



**Submission to the Select Committee on  
Job Security:**

***Inquiry into the impact of insecure or  
precarious employment on the economy,  
wages, social cohesion and workplace  
rights and conditions.***

**March 2021**

## Select Committee on Insecure Work

United Workers Union (UWU) is a powerful new union with 150,000 workers across the country from more than 45 industries and all walks of life, standing together to make a difference. Our work reaches millions of people every single day of their lives. We feed you, educate you, provide care for you, keep your communities safe and get you the goods you need. Without us, everything stops. We are proud of the work we do—our paramedic members work around the clock to save lives; early childhood educators are shaping the future of the nation; supermarket logistics members pack food for your local supermarket and farms workers put food on Australian dinner tables; hospitality members serve you a drink on your night off; aged care members provide quality care for our elderly and cleaning and security members ensure the spaces you work, travel and learn in are safe and clean.

### Introduction

UWU welcomes the opportunity to make a submission to the Select Committee on Job Security Inquiry into the impact of insecure or precarious employment on the economy, wages, social cohesion and workplace rights and conditions (the Inquiry).

UWU fundamentally believes that all workers are entitled to a fair opportunity to provide for themselves and their families and to work in an economy based on jobs that are safe and secure with guaranteed hours and fair wages.

This Inquiry comes as workers across the country adjust to rapidly changing work environments amid ongoing COVID-19 related disruptions. Throughout the Covid-19 crisis, insecure work has exacerbated transmission risks and jeopardised public health. However, it is important to acknowledge that the impact of insecure work and rising inequality were well and truly embedded in our society before the COVID-19 pandemic commenced.

For frontline and essential workers, unsafe employer practices and significant job losses are just some of the factors compounding a heightened sense of uncertainty and anxiety concerning the future of work. These challenges are exacerbated by decades of restructuring efforts that have sought to move risk away from employers and onto individual workers. Widespread casualisation, subcontracting and labour hire arrangements have eroded the standard employment relationship that once brought relative stability to the world of work.

In recent decades, wages have stagnated and no longer reflect labour's contribution to rising productivity. Standard entitlements such as paid sick leave, annual leave and superannuation are now foreign concepts for many workers, especially young people. Inequality continues to grow and key industries have come to be dominated by small groups of very powerful actors.

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Currently, 40 per cent of people are in insecure work and there are more than one million Australians who are underemployed and want to work more.<sup>1</sup> The richest one per cent of Australians now owns more wealth than the bottom 70 per cent.<sup>2</sup> Australian workers are facing attacks to their rights at work, the minimum wage has fallen below the poverty line and wage theft is now so common that it has become a business model in some of our essential industries. Even prior to the COVID-19 pandemic, inequality in Australia was at its highest rate in more than 70 years.<sup>3</sup> Wage growth was at its lowest rate on record, while company profits were up 40 per cent. Now, just as before, working people need better and stronger rights at work to reduce inequality, increase their financial security and to counterbalance the growing power of employers.

Big business and successive conservative governments have reshaped our national economy and values so it is now considered acceptable that people who go to work every day should live in poverty. Successive governments have presided over a system that has led to the subjugation of workers in the name of choice, competitiveness, shareholder value, the gig economy and good old-fashioned greed. The Federal Government has allowed big business to trample over that once great Australian belief that those who work should earn enough to clothe, feed and house themselves, and still have enough left over to spend on other life necessities for themselves and their children.

This submission draws upon the experiences and insights of a diverse group of workers. The breadth of our membership base underpins the value of this submission. Insights are drawn from worker experiences that are richly diverse in terms of employment type, labour process, location of work, different worker nationalities and visa arrangements, traditional union jobs and emerging industries. This diversity highlights points of contrast as well as near-universal trends across industries.

While we welcome this Inquiry and the opportunity to put forward a submission, we would like to note that these are not, and should not, be new issues for the Government. Unions and allies across the movement have been fighting against the rising insecurity of work for many years. UWU has made countless submissions to various inquiries, appeared as witness before committees, held mass rallies and demonstrations. We have spoken loudly, and we have spoken widely against the rising insecurity and the devastating impact it has on equality in Australia.

Despite this we have seen little progress towards change from conservative governments. We are now at crisis point. It is no longer an option for this Government to ignore the rising inequalities that have so damaged Australian society and our economy.

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<sup>1</sup> Change the Rules: The Rise of Insecure Work in Australia, ACTU, 2018.

<sup>2</sup> <https://www.oxfam.org.au/wp-content/uploads/2017/07/oxfam-An-economy-for-99-percent-oz-factsheet.pdf>

<sup>3</sup> Change the Rules: Rising Inequality: An Australian Reality, ACTU, 2017.



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UWU seeks long-term transformative change to the world of work. A world in which people earn a wage that reflects the real social value of their work, affording them comfortable lives, enough time and security to care for their families and loved ones, pursue other interests and enjoy well-earned leisure time without the intrusion of economic worry.

