

— Exclusive

# ‘Unionised by stealth’: Migrant workers come with a catch

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Unions will be given special access rights, including inductions that exclude management, to foreign workers brought in to fill aged care staff shortages under migration rules backed by the Albanese government.

The government’s first labour agreement for temporary skilled workers in aged care, announced last week, includes a memorandum of understanding that features seven pages of union access conditions and expanded labour market testing.



Prime Minister Anthony Albanese promised during the election campaign to ‘put nurses back in nursing homes’. **Alex Ellinghausen**

The aged care labour agreement at Curtin Heritage in Perth, seen by *The Australian Financial Review*, is set to deliver 570 staff over five years.

It is the first step in what has been called a grand bargain with unions to allow the fast-tracking of low-paid migrant workers into the country to ease workforce shortages in aged care.

But migration agents and aged care employers have warned that some providers are baulking at the MoU, labelling it as union overreach that will prevent providers signing up.

Under the MoU, management is expressly barred from attending the inductions unless they are invited by the union and “make a positive statement about the relationship with the union and the ongoing commitment to work together”.

There is speculation the model will be extended to other sectors that have used labour agreements, including hospitality and the meat industry.

Opposition immigration spokesman Dan Tehan said that “this is the beginning of Labor reshaping the workforce by allowing unions into workplaces on a regular basis”.

“This is the quid pro quo for the unions for Labor’s big Australia policy,” he said. “Many industries with current labour agreements used for migration purposes would be very nervous at the precedent it is setting.”

However, Labor and unions have defended the measures as necessary to guard against exploitation and ensure quality aged care.

While the MoU removes requirements for providers to advertise jobs locally, it introduces “expanded labour market testing” that means they must offer local staff the maximum 76 hours a fortnight before using overseas workers and review local employees’ desire for increased hours on an ongoing basis.

Providers must give staff predictable rosters with “set hours, decent wages and good working conditions” and limit agency staff to only “exceptional circumstances”.

They are required to provide union delegates with 10 days’ paid leave to attend union training, two-hour union inductions for migrant workers and two 30-minute paid union meetings a year for all workers.

The Department of Home Affairs says to access the labour agreement “employers must first enter into a MoU with the relevant union/s” and has sent out copies of a template version of the MoU on request.

## ‘Raised eyebrows’

Document properties show the MoU was authored by an official of the Victorian nurses union, who also used to be a United Workers Union industrial officer.

The MoU is a template deal, so employers could in principle negotiate their own agreements. It is understood at least 20 providers have started talks with unions about an MoU in the past few weeks.

However, a migration agent who has been showing the MoU to providers said it “raised eyebrows substantially” and called it a “real overreach”.

“I don’t think they’ll sign,” the agent said. “This is not the magic bullet employers thought it would be.”

One senior manager for a major aged care provider, which would not comment publicly, said the union’s “ambitious” MOU was “a huge prima facie obstacle” for providers.

“Unions have got to be careful at overplaying their hand. They’re risking little uptake [of this labour agreement] and having their roles prescribed.”

Australian Industry Group chief executive Innes Willox said while employers supported proper treatment of workers, the MoU raised “significant concerns” about increased union entry rights and the potential for coercion of workers to join unions.

He argued freedom of association included the right to not join a union and said that, at a minimum, employers needed assurances that their workplaces “will not be unionised by stealth”.

“There is deep concern among employers generally that this arrangement will give unions unfettered rights to enter aged care workplaces employing a new migrant worker and control over who they can employ and ultimately how their businesses are operated,” he said.

“There is further concern that this arrangement will be forced on employers in other sectors.”

But UWU national aged care director Carolyn Smith said the MoU was designed to increase retention and prevent poor treatment of workers, which had been a “real concern” for unions in the sector.

## ‘Ensure quality care’

“We accepted there was a need for more staff and those staff would have to come in as temporary workers, but we wanted to make sure they were protected as workers and knew their rights,” she said.

“We also wanted to make sure they knew what the regulatory environment was and knew how to raise care issues without worrying about losing their job or leaving the country.”

She said the industry was characterised by short shifts and low hours and “at the MoU’s heart is to ensure real quality care”.

Since the government publicly announced the labour agreement last week, Ms Smith said the union had been “overwhelmed” with inquiries from providers and migration agents.

“Aged care providers may be questioning it but they better get in line because they might miss out,” she said, saying most “sounded very keen”.

The government announced the labour agreement last Monday

[<https://www.afr.com/politics/federal/priority-visa-processing-for-aged-care-workers-20230515-p5d8e2>] but did not publicly release the details of the template MoU.

Prioritising visa workers for aged care is intended to help providers have enough staff to ensure the 200 minutes of care per resident per day that will be required from October.

It also follows recommendations from the immigration system review

[<https://www.afr.com/politics/federal/major-changes-to-fix-broken-migration-system-in-global-talent-war-20230426-p5d3cw>] to create pathways to bring in low-paid care sector workers while also establish monitoring because of the potential for exploitation.

[\[https://www.afr.com/policy/economy/how-migration-changes-could-affect-your-next-in-flight-meal-20230501-p5d4np\]](https://www.afr.com/policy/economy/how-migration-changes-could-affect-your-next-in-flight-meal-20230501-p5d4np)

Private Perth provider Curtin Heritage Living has already signed up to the agreement with the UWU, saying it would help address “a critical shortage of skilled workers”.

## Big pathway for permanency

Immigration Minister Andrew Giles said the former Liberal government had failed to tackle long-standing workforce concerns in the sector and had granted fewer than 100 sponsored visas under aged care labour agreements.

“The Albanese Government makes no apologies for engaging in genuine, sensible, tripartite approaches to visa policy,” he said.

“We know workers who hold temporary sponsored visas, particularly in lower-wage jobs, are more vulnerable to mistreatment and exploitation. Access to unions helps address this vulnerability.”

But Mr Tehan also raised concerns that the agreement would flood the workforce with migrants due to its shortcut to permanent residency.

“There is a real danger given the two years it only takes to get permanent residency that this will be exploited as a new pathway when we already have 1.5 million permanent migrants coming into Australia this year and over the next four years,” he said.

The agreement only requires that workers have a Certificate III qualification and does not require any experience.

Visa workers will then get permanent residency after only two years, rather than the three typically prescribed for temporary skilled workers.

Migration agents said providers had been inundated with hundreds of emails from workers seeking to use the pathway.

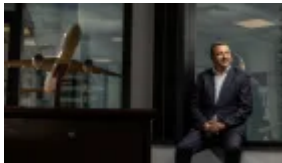
Mr Giles said employers, migrants and unions all supported an expedited pathway to permanency and said Mr Tehan inferring it was a shortcut showed “the Liberals remain committed to a guest worker society, putting as many barriers up as they can to stop workers becoming citizens”.

Aged & Community Care Providers Association Tom Symondson said it was “working with members to understand the requirements and implications of the template MOUs being put forward by unions in the sector”.

“ACCPA is keen to expedite the arrival of migrant workers into the aged care sector as soon as possible,” he said.

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