;
- occupational health and safety;
- environmental management;
- gender equality; and
- transparency, non-minimisation and non-avoidance of tax obligations.

#### **Recommendation 36**

15.42 The committee recommends that the Australian Government requires that entities engaged to deliver goods and services provide a demonstrable, and independently verified, track record of compliance with workplace laws, including *Workplace Gender Equality Act* reporting obligations. Such disclosures would also incorporate relevant subcontractors that these providers may utilise.



## Procurement in the ICT sector

15.43 The committee acknowledges that the effective utilisation of digital technologies is essential to delivering government services in the 21<sup>st</sup> century. Its importance has become increasingly evident over the last two years, with the COVID-19 pandemic causing disruptions to face-to-face delivery channels and the migration of workers from their offices to their homes.

15.44 Given its increasing importance, the committee is concerned with evidence indicating that inadequate systems and tools are being provided to public servants to perform their jobs, and agencies and departments are not investing in the modern technologies required for efficient and effective service delivery.<sup>16</sup> The committee believes the Government must rapidly increase the digital literacy of the APS to ensure that it becomes a digital leader.

15.45 The committee is concerned that there are technical capability gaps in the APS resulting from the over-reliance on contractors, and highlights the 2017 ICT Procurement Taskforce's conclusion that these gaps have resulted from an over-reliance on the utilisation of these external arrangements.<sup>17</sup>

15.46 The committee notes that a number of reforms to reverse these trends, and to improve the digital literacy of the APS, were suggested during the inquiry. These included:

- a genuine commitment by the Government to ongoing investment in ICT systems, staff skills, and funded workforce plans;
- ensuring that ICT systems are at the standard of leading private sector companies;
- returning externally contracted work to the APS, and building the expertise and knowledge of APS staff required to develop and deliver ICT solutions; and
- making the APS an employer of choice for ICT and digital workers through career pathways, learning and development programs, and appropriate classifications and remuneration.<sup>18</sup>

15.47 Although recognising that not all ICT can be done internally, the committee believes it is vital that the APS have internal capabilities, knowledge, and experience to manage, monitor, and deliver significant ICT procurements and systems across all delivery areas. Given this, the committee strongly agrees with the proposals above and suggests that the Australian Government act immediately to implement them and to reverse the current trend which has made it over-reliant on external vendors.

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<sup>16</sup> See: CPSU, *Submission 102*, pp. 44–45.

<sup>17</sup> Digital Transformation Agency, *Report of the ICT Procurement Taskforce*, 2017, pp. 45–46.

<sup>18</sup> CPSU, *Submission 102*, p. 8.

### Recommendation 37

**15.48** The committee recommends that the Australian Government eliminates the technical capability gap resulting from an over-reliance on the use of external contractors and ensures that the Australian Public Service (APS) becomes a digital leader. In doing so, the committee suggests the Government:

- **commits to ongoing investment in information and communication technology (ICT) systems, staff, and skills;**
- **improves the standard of ICT systems to that of leading private sector companies;**
- **builds the expertise and knowledge of the APS to develop and deliver ICT solutions; and**
- **makes the APS an employer of choice for ICT and digital professionals by developing career pathways, learning and development programs, appropriate classifications, and competitive remuneration packages.**

### Procurement in the care sectors

**15.49** The Commonwealth Government has a key role in ensuring that entities operating across the various care sectors, such as disability and aged care, meet service quality standards, and that their workers are employed securely with fair conditions and remuneration. This is especially important given that organisations within these sectors provide the vital services that are relied upon by some of the community's most vulnerable people.

**15.50** The myriad care services available across Australia are generally highly valued within the community, and it is widely acknowledged that they make material differences to the health, wellbeing, and quality of life of their recipients. Given the importance of these services, the committee is very concerned that the Government has failed to provide a clear policy to adequately meet the growing demand, and that it has promoted insecure and precarious work arrangements through the 'Uberisation' of these sectors.

**15.51** It is very clear to the committee that this approach is not in the best interests of care recipients or workers, and that it can have devastating impacts. Evidence provided during the inquiry showed that these arrangements are highly deficient for both parties.<sup>19</sup>

**15.52** The committee is also concerned about potential 'sham contracting' arrangements within the industry, and that some operators are exploiting marginalised workforces through lower wages and conditions. The committee

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<sup>19</sup> See: Australian Nursing and Midwifery Federation, *Submission 27*, p. 13; and Professor Sara Charlesworth, *Work, Gender and Regulation*, School of Management, and Director, Centre for People, Organisation and Work, College of Business, RMIT University, *Proof Committee Hansard*, 19 April 2021, p. 30.

believes that organisations should be required to show a demonstrable track record of satisfying employment and industrial relations requirements prior to their engagement, and that digital platform-sourced workers should not be utilised to provide care services to some of the Australia's most vulnerable people.

15.53 Proposals for reform to the Australian Government's procurement processes in the care sectors are outlined in Chapter 6 of this report.

### **Procurement and the National Broadband Network**

15.54 As outlined in Chapter 14, NBN Co and its delivery partners utilise a subcontracting pyramid model to engage workers to service the National Broadband Network (NBN). The committee believes that this facilitates unsustainable employment arrangements for those at the bottom of the subcontracting chain, and is concerned that this materially impacts people who are already quite disadvantaged.

15.55 Further, the committee believes that it is especially unacceptable for unsustainable and unfair contracting arrangements to occur within a project that is funded and administered by the Australian Government.

15.56 Evidence indicated that there is pressure at every contracting level to make a profit and exert downward pressure on pricing and workforce conditions for smaller operators and individuals. As a consequence, the NBN is serviced and maintained largely by individuals who struggle to maintain financial viability and must work long and sometimes unpaid hours in order to survive.

15.57 The committee is concerned that this approach, coupled with a diluted chain of responsibility that can be deliberately used to hide non-compliance, has also facilitated and promoted the proliferation of malpractice throughout the contracting chain. The committee is particularly troubled by reports of corrupt and illegal engagement practices that may be occurring within the industry, and believes these allegations should be thoroughly investigated by appropriate law enforcement agencies.

15.58 The committee acknowledges the legitimate use of some subcontracting arrangements; however, the committee cannot ignore compelling evidence from field technicians which highlighted the detrimental impacts that they can have on individual workers and their families. Given this, the committee believes that NBN Co, as the economic employer, and its direct delivery partners, should have greater oversight and responsibility for all workers they engage—directly and indirectly.

15.59 NBN Co contended that responsibility for the subcontracting arrangements lay with the delivery partner and relevant subcontractor; however, this was not reflected in the evidence received from the delivery partners. It was strongly

suggested that these firms have minimal oversight of employment conditions and payments down the subcontracting chain.

15.60 The committee has been unable to determine whether strong assurance systems are in place to ensure that subcontracting arrangements are fair and effective—a vital requirement on a project of this scale. In light of this, the committee is of the strong opinion that the less removed contracted workers are from the engaging business, the greater the ability of that business to monitor the conditions and payments of the workers, and ensure they are being properly treated. For these reasons, the committee sees benefit in limiting the number of levels of contracting, and promoting direct employment by head contractors as the preferred model of workforce engagement.