For more information on this submission, please contact Matthew Lawrence

In Unity

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### Summary of Recommendations

UWU proposes the following policy recommendations to address insecure work by reducing casualisation and ensuring secure and sustainable jobs for all Australians.

**Recommendation one:** equal rights for all workers, regardless of their status, so all workers have the same basic rights to access the minimum wage, paid leave, public holidays, occupational health and safety protections and collective bargaining.

**Recommendation two:** extend essential public services to all including temporary visa holders, migrant workers and undocumented workers. Universal basic services include unconditional access to Medicare and health services, affordable housing, quality public education, and universal public early childhood education and care.

**Recommendation three:** abolish ongoing insecure work in essential and frontline industries, including labour hire and subcontracting arrangements.

**Recommendation four:** to stop labour hire firms being used to undercut workers, the Government must support same job, same pay legislation which ensures labour-hire workers receive the same pay and conditions as people employed directly in the same role.

**Recommendation five:** a staged raise to the casual loading to 50% by 2025.

**Recommendation six:** affordable quality early childhood education and care for all Australians, so workers with caring responsibilities are not forced out of the workforce or into insecure working arrangements.

**Recommendation seven:** increasing protections for visa workers with the fundamental principle that exploitation should not result in deportation. This should apply to all visa workers, people working without a visa, and those working contrary to the terms of their visa.

**Recommendation eight:** the Federal Government must 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.

**Recommendation nine:** the definition of an employee as it appears in all state and Federal industrial relations legislation be amended such that an on-demand worker is defined as an employee.

**Recommendation ten:** the Government review and amend Occupational Health and Safety legislation to ensure that companies operating in the on-demand or gig economy sector bear costs and responsibilities associated with the health and safety of the workers they engage.

**Recommendation eleven:** having regard to the dire impact the legislation will have on millions of Australian workers and the broader economy, the application of the *Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020* must be formally reviewed within twelve months.

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**Recommendation twelve:** expand workers ability to collectively bargain for improved workplace standards with the controlling economic entities across industries and along supply chains.

**Recommendation thirteen:** remove restrictions on what workers can bargain for so all workers are free to lawfully claim for improvements to job security and be permitted to take protected industrial action in support of those claims.

**Recommendation fourteen:** improved right of entry rights and access for unions to workplaces to ensure workers are empowered to fight against rising workplace exploitation as we move into a more competitive, and thus exploitative, economy.

**Recommendation fifteen:** in order to maintain a sustainable public sector that provides access to quality services, the government must stop the outsourcing and privatisation of public sector services, including creeping privatisation, and where possible return outsourced services to the public sector.

**Recommendation sixteen:** given that private ownership of essential services benefits a select few and public ownership benefits everyone, essential sectors that make goods or services society universally relies upon should come under public ownership, including health and care, ECEC, energy, telecommunications and transport.

**Recommendation seventeen:** introduce best practice procurement laws based on the ACT Secure Local Jobs framework, including prohibiting the use of subcontracting, so only those employers who prioritise permanent secure jobs are rewarded with government contracts.

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### 1. Insecure Work in Australia

Almost five million Australian workers are currently in insecure work.<sup>4</sup> UWW members regularly report insecure work as the leading issue in their workplaces. These workers experience unpredictable and fluctuating pay; inferior rights and entitlements; limited or no access to paid leave; irregular and unpredictable working hours; a lack of security and/or uncertainty over the length of the job; and a lack of any say at work over wages, conditions and work organisation.<sup>5</sup> For insecure workers, wage increases are meaningless if you don't have a shift the next day.

This is not an acceptable standard. Australia has the highest proportion of temporary labour in the OECD. We have five times the proportion of temporary employees that the UK has, two and a half times that of Germany and double the proportion in France.<sup>6</sup>

This reflects a dangerous deregulatory trend in Australia that sees risk shifted from corporations and onto workers. Instead of using a casual workforce to increase capacity on a seasonal basis, casual work is increasingly the way that Australian businesses meet their medium and long-term labour needs. In the post-COVID era, big business is increasingly viewing casual labour as the foundation for boosting profits.

Employers have access to a range of legal mechanisms that can systematically weaken the employment relationship or outsource it entirely: labour hire, sham contracting, casualisation, opaque supply chains, gig platforms and more. Legally, this seeks to move risk away from the employer and onto individual workers. At a social and interpersonal level, it also diminishes moral expectations of employers and any sense of mutual reciprocity between people in a workplace. The result is a fundamental erosion of the social contract that undermines everyone's collective security, as was so starkly demonstrated during workplace outbreaks of Covid-19. Long term employment insecurity, even when the work demand is regular and predictable, causes real harm to working communities and to the public at large.

### The Myth of Casual Flexibility

With casualisation reaching astronomical levels in industries like hospitality and social and health support, it is clear insecure work can no longer be considered a steppingstone to permanent employment. Indeed, across many industries insecure work is the primary mode of employment and in many workplaces, the only type of jobs available. Insecure work is most prevalent among already disadvantaged groups – women, migrants, and young people. It is an on-going state of insecurity and hardship, and in many cases poverty, especially in a global health pandemic.

Far too often, it is assumed that workers in industries such as hospitality choose to be casual as the so-called flexibility suits them.<sup>7</sup> This is largely because employers have sought to frame the

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<sup>4</sup> Change the Rules: The Rise of Insecure Work in Australia, ACTU, 2018.

<sup>5</sup> Ibid.

<sup>6</sup> Change the Rules: The Myth of the Casual Wage Premiums, ACTU, 2018.

<sup>7</sup> Ibid.



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prevalence of insecure work as a lifestyle preference of young people, students, parents and carers. Bosses love to praise the virtues of flexibility, claiming that casuals don't want permanent work. Typical of this attitude, James Pearson, CEO of the Australian Chamber of Commerce and Industry, said: *"We need to remember that most casuals chose to stay casual because they like the additional pay and flexibility."*<sup>8</sup> While there are some casual workers who would genuinely opt to maintain their casual employment, this mantra is a lie.

Evidence suggests that about half of all casuals would prefer permanency with paid leave.<sup>9</sup> This is the strong preference for men in casual work and all casuals aged 25 to 34. Younger workers aged 15 to 25 doing casual work are more likely to prefer a wage premium over paid leave if given the choice.<sup>10</sup> However, regardless of individual preferences, the use of casual work as the dominant business model in some industries means that most workers don't have the choice.

*"Getting sick is a luxury something a casual can't afford. So, when I broke my hand, I wasn't entitled to sick leave even though I had been there for 6 years. Centrelink took 6 months to pay me the benefit. If I didn't have a support network – there would be no way, I would have been able to cover my rent and bills during this time. This is what you have to choose between as a chef. Either you forfeit your self-respect and work for below the award or forfeit your rights, entitlements, and safety nets."* – Chef, Victoria

Pursuant to Australian Industrial laws, casual workers receive a loading on their hourly wage to compensate workers for not receiving leave entitlements and for the insecure nature of casual employment. However, there is significant evidence that casuals are not receiving anything like a 25% wage premium compared to their permanently employed counterparts and that many casuals do not receive a loading at all.<sup>11</sup>

As of 2012 the Australian Bureau of Statistics (**ABS**) no longer directly measures how many workers receive a casual loading. According to the most recent ABS figures available around a third of casuals (34.3%) said they didn't receive any casual loading at all. Published empirical evidence suggests the casual premium is around 4-5% compared to permanent workers and that over the long term, there is evidence of a wage penalty for casuals compared to permanent workers.<sup>12</sup> This may reflect illegal underpayment by employers who decline to pay the casual loading or where workers are paid a loading but placed on a lower base pay.<sup>13</sup>

### Case Study: Hospitality & Casualisation

The longstanding and calculated uncertainty bosses maintain around workers' wages, entitlements, and hours means having a job in hospitality is synonymous with insecure work.

<sup>8</sup> <https://www.australianchamber.com.au/news/business-welcomes-closing-of-casual-employment-loophole/>

<sup>9</sup> Change the Rules: The Myth of the Casual Wage Premiums, ACTU, 2018.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Peetz, D, What do the data on casuals really mean?, Griffith University, November 2020.

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2016 ABS data reveals that an extraordinary 79 per cent of hospitality workers are casual, the highest rate for any group of workers.<sup>14</sup>

From March to June 2020, UWU surveyed 4,281 hospitality workers across Australia.<sup>15</sup> This survey found that insecure work is the thread that underpins and accelerates the most fundamental problems in hospitality, including wage theft, sexual harassment and exploitation of migrant workers.

Even prior to COVID-19, a significant majority of hospitality workers (64.5 per cent) said it was very or extremely important to have a permanent job. Since the start of the COVID-19 pandemic this margin has increased to 76.5 per cent, with more than half weighing their need as extremely important. This means that more than three quarters of hospitality workers wanted a permanent job and, in a post-COVID world, over half said it was extremely important to them.

This increase towards valuing permanency is unsurprising given that out of those surveyed, 93 per cent of casual and migrant workers had their hours cut or were not working at all at the height of the pandemic. 79 per cent lost their jobs or were stood down.

Further, 84 per cent of workers said that they expect government to incentivise employers to create more permanent jobs. There was also very strong support for tying government stimulus money to the creation of more permanent jobs, with 76 per cent supporting the proposition that government money, given to hospitality employers to assist the industry during the pandemic, should be used to promote more permanent jobs in the industry.

Comments from UWU members:

*"We never have shift finish times on the roster. Any persons shift may end after 3 hours or 12 hours on any given day. Only the owner knows this information, and will tell you go to home immediately whenever he feels like it."* – Barista, Victoria.