### **Recommendation 38**

**15.61 The committee recommends that the Australian Government amends the NBN Co Ministerial Statement of Expectations to explicitly state that NBN Co is responsible for conditions of work, exploitation and corruption that occurs in its supply chain, including for subcontractors engaged by Delivery Partners or Prime Contractors. NBN Co should be directed to prepare and publish a plan for how NBN Co will safeguard, monitor and enforce sustainable rates of pay and fair working conditions for NBN technicians.**

**The committee also recommends that the number of vertical subcontracting arrangements be limited to enhance transparency and accountability, to reduce the inefficient outlay of taxpayer funds and wage suppression that result when too many layers of subcontracting are in the delivery chain, and to promote secure ongoing direct employment by Delivery Partners as the preferred model of workforce engagement.**

**Senator Tony Sheldon  
Chair**

# Dissenting report by Liberal and National Senators

- 1.1 At the outset, it must be noted that this second interim report is being tabled in the context of Australian unemployment at 4.6 per cent, which in a single statistic, exposes the Labor lie that job insecurity is an issue in this nation. Businesses across the nation are crying out for workers as the economy recovers, and the Government is determined to continue with policies that allow more Australians into work.

## Conduct of the Inquiry

- 1.2 This Senate Select Committee for Job Security gave the senators on the inquiry a chance to investigate possible reform to the employment arrangements in those Australian industries and sectors that have been disrupted by dynamic technological and economic forces, or the COVID-19 pandemic.
- 1.3 Liberal and National Senators are of the view that successful reform delivers positive outcomes for both individuals and businesses—lifting productivity and efficiency, while increasing the opportunity for more Australians to benefit from the dignity of work with flexibility working to mutual advantage.
- 1.4 After the publication of the first interim report, conducting further hearings in Queensland and Western Australia as well as remotely provided the committee members from Labor Party and the Greens with the opportunity to rectify the brazen politicking that sadly eliminated any positive potential from the previous hearings (and first interim report).
- 1.5 As Liberal and National Senators noted in the first dissenting report, the inquiry has thus far been little more than a staged political farce by Labor and the Greens with two objectives; developing a predetermined narrative to discredit the success of the Morrison Government's broad management of workplace relations and simultaneously campaigning for big government control of Australians in the workplace.
- 1.6 Liberal and National Senators continue to hope in vain for a more open and enquiring approach from Labor and Greens Senators in their investigations of the dynamic, evolving transformation of Australian industries and economies. There is a real opportunity to seek honest and helpful ideas from genuine witnesses from a broad range of businesses and workers. A consensus on positive reforms would have opened the door to meaningful change to deliver better outcomes for workers and businesses across the country.
- 1.7 Unfortunately, the Labor and Greens Senators continued to engage from a hostile, predetermined ideological position, using many witnesses in a

dishonest way to simply cherry-pick the data and accounts that supported their negative narrative whilst being dismissive of any alternative view.

- 1.8 This type of negative politicking to build a political campaign for the upcoming Federal Election is extremely dangerous for Australian business, and reminds the Australian public at large of the existential danger that the Labor Party and the Greens pose to Australian businesses and workers.
- 1.9 Accordingly, Liberal and National Senators can't support an extension of this inquiry, simply by virtue of the debased politicking.
- 1.10 Below, Liberal and National Senators have sought to call out the worst of Labor's overreach into the lives of Australians whilst offering ideas that are beneficial and practical, striking a better balance between employees and employers without sabotaging industry security and our national prosperity.
- 1.11 In keeping with this, the Australian Chamber of Commerce and Industry (ACCI) stated on 11 August 2021 that:

The single most important priority to improve job security across our community should be to do everything we can to reopen, get back to work, provide certainty and predictability to the greatest extent possible and support businesses staying in business and keeping people in work.

If the Committee genuinely wants to tackle job insecurity its recommendations should focus on getting Australia open and back to work.

One of the worst things policymakers could do at this time would be to narrow avenues for Australians to work, complicate or add extra costs to restarting and re-employment or compromise recovery through reducing options for flexibility and adaptability when many businesses will clearly face a prolonged period of uncertainty and unpredictability, even after we reopen.

We emphasise in particular that effective access to casual work will never be more important for young Australians at greatest risk of sustained damage to their careers and earnings arising from the impact of the pandemic on their labour market entry. We urge the Committee to not recommend any measures or changes of policy which would have the effect of seeing fewer young Australians having opportunities to work, gain experience, gain referees etc.<sup>1</sup>

- 1.12 During this second phase of the inquiry, no less than 16 unions appeared over five days of hearings, dominating the witness representation. The same unions have appeared multiple times over the inquiry thus far.
- 1.13 It is also important to note than many think tanks or other purportedly independent organisations are heavily influenced by or receive funding and

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<sup>1</sup> Australian Chamber of Commerce and Industry, Answers to written questions taken on notice, Senator Sheldon, 3 May 2021 (received 11 August 2021), p. 5.

support from various unions, further confirming the biased nature of the hearings.

- 1.14 For example, consider the Western Australian Council of Social Service (WACOSS) which appeared on 26 July 2021. Although the organisation might be presented as independent and unbiased, its Director of Policy, Mr Chris Twomey, previously held the role of Senior Policy Advisor for the Australian Greens until 2011. When WACOSS was challenged on its claims of rising insecurity in work, in the face of Australian Bureau of Statistic (ABS) data showing casual employment at approximately 25 per cent of the workforce for at least two decades, WACOSS simply dismisses the empirical data:

The issue there is that there's really a lack of comprehensive and accurate data that captures all of the dimensions of precarious work.<sup>2</sup>

- 1.15 Unfair assessments by organisations or unfounded claims were repeated ad nauseam by the biased witnesses that were called one after another. The Youth Affairs Council of Western Australia and the Australian Youth Affairs Coalition just ignored the data submitted to the committee by Uber in its survey of all Australian workers using the platform, which attracted more than 18 000 responses. When challenged on the survey data which directly contradicted his claims, Mr Rycken of the Australian Youth Affairs Coalition dismissively replied with:

Unfortunately, there is no journal of Uber, so I wouldn't be placing too much faith in a study, or any survey, conducted by one single organisation where they have a significant vested interest.<sup>3</sup>

- 1.16 Simply dismissing the data by saying it is a 'significant vested interest' by Uber is unfair and dishonest. The 18 000 individual, autonomous respondents that provided the data cannot be ignored—those are the voices of hard-working Australians that Liberal and National Senators won't ignore.

- 1.17 Further misrepresentation of the Uber platform as a single example casts more doubt over the hyperbolic claims made by the Youth Affairs Council of Western Australia and Australian Youth Affairs Coalition.

- 1.18 Mr Bruce-Truglio of the Youth Affairs Council of Western Australia stated:

If you are working for Uber or a job where your shifts can be cancelled without notice and then you can't pay the bills that week.<sup>4</sup>

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<sup>2</sup> Ms Eva Perroni, Social Policy Officer, Western Australian Council of Social Service (WACSS), *Proof Committee Hansard*, 26 July 2021, p. 28.

<sup>3</sup> Mr Luke Rycken, Executive Officer, Australian Youth Affairs Coalition, *Proof Committee Hansard*, 27 July 2021, p. 43.

<sup>4</sup> Mr Stefaan Bruce-Truglio, Senior Policy and Advocacy Officer, Youth Affairs Council of Western Australia, *Proof Committee Hansard*, 27 July 2021, p. 44.

- 1.19 It is very clear from Uber's prior testimony, and indeed arguably common knowledge, that Uber does not operate with a shift model. Instead, along with many other gig economy players, it allows users unprecedented flexibility to fit work around their lives, rather than be forced to fit their lives around work. This sort of disingenuous testimony typifies the partisan interests that Labor and the Greens continue to call before the Inquiry.