*"Having shift cancelled as I have arrived at work, it was 'too quiet'. Having a roster delivered day by day by poor management. Taking a job which promised 40 hour weeks, was then given 10 hours over 4 days, so the business could save money by not paying super - staff turnover in a month was close to 80%"* – Front of House, Victoria

Employers are effectively pulling the rug out from underneath their workers on a weekly, if not daily, basis. This is often a deliberate and calculated move. Maintaining such insecure conditions means that workers have less power to stand against other forms of exploitation and mistreatment, including wage theft, sexual harassment and poorly managed workplace health and safety. Inconsistent shifts have a destabilising effect on workers. They are expected to rearrange their lives at a moment's notice, and this undermines their ability to communicate and unite around workplace issues. In this way, insecure work acts as a force multiplier, helping

<sup>14</sup> ABS, Characteristics of Employment, cat. no. 6333.0, quoted in Gilfillan, Geoff Characteristics and use of casual employees in Australia Australian Parliamentary Library (2018).

<sup>15</sup> Rebuild Hospo: A Post-Covid Roadmap for Secure Jobs in Hospitality, United Workers Union, 2020.

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to enable and accelerate other fundamental problems in the industry, including wage theft, sexual harassment, and migrant worker exploitation.

Insecure work is first and foremost an issue of power. Employers know that insecure workers have limited power to speak up and assert their rights. Without job security, workers cannot fully participate in their workplaces or speak up on important issues without fear of job loss. Put simply, insecure workplaces are unsafe and anti-democratic. It is unacceptable that any worker should live day-to-day, waiting for a text message to confirm tomorrow's shift, potentially for years on end. Without notice insecure workers can be considered expendable or "no longer required"—a euphemism for termination without the accompanying legal protections of unfair dismissal. This way of organising work is inefficient, unethical and unnecessary.

*"In my three years in the industry I have always worked as a subcontractor. The big firms don't want to employ me. I'm an international student and have working restrictions. They just subcontract me through a smaller firm. I'm wearing the company's uniform, but I'm hired by subcontractor – the main company doesn't want to take on the responsibility. To be honest it's so bad, they bully, blackmail, threaten you. Encourage everyone to work on cash only or a bank transfer. We get a flat rate, sometimes as low as \$13 an hour. When I have asked to be paid what I should be they just laugh and say if I won't work for that then they will just find someone else who will. I need this job so what choice do I have?" -*

Security Worker, Victoria

### Insecure Work and Women

Unequal pay outcomes between women and men are a stark indicator of the different ways women and men engage with the workforce and how they are valued for it. While the trend towards insecure work is increasing, the pattern of casual employment suggests a sharply gendered phenomenon.

Women face persistent barriers to workforce participation including unaffordable early childhood education options, lack of family friendly working arrangements and workplace discrimination. Recent analyses demonstrate that women are overrepresented in non-standard work categories, and remain more vulnerable than men to exploitative, casualised and insecure forms of work.<sup>16</sup> At present, 67.9 percent of men and 40.2 percent of women work a full-time job.<sup>17</sup> Conversely, women comprise 52.6 percent of all casual employees and two thirds of part time workers are women. 26.9 percent of working women are employed on a casual basis, compared to 21.4 percent of men.<sup>18</sup>

Research suggests that the reasons for this overrepresentation are multifaceted and interconnected.<sup>19</sup> They are largely attributed to the entrenched social norms that undervalue women and women's work and ascribe expectations that take women away from the workforce without commensurate family-friendly working arrangements. In a work context having and

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<sup>16</sup> Change the Rules: Changing the Rules for Working Women, ACTU, 2018.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

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caring for children negatively impacts on women's wages, career progression and job quality.<sup>20</sup> This is heightened for women in low-income employment and where women are expected to take on unpaid care work this heightens the likelihood they will be engaged in insecure work.

This is compounded by the labour deregulation in female dominated industries that enable employers to utilise flexible hiring models over permanent employment including casuals and low hour contracts. There are clear economic consequences of this trend for women – including lower wages, less hours of work, a lack of paid leave, an increased likelihood of periods of unemployment and a reduction in superannuation over a lifespan.<sup>21</sup> In addition, there is growing evidence that insecure work negatively effects both an individual's health, and the capacity to make long term life decisions.

### Insecure Work and Migrant Workers

UWU considers justice for migrant workers to be core union business. Through years of on-the ground organising, UWU has assisted temporary migrant workers to expose and collectively address some of the worst forms of exploitation in the Australian economy including widespread wage theft, unlawful deductions, sexual assault, substandard accommodation, and a variety of other slavery-like practices. These practices are now extremely well-documented in several academic studies, parliamentary inquiries, as well as reports prepared by UWU.

It is becoming increasingly common for employers to avoid both the spirit of the law and the law itself by engaging workers on temporary visas. In our experience migrant workers' industrial rights are all too often subordinated by their immigration status. It is widely recognised that workers on visas, and people working without a visa, are more vulnerable to workplace exploitation than their local counterparts. They also face higher barriers to accessing remedies.

The power asymmetry that exists in any employer/employee relationship is exacerbated in the case of temporary migrant workers, because their right to remain in the country is contingent on them not being found to be in breach of the work conditions on their visa. Any legal irregularity in the employee/employer relationship, whether the fault of the employee or not, can trigger a chain of events that leads to a grievous result for the worker (detention and deportation) that is disproportionate to any negative outcome potentially faced by the employer and is insensitive to the power dynamics.

Egregious abuses of power are made possible by deeply precarious working arrangements and a broken visa system that does not adequately protect the rights of migrant workers in Australia. Of course, as we have witnessed over recent years, with the backing of a strong union these workers are increasingly taking action, organising their workplaces and setting an example for the rest of the Australian union movement to follow.

#### Case Study: Horticulture

In Australia's horticulture industry, almost all farm workers are in insecure work that is casual, unpredictable and indirect. The vast majority of workers are employed through labour hire

<sup>20</sup> Pennington A, Women's Casual Job Surge Widens Gender Pay Gap, Centre for Future Work, March 2021.

<sup>21</sup> Change the Rules: Changing the Rules for Working Women, ACTU, 2018.

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agencies and subcontractors. Grower's over-reliance on contractors has entrenched casual and insecure employment arrangements even when the work is consistent and predictable. The outsourced employment relationship enables unlawful work practices to develop in the shadows.

Contractors in the horticulture industry exercise a very high degree of control over workers' lives. In most cases the contractor will arrange accommodation and transport for workers, charging them exorbitant rent and fees for such services. Substandard accommodation can be charged at rates as high as \$150 per person per week, for a single bed in a crowded dormitory style room. Often the contractor or a family member will own the accommodation and means of transport, monitoring workers' movements and conversations, and engaging in other controlling behaviours such as confiscating mobile phones and reading text messages. In remote locations and isolated from the general public, workers are extremely vulnerable to sexual assault and other abuses.

### Case Study: Security Sector

The normalisation of outsourcing and the cementation of complex labour supply chains in the Australian security sector is driving the low concentration of operators in the industry. While the larger operators hold the majority of contracts for services, the work is generally subjected to further levels of contracting and sham contracting arrangements with smaller operators.

Despite growing rates of employment and the consistent improved profitability of many security businesses, many workers in the security sector experience extremely poor job and earning security. Additional worker vulnerabilities exist due to the high proportion of temporary migrant workers in the industry, the high level of turnover and casual employment. Workers are often in isolated workplaces with little or no capacity to communicate or organise. Further, the nature of security workers as a highly dispersed and isolated workforce means that the true extent of exploitation cannot be determined with precision.

UWU security delegate explains:

*"When I first came to Australia, I didn't know anyone. All I knew was going to university and meeting people from my home country who spoke the same language. They offered me a job in a restaurant at a flat rate of \$13 an hour.*

*I had to wait one year before I could do a security course. We hear of security guards getting paid \$18 an hour, in my mind \$18 is way better than \$13. I didn't know any better. I did my security*

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*course which cost me almost \$1700 and as soon as I got my license, I started applying in all these security companies, but I had no luck.*

*My friend helped me out and got me a job as a subcontractor. These businesses know the drill, they know that no company is going to hire international students and that is how their business starts. A lot of them speak the same language and take advantage of us, playing emotionally.*

*Most of them give you \$15-20 an hour or less, a complete flat rate, no superannuation, no LSL, no sick leave, no overtime loadings, no weekend or public holiday rates nothing just all flat rate. a lot of time they hold your pay for months and say that it is for security purposes.*

*They treat migrants so bad. Blackmail them, bully them, force them to work. I was asked to do a shift for the next day and I said sorry not available because I had family commitments. They told me I had to do it, or they would have to hire some new guards. They are ruthless, they are just money-making organisations.*

*They say we are brothers then when you say no they fire you or report you to immigration. Sometimes if students are not available to work and they say apologies not available, these subcontractors blackmail them saying you must do it or we will report to immigration that you are exceeding your weekly hours of work.*

*The people who came before me have been through this. Unfortunately the people who came after will face the same. Why is there no accountability on this? Why are there no checks. Why don't they encourage students to speak? They are all too scared cause they don't want to lose their visas. No one wants to speak. They have been stealing money for years. I came here to get away from this sort of stuff and now look where I am. I'm so done with this".*



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### 2. Insecure Work and COVID-19

When a crisis hits, as the global pandemic of 2020, insecure work leaves no fallback for workers. The COVID-19 crisis has revealed and exacerbated inequalities that have long persisted in our communities and workplaces. Despite claims to the contrary, pandemics and health crisis do discriminate and entrench structures of power and privilege that existed before the crisis. Vulnerable members of our communities and workplaces have been the hardest hit. This includes low paid and precarious workers, young people, women, temporary visa holders and undocumented workers.

The global health pandemic has highlighted the dangers of insecure work, particularly casual employment. While frontline, insecure workers risked their lives by continuing to attend their workplaces the Government seemed intent on not only trapping workers in insecure employment, but actively attacked their rights at work.

First the Government excluded over one million casuals from the JobKeeper wage subsidy.<sup>22</sup> Then they reduced the Coronavirus Supplement making it cheaper for business to rehire workers while forcing workers into insecure work. Then they introduced JobMaker, a scheme that directly subsidises insecure jobs for young workers at the expense of existing permanent employees.