### **Labour hire—the real story**

- 1.20 Labour hire as a proportion of all employees has been stable at less than 2 per cent over the last decade. Of the nearly 13 million employed Australians, less than 115 000 were employees paid by a labour hire firm—that is only 1.1 per cent of all employees. The all-time record high for labour hire was 1.5 per cent recorded under Labor in both 2008 and 2011.
- 1.21 The Government recognises labour hire is an important source of employment for those looking for work, and an important source of labour for employers. This is particularly the case in those industries that experience surge demand periods, like administrative support services for example. Indeed, this is reflected in the Government's own approach to use of labour hire—Mr Yannopoulos from the Department of Finance and Mr Hetherington from the Australian Public Service Commission stated:

Mr Yannopoulos: I guess in generic terms that it's generally where agencies need to surge to meet immediate priorities. In the past that was particularly for agencies like Services Australia—which I think was called human services then—particularly in dealing with the phone call volumes, or for the tax office through its processes, particularly around tax time and the lodgement peak that I think we're in around now. And I know the Department of Veterans' Affairs is trying to get a handle on their claims-processing times and get them down. But I think the general approach to use of labour hire is to supplement a workforce for surge or terminating activities, where it's not going to be an ongoing program of government.

Mr Hetherington: I will just add to that. I support the comments that Mr Yannopoulos made there. The other area is where we need a particular skill set for a short period of time and where we know that we don't have an enduring basis upon which to bring them in on an ongoing basis. That might be another area where we would seek to use a contracted solution but, generally, the points that Mr Yannopoulos made are what we see.

Mr Hetherington: That's right. We think that there will be an ongoing need for contracted support for those reasons and that it's entirely appropriate. As I said, agency heads will make those decisions based on the business outcomes they need to achieve in their particular circumstances.<sup>5</sup>

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<sup>5</sup> Mr Patrick Hetherington, Acting Deputy Australian Public Service Commissioner, Australian Public Service Commission and Mr Matt Yannopoulos, Deputy Secretary, Budget and Financial Reporting, Department of Finance, *Proof Committee Hansard*, 27 August 2021, p. 3.



- 1.22 Clearly, public sector service demand fluctuates and so workload changes accordingly. It is highly appropriate for that additional employment to meet that surge demand. This is crucial in delivering the necessary services to the Australian public at the standard expected.
- 1.23 Surge demand being managed with temporary, flexible employees is the best outcome for efficiency of taxpayer funded services, for those employees valuing the dynamic and flexible contracts. The same logic applies to use of labour hire in the private sector.
- 1.24 Labour hire employees have the same rights and protections as all other employees when it comes to, for instance, unfair dismissal rights, award entitlements, general protections and work health and safety protections to name but a few. Labour hire employees working under enterprise agreements will also already have rights and entitlements above the award minimum safety net. This is the framework that the Labor Party created when in government.
- 1.25 In the real world, at many workplaces, more than one employer operates. At a manufacturing site, an airport, a large construction project, a shopping centre, an entertainment venue or a mine site—businesses are regularly engaged to provide contract services of one type or another, side by side at a worksite.
- 1.26 Under Labor's Fair Work Act, the wages and conditions payable to employees are determined by the relevant industrial instrument—either the enterprise agreement made by the employer with its employees, or the relevant award, or arrangements made with employees in excess of the award.
- 1.27 There is no requirement under Labor's Fair Work Act for enterprise agreements to provide for a particular level of pay above the safety net—only that every employee is better off under the agreement compared to the relevant award. That means that employees are regularly working in conjunction with employees of different employers and that their pay and conditions differ.
- 1.28 Indeed, the entire concept of enterprise bargaining is premised on different outcomes developed being jointly agreed by employers and employees in each business, depending on the circumstances and priorities of those individuals.
- 1.29 If Labor seriously proposes to upset the essence of enterprise bargaining and impose conditions on the content of enterprise agreements, it is incumbent on it to specify how that would work and why it is appropriate to depart from the enterprise bargaining system that underpinned three decades of economic prosperity.
- 1.30 When Labor and the unions use their slogan 'insecure work', they do so to characterise any form of work that is not ongoing or permanent—incidentally forms of work the unions have less control over.

- 1.31 What Labor and the Greens won't admit is that the rate of non-permanent employment—including people who choose casual employment, independent contracting, labour hire and fixed-term contracting—remained stable for at least a decade before COVID-19.
- 1.32 As more Australians have opted for forms of work that suit them best, union membership has plummeted from 40 per cent in 1992 to just 14.3 per cent in August 2020.

### **Casual employment—the precarious truth**

- 1.33 The rate of casual employees has remained stable at around 25 per cent for more than two decades leading into the pandemic.
- 1.34 Casual employment was recorded at 22.5 per cent in August 2021, which is lower than it was before COVID hit (24.1 per cent) and lower than in 1996 under Paul Keating when it was 24.4 per cent.
- 1.35 In fact, the greatest increase in casual employment on record took place between 1988 and 1996, under the Hawke and Keating Labor governments, from 18.2 per cent to 24.4 per cent.
- 1.36 Full-time employment accounted for over 60 per cent of total jobs growth since the Coalition came to government. In fact, there are now around 1 million more people in full-time jobs than in 2013, and more people in full-time jobs now than before COVID-19. As positive as that is, RBA Governor Philip Lowe has remarked that 'we should not think of part-time jobs as being bad jobs, and full-time jobs as being good jobs', because ABS data suggests that more than three quarters of part time employees are content not working any additional hours.
- 1.37 Due to the Coalition's sound economic management during the health crisis that COVID-19 has presented, unemployment is at 4.6 per cent and lower than when the Coalition took office in 2013.
- 1.38 As Australia's economy recovers from the COVID-19 pandemic, employers and employees need the certainty and confidence that comes with growing businesses creating jobs.
- 1.39 The Coalition Government passed landmark reforms in early 2021 to give casual workers greater opportunity to convert to permanent work, and save small and large businesses from a potentially devastating \$39 billion 'double dipping' loophole.
- 1.40 These changes provided certainty to both Australian workers and businesses whilst also providing stronger rights for casual employees, protecting jobs into the future and driving growth as we move out of the pandemic.
- 1.41 Labor like to demonise casual work when in fact, it is a worthy employment arrangement that allows thousands of Australians to balance work with other

activities, including caring responsibilities, transitioning to retirement, and full-time study.

- 1.42 This demonisation of non-permanent work even extended to blatantly misrepresenting the ABCC's investigation of wage theft in the construction sector. Senator Sheldon remarked that:

... the ABCC conducted an investigation, as I mentioned, of the labour hire sector and in 2020 published a report revealing that 79 per cent of labour hire companies in construction are breaking the law ... So we have 79 per cent of labour hire companies breaking the law, most of them stealing from their workers, in the case of wage theft, and the ABCC does not seem to have taken a single fine against a single one of them.<sup>6</sup>

- 1.43 Mr Schmitke, from the Master Builders of Australia, corrected the record on this misleading claim by providing important context:

I do recall that the ABCC go on to mention that, of that 79 per cent where they find that there was noncompliance, the nature of the noncompliance was either (a) inadvertent or (b) of a minor nature—for example, not necessarily providing pay slips or those types of matters. So I think that that needs to be put in a little bit of context ... Secondly, I think they also go on to say that, where these issues were discovered, they largely were minor and inadvertent and, as soon as they were discovered, they were rectified straightaway. Any moneys that hadn't been paid or any pay slips that hadn't been provided—all that was rectified, and the ABCC assisted in overseeing that.<sup>7</sup>

- 1.44 Mr Schmitke went on to outline daily hire as being a positive and critical factor to the success of the Australian construction industry, emphasising that changes to this system would very likely jeopardise the safety of the sector, both for companies and workers.