The JobKeeper payment, simply put, places all power in the hands of the employer. It is employers that get to decide whether to apply; it is employers that can exclude workers who should be included; it is employers who can cut workers' hours to fit in with JobKeeper so they don't have to top up wages. On top of this, many workers have reported that employers have forced them to work more than their contracted hours and/or pay back some of their allowance to earn the entitlement, which is illegal.<sup>23</sup>

*"I've missed out on the JobKeeper payment because I've been working at my current employer for 6 months as a casual, even though I've worked in the clubs and hospitality industry for around 7 years. I was stood down in March and it took a while for my Job Seeker payment to get processed so I didn't have any income for 3 weeks. I didn't have enough money for rent. I wanted to negotiate a rent reduction but the real estate agency didn't agree to a reduction. They said if I couldn't pay rent they would look at evicting me, even though I'd been living there for 7 years and always paid rent on time before the pandemic." – Clubs/Hospitality Worker, Victoria*

Insecure work has also been identified as a key contributor to the spread of COVID-19 virus. Workers were forced to go into work, despite being symptomatic of the virus, for fear of losing their job and not having enough money to pay the bills. Chief Health Officer Brett Sutton has also drawn attention to the relationship between insecure work and the spread of COVID-19, stating: "I think there are genuine structural issues about work, workforce, that make transmission more likely". However, calls for paid sick leave for all casual workers fell on deaf ears. High rates of casualisation means an unacceptable number of workers must forego economic security if they

<sup>22</sup> <https://australiainstitute.org.au/post/81-of-australians-support-jobkeeper-for-all-casual-workers/>

<sup>23</sup> <https://www.workplaceassured.com.au/news/put-casual-back-on-jobkeeper-warns-fwc>

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fall sick. While this has always been unethical, in the midst of a global pandemic it also presents a serious public health risk. For workers living on the poverty line, the economic threat of lost shifts incentives too many workers to continue to work when they are sick. This is a danger to workers, their workplaces, their patrons and their clients.

In some industries paid pandemic leave was recognised as an issue that needed to be addressed. After unions provided overwhelming evidence of the need for paid pandemic leave, the Fair Work Commission ruled that eligible residential aged care employees covered by the *Aged Care Award*, *Nurses Award* and *Health Services Award* symptomatic of, or diagnosed with, COVID-19 must have access to two weeks of paid pandemic leave until 29 March 2021.<sup>24</sup> Other industries, like homecare and hospitality, however, were neglected despite being ground zero for insecure work, and the capacity to spread COVID-19 being significant.

### Case Study: COVID-19 and Hospitality

COVID-19 pushed the hospitality industry into meltdown. While economic indicators suggest that the industry has begun to rebound strongly by the end of 2020, it was the worst hit industry during the pandemic, with around 1 in 3 paid jobs lost by mid-March 2020 and total wages cut by a massive 30 per cent.<sup>25</sup> (See further discussion on the rebound of the hospitality industry at page 21). ‘

The Australian Hotels’ Association reported that over 250,000 people in pubs were directly impacted, clubs in NSW alone have impacted 63,000 workers, and the unions #ilostmyhosposhift website estimates that, for the 3,000 workers who participated in the survey, over \$1.3 million were lost in wages<sup>26</sup>.

The pandemic plunged many hospitality workers into poverty overnight. Workers had nothing to fall back on. When jobs are founded on uncertainty and precarity, and where wage theft is endemic, this leave little room for workers to speak out as their hours are, once again, chopped and changed without care or consultation.

The pandemic has magnified and made visible every facet of insecure work in hospitality – the unpredictable hours, inconsistent pay and lack of worker autonomy. The impact was so widespread that only a small minority of workers can claim they were left unscathed. Of those who responded to our #RebuildHospo survey, 26 per cent lost their jobs, 32 per cent were stood down, and 27 per cent had their hours cut, which made up 85 per cent of the industry. This means that 85 per cent of workers were left falling short or without their regular income at the peak of the pandemic.

Around a third of the workforce had to borrow money from family and friends, access their super, and ask for reduction or deferral of their rent. Circumstances were so desperate for some

<sup>24</sup> <https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/temporary-changes-to-workplace-laws-during-coronavirus/paid-pandemic-leave-in-some-awards>

<sup>25</sup> <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/weekly-payroll-jobs-and-wages-australia/latest-release>

<sup>26</sup> <https://www.theguardian.com/australia-news/2020/mar/23/job-losses-from-australias-coronavirus-shutdown-will-be-devastating>



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workers that they have had to rely on charities and foodbanks, move out of their homes, and have suffered relationship breakdowns. A staggering 20 per cent of workers were simply left without the essentials they needed.

Quotes attributed to UWW hospitality members:

*"I have a baby due to be born in the next few weeks. I also have home loan repayments, and other bills to pay. Between the home loan repayments, and a newborn on its way, I have little savings. In just a few months' time, I can see myself having to raise my child from the back seat of my car."* - Chef, Queensland

*"I (was) the main wage earner for my wife and I. My wife suffers from MS and is unable to work full time. We are going to struggle to pay bills and we have to change our lifestyle. It is putting stress on my wife's health as she feels she needs to work more to make up for me losing my job."* – Sous Chef, Victoria

*"I had no choice but to accept a casual job. I work the same regular hours per week and have done so for over two and a half years but my employer refuses to put anyone on anything other than casual."* – Chef, Victoria.

*"As a casual employee I have been living paycheck to paycheck since January as business has been slow. I was told on Tuesday that there is no longer work for me. I have no way of paying my bills and am seriously worried about becoming homeless within weeks."* – Hospitality Worker, Victoria

*"I lost my income, and because the government somehow didn't anticipate millions of people losing their jobs, it's been a trial and a half to get onto Centrelink or even speak to someone to access benefits from being laid-off."* – Bartender, Victoria

*"(My partner and I) have no income. It's quite difficult to get a job back in hospitality and even to receive Centrelink due to the system being inundated with everyone else getting fired. My partner is from Korea and can't even receive any financial support, despite being in a de facto relationship with myself and living in Australia for 7 years."* – Café Manager, New South Wales

### Women and COVID-19

The COVID-19 crisis has intensified the twin crises facing Australian women: a shortage of secure, well-paid jobs, and an increase in the caring burden, unsupported by workplace and early childhood education and care policies.

The COVID-19 shutdowns and resulting recession were felt most severely by women. Since the beginning of the COVID-19 pandemic, 5.3 per cent of employed women have lost their jobs compared with 3.9 per cent of men.<sup>27</sup> Employment for women declined almost 8% between February and May – more than 2 percentage points worse than the corresponding drop for men.<sup>28</sup> Women's hours of work have fallen by 11.5 per cent compared with 7.5 per cent for

<sup>27</sup> <https://australiainstitute.org.au/post/the-coalition-dishes-out-jobs-for-the-boys-while-women-carry-coronavirus-economic-burden/>

<sup>28</sup> Pennington A, Women's Casual Job Surge Widens Gender Pay Gap, Centre for Future Work, March 2021.

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men.<sup>29</sup> Women are more than twice as likely to have stopped looking for a new job, which is likely due to increased unpaid care work in the home.<sup>30</sup> The increase in unpaid care duties fell disproportionately on women workers, as women perform more unpaid care.

This can be explained for several reasons: women were disproportionately employed in the service sectors hit hardest by shutdowns; they were concentrated in casual and part-time roles that were more easily cut by employers; and their already disproportionate share of unpaid caring responsibilities in the home became even more pronounced.<sup>31</sup> This forced many women to reduce their hours of work, or to give up paid work altogether.

New research by the Centre for Future Work, shows Australia's recovery from the pandemic recession widened the gender pay gap, as women's jobs returned on a more part-time and casualised basis than for men.<sup>32</sup> The report found that women suffered disproportionate job losses when the COVID pandemic hit, and as the economy recovers are returning to jobs that are relatively more insecure. The gendered nature of the pandemic recession on Australia's labour market has markedly worsened pay inequality with the gender pay gap now estimated to be 31 per cent across all jobs. As the economy 'recovered' the gender pay gap has widened.

There are major existing and proposed government policies that are likely to further widen pay inequality in 2021. These include: the further expansion of casual work and reduced security for part-time workers in the *Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020* and the high-cost, inaccessible early childhood education and care system.

### Case Study: ECEC and COVID19

Early childhood educators are the backbone of our society. Educators educate children and develop the skills they need for the future so millions of Australian parents can go to work. Without the ECEC sector, our society could not function.

Throughout the COVID-19 pandemic, educators worked every day to provide quality early education and care while keeping children and communities safe from infection. Initially the Covid-19 pandemic saw thousands of families withdraw children from early learning settings out of concerns for the health and safety of their children, driving the sector to near collapse. Educators implementing strong health and hygiene practices in early learning services was crucial to providing parents the confidence to return. Educators cannot practice social distancing with very young children. Therefore they need to be confident that everything possible has been done to prevent any infection getting into their environment.

Despite this, Educators were the first workers to be cut from JobKeeper, and have faced months of uncertainty and financial hardship. The vast majority of the sector is part-time or casual, and

<sup>29</sup> Ibid.

<sup>30</sup> <https://www.wgea.gov.au/topics/gendered-impact-of-covid-19>

<sup>31</sup> Pennington A, *Women's Casual Job Surge Widens Gender Pay Gap*, Centre for Future Work, March 2021.

<sup>32</sup> Ibid.

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they have no safety net to rely on. Further, thousands of part-time and casual educators have had their hours reduced to next to nothing.