Daily hire: ... enables employees to be engaged and receive all the conventional conditions and benefits of permanent employment, but with a higher hourly rate in exchange for allowing both parties flexibility with conventional notice periods.<sup>8</sup>

- 1.45 Mr Schmitke went on to say that the industry was: 'forecast to grow and require approximately 300 000 extra workers over the next five years'.<sup>9</sup>

- 1.46 This type of growth in a sector must be supported. Legislation that increases the barriers to entry, reduces employee flexibility, hurts worker pay, damages the ease of trade for businesses and overall hinders the ability to operate in the

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<sup>6</sup> Senator Tony Sheldon (Chair), *Proof Committee Hansard*, 26 July 2021, p. 8.

<sup>7</sup> Mr Shaun Schmitke, Deputy Chief Executive Officer, Master Builders Australia (MBA), *Proof Committee Hansard*, 26 July 2021, p. 8.

<sup>8</sup> Mr Schmitke, MBA, *Proof Committee Hansard*, 26 July 2021, p. 2.

<sup>9</sup> Mr Schmitke, MBA, *Proof Committee Hansard*, 26 July 2021, p. 2.

sector efficiently would be an economic and social catastrophe. Mr Schmitke warned that:

... we cannot understate how important it is to not conflate/confuse any issues associated with 'precarious' or 'insecure' work with independent contracting as it is used in, and underpins, building and construction ... This disregards employee behaviour and forgets the very real circumstance within building and construction that employees may consider there to be an advantage to being a contractor and seek to be engaged as such. Master Builders' members report a high level of circumstances in which 'workers' demand to be engaged as a contractor and refuse offers of engagement on any other basis.<sup>10</sup>

1.47 The Australian Mines and Metals Association (AMMA), who represent the majority of employers across Australia's mining, oil and gas, and allied service sectors, stated that labour hire, independent contracting and casual employment are essential elements of their industry, alongside many lucrative full-time positions.

1.48 This diversity of employment arrangement is supported by resources workers, even preferred by some, in large part because:

In the contracting supply chain, highly skilled employees often take well-paid fixed-term or casual contracts where their capabilities are in greatest demand and command the highest hourly rates.<sup>11</sup>

1.49 This system is seen as the best option for a wide array of workers. These arrangements are especially useful for engaging skilled workers for short-term work in the more cyclical, project-based areas of the industry.

### **Risks of overreaction**

1.50 Dr Katherine Ravenswood from Auckland University of Technology appeared before the inquiry in the capacity of her expertise in aged care employment regulation. She stated that in New Zealand:

... despite regulation in the last few years introduced to ostensibly address pay inequity and irregular hours, care and support workers in aged care still experience job insecurity... We've had quite substantial changes to the minimum wage. In aged care and particularly home and community support, there are still large problems with irregular weekly hours. There are fluctuating weekly rosters, which of course mean that there's financial instability. There's a lot of underemployment. People have a low number of weekly hours... and some of this has potentially worsened after the introduction of the care and support workers act.<sup>12</sup>

<sup>10</sup> Mr Schmitke, MBA, *Proof Committee Hansard*, 26 July 2021, p. 3.

<sup>11</sup> Mr Tom Reid, Head of Policy and Public Affairs, Australian Resources and Energy Group AMMA, *Proof Committee Hansard*, 28 July 2021, p. 42.

<sup>12</sup> Dr Katherine Ravenswood, Private capacity, *Proof Committee Hansard*, 28 July 2021, p. 8.

- 1.51 Dr Ravenswood published an article, 'Historic pay equity settlement for NZ care workers delivers mixed results', from 2019 and wrote:

Some care and support workers have ended up worse off than before the pay equity settlement. Perhaps in order to make limited funding last the mile, their managers have reduced their hours and made it harder for these workers to maintain the guaranteed hours they are legally entitled to. Some of the care and support workers in home and community care, who were paid the top hourly rate because of their qualifications or experience, had their hours almost halved after the settlement. Because of this some are now struggling to pay mortgages and in some cases have resorted to finding second jobs to make ends meet.<sup>13</sup>

- 1.52 It would seem that the New Zealand approach of regulation and big government intervention has had serious and negative outcomes for the workers it is ostensibly meant to assist. This is the clear risk of ill-considered intervention in Australian workplace relations, no matter whether with the best of intention.

**Senator the Hon Matthew Canavan**  
**Deputy Chair**  
**Nationals Senator for Queensland**

**Senator Ben Small**  
**Liberal Senator for Western Australia**

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<sup>13</sup> Katherine Ravenswood and Julie Douglas, 'Historic pay equity settlement for NZ care workers delivers mixed results', *The Conversation*, 28 March 2019, <https://theconversation.com/historic-pay-equity-settlement-for-nz-care-workers-delivers-mixed-results-114283> (accessed 19 October 2021).



# Additional comments by the Australian Greens

- 1.1 The Australian Greens welcome the opportunity to contribute additional comments to the committee report, and thank the witnesses and authors of submissions for their time and expertise.

## **Job security at our universities**

- 1.2 With ever increasing corporatisation, extraordinary rates of insecure work, and the impacts of the pandemic, the Australian university sector is in crisis. After decades of funding cuts, the pandemic showed just how reliant on income from international students higher education has become. The Government's refusal to provide a COVID-19 support package or extend JobKeeper to universities resulted in them sacking staff en masse, with over 40 000 jobs lost nationwide in the span of 12 months.
- 1.3 We need a massive new investment of public funding for our universities, and to address the insecure work crisis. The Greens support recommendations contained in the report that work towards these aims and have the following additional comments.

### *Abolish piece rates*

- 1.4 Wage theft has become systemic in universities. As the committee report rightly notes, piece rates are one of the primary facilitators of wage theft in universities. The Australian Greens believe that piece rates should be abolished and all staff, including casual staff, should be paid for all hours worked.

### *Immediate permanent employment targets linked to funding*

- 1.5 Insecure work has become the dominant model of employment at universities, such as employing staff through casual and short-term contracts. Government should work with university staff and their unions to link funding to the achievement of targets that support reductions in insecure work at our universities.

## **Job security in our essential public services**

- 1.6 Successive governments have outsourced our essential public services. APS Commission data shows a significant growth in non-ongoing contracts for employees under the *Public Service Act 1999* over the past decade. Evidence to this inquiry has laid bare that outsourcing and contract work has resulted in more expensive, lower quality, and less transparent service delivery, a gutting of the capabilities within the public sector, and employees being paid less and having less job security and job satisfaction.

- 1.7 Efficiency dividends have actually reduced efficiency and in-house capabilities by increasing reliance on ad hoc external recruitment. Staffing caps have not reduced overall staffing expenses, but have eroded staff security and retention.
- 1.8 The 2021–22 budget allocation to increase staffing levels was a welcome, albeit late, recognition that years of cuts, privatisation and dodgy outsourcing deals have not worked. But the announced increases are not enough to undo a decade of ideologically driven cuts and outsourcing. Rebuilding staffing levels and strengthening job security within the public service will ensure Australia has higher quality services at a lower cost to the public and a better deal for workers. The Greens strongly support the recommendations in the interim report directed at that aim.

### *Losing skills and capacity*

- 1.9 The CPSU told the inquiry that labour hire and consultants regularly undertake work that should be core public sector business. As outlined in the committee report, they believe this has eroded the skills base within the public service, compromised service delivery, undermined job security, and effectively 'abandoned the role as custodian of a career public service, and the institutions and norms which Australian democracy relies upon'.<sup>1</sup> The final report of the independent review of the Australian Public Service made similar observations.
- 1.10 The Australia Institute report, *Talk Isn't Cheap*, estimates that the \$1.1 billion spent by the Australian Government last year on consultancies could have provided secure employment for more 12 000 public servants and built the ongoing capacity of the public service to meet future challenges.<sup>2</sup>
- 1.11 Yet the Government has continued to rely on labour hire and to outsource key advice roles to private consultants who do nothing for internal capacity-building. Private consultants are often selected on the basis that they will align with government objectives, tell ministers what they want to hear or avoid rubbishing government policy for fear of missing out on future lucrative contracts. It is no coincidence that the consultancy firms making millions from government contracts are also significant political donors—EY, Deloitte, PwC and KPMG have donated \$4.7 million over the past decade. An analysis by *The Saturday Paper* of contracts published on AusTender between January 2021 and

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<sup>1</sup> Community and Public Sector Union (CPSU), *Submission 102*, p. 5.

<sup>2</sup> Australia Institute, *Talk isn't cheap: Making consultants' reports publicly available via Senate order*, September 2021, p. 1, <https://australiainstitute.org.au/wp-content/uploads/2021/10/P1079-Talk-isnt-cheap-Order-for-the-production-of-consultants-reports-Web.pdf> (accessed 19 October 2021).



October 2021—just nine months—revealed Deloitte raked in \$212.3 million in contracts, EY took \$190.7 million and KPMG nabbed \$170.6 million.<sup>3</sup>

- 1.12 Further, both the terms of consultancy contracts and the advice provided to the Government under those contracts are often exempt from disclosure under Freedom of Information laws. This puts a range of significant policy advice out of sight of the public, a trend only likely to worsen with the Government's unjustifiable extension of cabinet exemptions to any advice provided to any committee of National Cabinet.
- 1.13 It is clear that the hollowing out of public service capability creates a vicious circle that facilitates ongoing reliance on outsourced policy advice, less accountability and an inherent increased risk of corruption. It has to end. Australia deserves a strong, independent public service capable of meeting the education, housing, health, social security, environmental protection and infrastructure needs of the country.
- 1.14 The Greens support the recommendations calling for 'in-sourcing' of core work and limiting the use of contractors and consultants. We will continue to call for greater transparency of work that is undertaken by consultants to improve public oversight of the calibre, objectivity and value for money provided by outsourced advice.

### *Employee conditions*

- 1.15 Job security is a key factor in employee satisfaction and retention.
- 1.16 The inquiry heard disturbing evidence of public servants working back to back contracts but unable to obtain finance to buy a house on the basis that their role is considered insecure—this is not the situation that dedicated public servants should find themselves in. The CPSU note the debilitating impact of the ASL policy:
- It's not a limit on how much work is done, or how much money is spent, or even how many people can do work on behalf of the Government—it's only a limit on secure employment.<sup>4</sup>
- 1.17 The Greens support the recommendation to prioritise ongoing positions over repeat short-term contracts to give employees the confidence and financial security to plan for the future.
- 1.18 The Greens also note that job insecurity compounds existing constraints on public servants' freedom to express political views in their private capacity, fearing it will reduce the prospect of contract renewal. Public servants need to

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<sup>3</sup> Rick Morton, 'How private management consultants took over the public service', *The Saturday Paper*, October 9–15 2021, [www.thesaturdaypaper.com.au/news/politics/2021/10/09/how-private-management-consultants-took-over-the-public-service#hrd](http://www.thesaturdaypaper.com.au/news/politics/2021/10/09/how-private-management-consultants-took-over-the-public-service#hrd) (accessed 19 October 2021).

<sup>4</sup> CPSU, *Submission 102*, p. 5.

be clear and confident that they can participate in public debate without this impinging on their job. The Greens will legislate to protect the right of public servants in their private capacity to engage in political advocacy, attend rallies, run for public office, participate in their union, and represent or be elected to external organisations.

**Senator Mehreen Faruqi**  
**Australian Greens Senator for New South Wales**

**Senator Larissa Waters**  
**Australian Greens Senator for Queensland**

# Appendix 1

## Submissions and additional information

### *Submissions*

- 1 La Trobe Casuals Network
- 2 Professor Michael Quinlan & Professor Elsa Underhill
- 3 Professor Joellen Riley & Dr Michael Rawlings
  - 3.1 Supplementary submission
- 4 EveryAGE Counts
- 5 ARC Gig Cities Research Team
- 6 Australian Institute of Employment Rights
  - 6.1 Supplementary submission
- 7 Law Society of New South Wales
- 8 Australian Association of Social Workers
- 9 Restaurant and Catering Australia
- 10 Dr Caleb Goods, Dr Tom Barratt, Dr Brett Smith, Mr Rick Sullivan & Dr Alex Veen
  - 10.1 Supplementary submission
- 11 National Foundation for Australian Women
- 12 WESTjustice
- 13 Victorian Council of Social Service (VCOSS)
- 14 Treating Families Fairly
- 15 Queensland Nurses and Midwives' Union (QNMU)
- 16 Victorian Government
- 17 Maurice Blackburn Lawyers
  - 17.1 Supplementary submission
- 18 Professor Rae Cooper
- 19 Uber
  - 19.1 Supplementary submission
  - 19.2 Supplementary submission
- 20 Deliveroo
  - 20.1 Supplementary submission
- 21 Department of Social Services
- 22 Safe Work Australia
- 23 Hireup
- 24 Mable
- 25 Australian Retailers Association
- 26 Migrant Workers Centre
- 27 Australian Nursing and Midwifery Federation

- 28 Fair Work Ombudsman
- 29 National Retail Association
- 30 Per Capita
- 31 Victorian Trades Hall Council (VTHC)
- 32 National Youth Commission Australia
- 33 Australian Services Union
- 34 Housing Industry Association Ltd
- 35 Associate Professor Angela Knox & Associate Professor Susan Ainsworth
- 36 Australian Medical Association
- 37 Mr George Stribling, Lauren Kavanagh, Shirisha Nampalli, Quyen Nguyen, Joshua Paveley and Maddy Yates
- 38 Associate Professor Alysia Blackham
- 39 Transport Workers' Union of Australia
  - 39.1 Supplementary submission
  - 39.2 Supplementary submission
  - 39.3 Supplementary submission
- 40 St Vincent de Paul Society National Council
- 41 Australia Institute, Centre for Future Work
  - 41.1 Supplementary submission
- 42 Carers Australia
- 43 Dr Troy Henderson
- 44 DoorDash Inc
- 45 The Salvation Army
- 46 Australasian Centre for Corporate Responsibility
- 47 National Tertiary Education Union (NTEU)
- 48 The Australian Council of Learned Academies (ACOLA)
- 49 ACT Government
- 50 Youth Action NSW
- 51 Carers NSW
- 52 TEACHO Limited
- 53 Direct Selling Australia
- 54 United Workers Union (UWU)
- 55 Dr Veronica Sheen
- 56 Springvale Monash Legal Service
- 57 Green Institute
- 58 Franklin Women
- 59 The University of Sydney Casuals Network
  - 59.1 Supplementary submission
- 60 Minerals Council of Australia
- 61 Science & Technology Australia
- 62 National Association for the Visual Arts Ltd
- 63 The National and State Youth Peaks

- 64 Council of Australian Postgraduate Association (CAPA)
- 65 Australian Small Business and Family Enterprise Ombudsman
  - 65.1 Supplementary submission
- 66 Multicultural Youth Advocacy Network (MYAN)
- 67 Centre for Multicultural Youth
- 68 Children and Young People with Disability Australia
- 69 NSW Labor Lawyers
- 70 Queensland Law Society
  - 70.1 Supplementary submission
- 71 Australian Chamber of Commerce and Industry (ACCI)
- 72 Liberty Victoria
- 73 Recruitment, Consulting and Staffing Association (RCSA)
- 74 Rideshare Drivers Association of Australia
- 75 Attorney-General's Department, Department of Education, Skills and Employment and Department of Industry, Science, Energy and Resources
  - 75.1 Supplementary submission
- 76 Victorian Multicultural Commission
- 77 The Australian Industry Group
  - 77.1 Supplementary submission
  - 77.2 Supplementary submission
  - 77.3 Supplementary submission
- 78 Unions NSW
- 79 Construction & General Division of the Construction, Forestry, Maritime, Mining and Energy Union (CFMEU)
- 80 MATES in Construction
- 81 Mr Tony LaMontagne, Dr Tania King and Ms Yamna Taouk
  - 81.1 Supplementary submission
- 82 South Coast Labour Council
- 83 National Farmers' Federation (NFF)
- 84 Health Services Union (HSU)
- 85 Young Workers Centre
- 86 McKell Institute Victoria
- 87 *Confidential*
- 88 Professor Emeritus David Peetz FASSA
- 89 Distinguished Professor Sara Charlesworth
- 90 Retail and Fast Food Workers Union
- 91 Jesuit Social Services
- 92 Kingsford Legal Centre and Redfern Legal Centre
- 93 Centre for International Corporate Tax Accountability and Research (CICTAR)
- 94 Anglicare Australia
- 95 Job Watch Inc.

- 96 Unions ACT
- 97 COTA Australia
- 98 Australian Council of Trade Unions (ACTU)
- 99 Young Workers Centre, Unions ACT
- 100 Western Australian Government
- 101 Queensland Teachers' Union
- 102 Community and Public Sector Union (CPSU)
  - 102.1 Supplementary submission
  - 102.2 Supplementary submission
- 103 Airtasker Limited
- 104 Queensland Government
- 105 *Name Withheld*
- 106 *Confidential*
- 107 *Name Withheld*
- 108 *Confidential*
- 109 *Name Withheld*
- 110 *Name Withheld*
- 111 *Name Withheld*
- 112 Dr Paula McDonald, Professor Greg Marston, Acting Professor Tess Hardy, Professor Sara Charleston, Acting Professor Robyn Mayes and Dr Penny Williams
- 113 Construction, Forestry, Maritime, Mining & Energy Union (CFMEU)
- 114 Amazon Australia
- 115 Academy of the Social Sciences in Australia Inc
- 116 Rail, Tram and Bus Union
- 117 Queensland Council of Unions
- 118 Western Australian Council of Social Service Inc.
- 119 UnionsWA
- 120 *Name Withheld*
- 121 *Name Withheld*
- 122 Australian Manufacturing Workers' Union
- 123 Dr Adam Heaton
- 124 HR Nicholls Society
- 125 The WorkPac Group
- 126 Dr Fiona Macdonald
- 127 Dr Mitchell Sarkies
- 128 Mr Saul Eslake
- 129 *Name Withheld*
- 130 Angus
- 131 Simon
- 132 *Name Withheld*
- 133 Pirthpall
- 134 Mark

- 135 Marie
- 136 Robert
- 137 Terri
- 138 Hao
- 139 Terry
- 140 Dave
  - 140.1 Supplementary submission
- 141 Chris
  - 141.1 Supplementary submission
- 142 Rebecca
- 143 Kristie
- 144 John
- 145 Alison
- 146 Alam
- 147 Cathy
- 148 Chris
- 149 Brett
- 150 Mounir
- 151 Roger
- 152 Tim
- 153 Genevieve
- 154 Abdul
- 155 Russell
- 156 Peter
- 157 Keith
- 158 Drew
- 159 Petar
- 160 Mathew
- 161 Ronald
- 162 Peter
- 163 Rebecca
- 164 Gary
- 165 Gary
- 166 Neil
- 167 Lachlan
- 168 Andrew
- 169 Jason
- 170 Melek
- 171 Chris
- 172 Elizabeth
- 173 Beverley
- 174 Elizabeth
- 175 Rigzin

- 176 Passang
- 177 *Name Withheld*
- 178 Jamie
- 179 National Union of Students
- 180 NSW Aboriginal Land Council
- 181 Suicide Prevention Australia
- 182 Harmony Alliance
- 183 Queensland Tourism Industry Council
- 184 Isaac Regional Council
- 185 Advocacy for Inclusion
- 186 Hunter Workers
  - 186.1 Supplementary submission
- 187 Sabrina
- 188 Kathleen
- 189 Narelle
- 190 Sarah
- 191 *Name Withheld*
- 192 Nabin
- 193 BSA
- 194 CEPU
- 195 Downer Group
- 196 Ventia
- 197 National Council of Single Mothers & their Children Inc
- 199 Australian Workers' Union
- 200 Health Services Union NSW/ACT/Qld
- 201 Australian Education Union Federal Office

### *Additional Information*

- 1 Additional information received from Ryan Batchelor, Executive Director, McKell Institute Victoria - Blue Harvest report hearing 19 April 2021 (received 26 April 2021)
- 2 International Transport Workers' Federation, Submission to the Select Committee on the impact of technological and other change on the future of work and workers in New South Wales - Revised 10 June 2021 (received 11 June 2021)
- 3 International Lawyers Assisting Workers network, Taken for a ride: Litigating the Digital Platform Model 2021 (received from International Transport Workers' Federation 11 June 2021)
- 4 Additional information - Correction to evidence from Sarah Costello of Safe Work Australia at public hearing 10 June 2021 (received 16 June 2021)
- 5 Transport Workers Union Submission to the Safe Work NSW and Transport NSW Taskforce into Food Delivery Worker Deaths 2020 (received 17 June 2021)



- 6 Richard Johnstone, comments on Draft Guide to Managing Work Health and Safety in the Food Delivery Industry 2021 (received from the TWU 17 June 2021)
- 7 Michael Quinlan, comments on Draft Guide to Managing Work Health and Safety in the Food Delivery Industry 2021 (received from the TWU 17 June 2021)
- 8 Transport Workers Union Submission to the Safe Work NSW and Transport NSW Taskforce into Food Delivery Worker Deaths 2021 (received 17 June 2021)
- 9 Transport Workers Union Submission to the Consultation - Personal injury insurance arrangements for food delivery riders 2021 (received 17 June 2021)
- 10 An article titled 'Can a Driver Uprising Make Food Apps Deliver?' published on 3 June 2021 by Luis Deliz Leon, provided to the Committee by Bernard Corden (received 20 June 2021)
- 11 Minerals Council of Australia – Question on notice from the Senate Education and Employment Legislation Committee’s public hearing into the Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020 [Provisions] on 8 July 2021 (received 14 July 2021)
- 12 Chandler Macleod – response to adverse comment made by the Australian Workers Union at a public hearing in Canberra on 14 July 2021 (received 2 August 2021)

#### *Answers to Questions on Notice*

- 1 Fair Work Ombudsman - Answer to question taken on notice, Uber Australia investigation finalised, Melbourne 21 April 2021 (received 22 April 2021)
- 2 Mable - Answer to question taken on notice Media release, Sydney 12 April 2021 (received 27 April 2021)
- 3 Menulog Australia - Answer to question taken on notice Europe Employment Market, Sydney 12 April 2021 (received 27 April 2021)
- 4 Ola - Answers to questions taken on notice, Sydney 12 April 2021 (received 27 April 2021)
- 5 Hireup - Answers to questions taken on notice, Sydney 12 April 2021 (received 27 April 2021)
- 6 Aged and Community Services Australia - Answers to questions taken on notice, Melbourne 19 April 2021 (received 4 May 2021)
- 7 Uber - Answer to question taken on notice, public hearing, Sydney 12 April 2021 (received 7 May 2021)
- 8 Fair Work Ombudsman - Answers to questions taken on notice, Melbourne 21 April 2021 (received 7 May 2021)
- 9 Ai Group - Answer to question taken on notice, Melbourne 21 April 2021 (received 7 May 2021)
- 10 Ola - Answers to additional written questions taken on notice from Senator Sheldon, sent 29 April 2021 (received 22 June 2021)

- 11 Hireup - Answers to additional written questions taken on notice, Senator Sheldon 29 April 2021 (received 13 May 2021)
- 12 Ai Group - Answers to additional written questions taken on notice, Senator Sheldon 3 May 2021 (received 18 May 2021)
- 13 Aged and Community Services Australia - Answers to additional written questions taken on notice, Senator Sheldon 3 May 2021 (received 18 May 2021)
- 14 Australian Unemployed Workers' Union - Answers to questions taken on notice, Melbourne 20 April 2021 (received 7 May 2021)
- 15 Menulog Australia - Answers to written questions taken on notice, 29 April 2021 (received 20 May 2021)
- 16 Uber - Answers to written questions taken on notice, 29 April 2021 (received 16 May 2021)
- 17 Australian Higher Education Industrial Association - Answers to additional written questions taken on notice, Senator Sheldon 3 May 2021 (received 17 May 2021)
- 18 National Indigenous Australians Agency - Answers to written questions taken on notice, 31 March 2021 (received 30 April 2021)
- 19 Department of Agriculture, Water and the Environment - Answers to written questions taken on notice, 31 March 2021 (received 30 April 2021)
- 20 Department of Defence - Answers to written questions taken on notice, 31 March 2021 (received 30 April 2021)
- 21 CSIRO - Answers to written questions taken on notice, 31 March 2021 (received 30 April 2021)
- 22 Defence Housing Australia - Answers to written questions taken on notice, 31 March 2021 (received 30 April 2021)
- 23 Department of Home Affairs - Answers to written questions taken on notice, 31 March 2021 (received 30 April 2021)
- 24 Department of Industry, Science, Energy and Resources - Answers to written questions taken on notice, 31 March 2021 (received 30 April 2021)
- 25 Department of Veterans' Affairs - Answers to written questions taken on notice, 31 March 2021 (received 30 April 2021)
- 26 Department of Social Services, Services Australia, National Disability Insurance Agency and National Disability Insurance Scheme Quality and Safeguards Commission - Answers to written questions taken on notice, 31 March 2021 (received 30 April 2021)
- 27 Department of Health - Answers to written questions taken on notice, 31 March 2021 (received 7 May 2021)
- 28 Department of Education, Skills and Employment - Answers to written questions taken on notice, 31 March 2021 (received 11 May 2021)
- 29 NBN Co Limited - Answers to written questions taken on notice, 31 March 2021 (received 14 May 2021)
- 30 Attorney General's Department - Answers to written questions taken on notice, 31 March 2021 (received 20 May 2021)

- 31 Department of Finance- Answers to written questions taken on notice, 31 March 2021 (received 13 May 2021)
- 32 Aged Care Industry Association - Answers to written questions taken on notice, Senator Sheldon 3 May 2021 (received 28 May 2021)
- 33 Department of Foreign Affairs and Trade - Answers to written questions taken on notice, 31 March 2021 (received 17 September 2021)
- 34 Deliveroo - Answers to written questions taken on notice, 29 April 2021 (received 28 May 2021)
- 35 Australia Post - Answers to written questions taken on notice, 31 March 2021 (received 30 April 2021)
- 36 Department of Infrastructure, Transport, Regional Development and Communications - Answers to written questions taken on notice, 31 March 2021 (received 4 June 2021)
- 37 Mable - Answers to written questions taken on notice, 29 April 2021 (received 10 June 2021)
- 38 Mr Lawrence Ben from Retail, Wholesale and Department Store Union - Answers to written questions taken on notice, Canberra 10 June 2021 (received 16 June 2021)
- 39 Safe Work Australia - Answers to questions taken on notice, Canberra 10 June 2021 (received 16 June 2021)
- 40 Amazon Australia - Answers to written questions taken on notice, Senator Sheldon (questions numbered 43–65 and 76–83), 10 June 2021 (received 18 June 2021)
- 41 The Treasury - Answers to written questions on notice from Senator Sheldon, sent 31 March 2021 (received 17 June 2021).
- 42 Amazon Australia - Answers to written questions from Senator Sheldon and Senator Faruqi, 10 June 2021, and answers to questions taken on notice, public hearing, Canberra, 10 June 2021 (received 9 July 2021)
- 43 One Key Resources - Answers to questions taken on notice, public hearing, Canberra, 13 July 2021 (received 27 July 2021)
- 44 Department of the Prime Minister and Cabinet - Answers to written questions taken on notice, 31 March 2021 (received 30 July 2021)
- 45 Fair Work Commission - Answers to questions taken on notice and answers to written questions from Senator Sheldon, Canberra, 15 June 2021 (received 30 July 2021)
- 46 Chamber of Commerce & Industry Queensland – Answers to Questions on notice, public hearing, Canberra, 14 July 2021 (received 2 August 2021)
- 47 Heritage Care – Answers to Questions on notice, public hearing, Canberra 28 July 2021 (received 3 August 2021)
- 48 Hays Recruitment – Answers to Questions on notice, public hearing, Canberra, 13 July 2021 (received 3 August 2021)

- 49 Minerals Council of Australia and member company representatives – Answers to Questions on notice, public hearing, Canberra, 14 July 2021 (received 3 August 2021)
- 50 UnionsWA – Answers to questions taken on notice, public hearing, Canberra, 26 July 2021 (received 3 August 2021)
- 51 Retail, Wholesale and Department Store Union - Answer to questions taken on notice, public hearing, Canberra, 10 June 2021 (received 5 August 2021)
- 52 Dr Caleb Goods and Dr Tom Barratt - Answers to questions taken on notice, public hearing, Canberra, 26 July 2021 (received 5 August 2021)
- 53 AMMA - Answers to questions taken on notice, public hearing, Canberra, 28 July 2021 (received 5 August 2021)
- 54 Programmed - Answers to questions taken on notice, public hearing, Canberra, 27 July 2021 (received 5 August 2021)
- 55 Western Australian Council of Social Service - Answers to questions taken on notice, public hearing, Canberra, 26 July 2021 (received 6 August 2021)
- 56 Construction, Forestry, Maritime, Mining and Energy Union, Construction & General Division - Answers to questions taken on notice, public hearing, Canberra, 26 July 2021 (received 8 August 2021)
- 57 Circle Green Community Legal - Answers to questions taken on notice, public hearing, Canberra, 26 July 2021 (received 8 August 2021)
- 58 Australian Chamber of Commerce and Industry - Answers to written questions taken on notice, Senator Sheldon, 3 May 2021 (received 11 August 2021)
- 59 Recruitment, Consulting and Staffing Association - Answers to questions taken on notice, public hearing, Canberra 27 July 2021 (received 16 August 2021)
- 60 Rio Tinto - Answers to written questions taken on notice, Senator Sheldon, 3 August 2021 (received 17 August 2021)
- 61 Heritage Care - Answers to written questions taken on notice, Senator Walsh, 5 August 2021 (received 17 August 2021)
- 62 Hays Recruitment - Answers to written questions taken on notice, Senator Sheldon, 3 August 2021 (received 17 August 2021)
- 63 Chandler Macleod - Answers to written questions taken on notice, Senator Sheldon, 3 August 2021 (received 18 August 2021)
- 64 Bolton Clarke - Answers to written questions taken on notice, Senator Walsh, 5 August 2021 (received 18 August 2021)
- 65 Dr Fiona Macdonald - Answers to questions taken on notice, public hearing, Canberra, 28 July 2021 (received 18 August 2021)
- 66 TriCare - Answers to questions taken on notice, public hearing, Canberra, 28 July 2021 and answers to written questions taken on notice, Senator Walsh, 5 August 2021 (received 18 August 2021)
- 67 TriCare - Answers to written questions taken on notice, Senator Sheldon, 9 August 2021(received 23 August 2021)
- 68 Heritage Care - Answers to written questions taken on notice, Senator Sheldon, 9 August 2021 (received 23 August 2021)

- 69 BHP - Answers to written questions taken on notice, Senator Sheldon, 3 August 2021 (received 26 August 2021)
- 70 Anglo American - Answers to written questions taken on notice, Senator Sheldon, 3 August 2021 (received 27 August 2021)
- 71 Australian Retailers Association - Answers to written questions taken on notice, Senator Sheldon, 29 April 2021 (received 6 September 2021)
- 72 ManpowerGroup Australia - Answers to questions taken on notice, public hearing, Canberra, 27 August 2021 (received 10 September 2021)
- 73 Australian Public Service Commission (APSC) - Answers to questions taken on notice, public hearing, Canberra, 27 August 2021 (received 10 September 2021)
- 74 Australian Maritime Safety Authority (AMSA) - Answers to questions taken on notice, public hearing, Canberra, 27 August 2021 (received 10 September 2021)
- 75 One Key Resources - Answers to written questions on notice, Senator Sheldon, 3 August 2021 (received 10 September 2021)
- 76 Services Australia - Answers to questions on notice, public hearing, Canberra, 27 August 2021 (received 16 September 2021)
- 77 Hays Recruitment - Answers to questions on notice, public hearing, Canberra, 27 August 2021 (received 17 September 2021)
- 78 Programmed – Answers to written questions taken on notice, Senator Sheldon, 9 August 2021 (received 20 August 2021)
- 79 Downer – Answers to questions taken on notice, Canberra, 15 September 2021 (received 27 September 2021)
- 80 Fulton Hogan – Answers to questions taken on notice, public hearing, Canberra, 15 September 2021 (received 23 September 2021)
- 81 Service Stream – Answers to questions taken on notice, public hearing, Canberra, 15 September 2021 (received 28 September 2021)
- 82 Hays – Answers to questions taken on notice, public hearing, Canberra, 15 September 2021 (received 30 September 2021)
- 83 BSA – Answers to questions taken on notice, public hearing, Canberra, 14 September 2021 (received 28 September 2021)
- 84 Australian Public Service Commission (APSC) - Answers to written questions taken on notice, Senator Sheldon, 17 September 2021 (received 1 October 2021)
- 85 ManpowerGroup - Answers to written questions taken on notice, Senator Sheldon, 17 September 2021 (received 1 October 2021)
- 86 Department of Finance - Answers to questions on notice, public hearing, Canberra, 27 August 2021 (received 1 October 2021)
- 87 AMSA - Answers to written questions taken on notice, Senator Sheldon, 17 September 2021 (received 1 October 2021)
- 88 Australian Tax Office (ATO) - Answers to questions taken on notice, public hearing, Canberra, 27 August 2021 (received 6 October 2021)
- 89 ACCC - Answer to question taken on notice, Senator Sheldon, public hearing, Canberra 14 September 2021 (received 11 October 2021)

- 90 Service Stream - Answers to questions taken on notice, Senator Sheldon, public hearing, Canberra, 6 October 2021 (received 12 October 2021)
- 91 NBN Co - Answers to questions taken on notice, public hearing, Canberra, 14 September 2021 (received 12 October 2021)
- 92 BSA - Additional Questions on notice, Senator Sheldon, 14 September, public hearing, Canberra (received 13.10.2021)

### *Media Releases*

- 1 Senate Select Committee on Job Security - Media release 21 December 2020

### *Tabled Documents*

- 1 Transport Workers Union - Amazon Flex Briefing Note (tabled at public hearing in Sydney on 12 April 2021)
- 2 Transport Workers Union - Food Delivery Survey (tabled at public hearing in Sydney on 12 April 2021)
- 3 Transport Workers Union - Rideshare Survey (tabled at public hearing in Sydney on 12 April 2021)
- 4 Professor Catherine Bennett, Chair in Epidemiology, Deakin University, COVID-19 and the Casual Workforce (tabled at the public hearing held in Melbourne on 19 April 2021)
- 5 Australian Unemployed Workers Union, Member statement (tabled at public hearing in Melbourne on 20 April 2021)
- 6 Excerpt from the Senate Education and Employment Legislation Committee's public hearing (8 February 2021) Hansard transcript for the inquiry into the Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020, pp. 56-61 (tabled by Senator Tony Sheldon at public hearing in Canberra on 14 July 2021)
- 7 Rae Wilson, 'Miner tells Senators casual employees now outnumber full-time employees two to one', The Courier Mail, 13 July 2021 (tabled by Senator Sheldon at public hearing in Canberra on 14 July 2021)
- 8 Workplace Gender Equality Agency, Public report submitted by Programmed Maintenance Service Limited, 2016-17 (tabled by Senator Sheldon at public hearing on 27 July 2021)
- 9 Senate Rural and Regional and Transport Legislation Committee, Budget estimates 2020-21, response to question on notice SQ21-000383 (tabled by Senator Tony Sheldon at public hearing on 27 August 2021)
- 10 Australian Government, Statement of Expectations for NBN Co Limited, 26 August 2021 (tabled by Senator Sheldon at public hearing on 14 September 2021)
- 11 Senate Standing Committee on Environment and Communications, Answers to Senate Estimates Questions on Notice (291), Budget Estimates 2021-2022, Communications Portfolio, NBN Co Limited (tabled by Senator Sheldon at public hearing on 14 September 2021)

- 12** Senate Standing Committee on Environment and Communications, Answers to Senate Estimates Questions on Notice (290), Budget Estimates 2021-2022, Communications Portfolio, NBN Co Limited (tabled by Senator Sheldon at public hearing on 14 September 2021)
- 13** Senate Standing Committee on Environment and Communications, Answers to Senate Estimates Questions on Notice (287), Budget Estimates 2021-2022, Communications Portfolio, NBN Co Limited (tabled by Senator Sheldon at public hearing on 14 September 2021)