*"I have two young children and am an early childhood educator. I agree with the Stage 4 lockdown in Melbourne. I think it's necessary that these measures have to be put into place. I am grateful that both myself and my partner have jobs as essential workers so we can keep working. But now my hours have been cut to 15 hours per week. We had savings. Those are almost gone now after months of uncertainty, reduced income and frugality. In every press conference, if early childhood educators are mentioned, we are praised because we're essential. But without a guaranteed income I am so scared that not long from now, we will not have enough money to survive. Looking down the barrel of an almost empty bank account and very little support coming in from the government, I am equally furious and heartbroken that we, as the teachers and caregivers to your children, to our children, are told we are priceless when in reality, you are treating us as worthless. Please help us." – ECEC Educator, Victoria*

*"During Covid-19 our numbers went down and my employer reduced a lot of staff hours. Now that the numbers are going back up at my centre, we still have extra cleaning to do, but we don't have enough staff. Staff hours were really cut back during the virus, and it affected a lot of people. Now that the children are coming back, they aren't increasing the staff back to where it was before. I've got 15 two-year-olds between three educators, but we've still got all the extra cleaning to do. Last week we had more children than our staff numbers were meant to cover under our ratios. It's not right." – ECEC educator, SA*

### Case Study: Aged Care and COVID 19

The COVID-19 pandemic has made it brutally clear that the work of low paid women in sectors such as aged care is fundamental to our economic and social survival. At the same time, women have been disproportionately affected by the pandemic.

Aged care is a feminised sector. Almost 90 per cent of the workforce is female.<sup>33</sup> The median age of the residential care workforce and the home care workforce is 46 years and 52 years, respectively.<sup>34</sup> In both residential and home care, there are a sizable number of workers who are older than 55 and a smaller but not insignificant number who are 65 and older.<sup>35</sup>

During the pandemic, older workers, as well as immunocompromised workers, have had to make decisions as to whether to continue work or not. Some of our members – many of whom are older women – have had to take leave (often unpaid) during the pandemic as the risk to their own health if they caught COVID-19 was too high. These members have struggled to make ends meet, and now face difficult decisions about whether to return to work or to apply to Centrelink. Some of these older women workers will never return to the workforce.

<sup>33</sup> Federal Department of Health, The Aged Care Workforce 2016.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

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*"I am immunosuppressed and my doctor advised I'm high risk and need to isolate. As a result I can no longer support the elderly as a Homecare Worker. I have only 6 hours sick leave and 28 hours annual leave to live on while I wait for Centrelink to process my claim." – Homecare Worker, NSW*

### Migrant Workers and COVID 19

Migrant workers and international students on temporary visa have been the hardest hit by the COVID-19 pandemic. This is a result of the combination of poor government policy and the exploitation and concentration of migrant workers in insecure working arrangements.

When COVID-19 hit migrant workers were left without any recourse for assistance. In many cases migrant workers were among the first to lose their jobs, particularly in the hospitality sector, and for those on sponsored visas suddenly faced the near impossible task of finding another employer to sponsor them within 60 days or face being deported.

The Morrison Government's decision to exclude temporary visa holders from both the JobKeeper and JobSeeker income support programs is both a disgraceful act of government and symptomatic of the extent to which migrant workers are treated as underclass in Australia. Temporary migrant workers are still left without access to Medicare.<sup>36</sup>

#### Case Study: Migrant Workers in hospitality

Union member Giovanni is an Italian international student working at a restaurant in Victoria. He had his hours cut from twenty to eight during the COVID-19 pandemic, leaving him with a substantially lower income. The Victorian State Government provided Giovanni with a one-off \$1,100 payment; this was welcome but insufficient. His wife was due to have their first child and they had no way to return to Italy. Giovanni and his family were forced to live off their meagre savings and superannuation to keep poverty at bay. With schools closed, Giovanni was also unable to complete his practical training as a student teacher in time before his visa was due to expire, and needed to find \$5000 to pay for it to be extended.

On the absence of a national response for international students fighting poverty during the pandemic, Giovanni said:

*"It makes me think differently about this country. I always worked and pay my taxes and being cut from any sort of help from the government made me feel ... [like leaving] this country."*

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<sup>36</sup> [Migrant Workers Abandoned in the COVID Recovery, Alison Pennington, Jan 2021](#)

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### 3. Emerging Trends

Let there be no doubt, casual jobs are insecure jobs, and there are far too many casual jobs in Australia with roughly one in every four people employed on a casual basis. The standard example of insecure work is where the insecurity flows from the contractual relationship between employer and worker (i.e. casual employment) or between employer and a contract for services (i.e. cleaning and security). However, employers have discovered many other ways to move workers from secure to insecure forms of employment.

It is worth noting that a full-time job no longer guarantees security in the workplace. An emerging trend in insecure work is the rise of insecurity in the nature of work due to multiple disruptors including in changes in government policy and technological advances.

#### Technology and Insecure Work

Technology is widely considered to be a force transforming the world of work. The interrelationship between work and technology has populated worker's imaginations and anxieties for centuries, dating back to the beginning of the Industrial Revolution. More recent advancements in automation, surveillance and data capture have reignited these longstanding yet understandable concerns. While as a general trend technological change does not produce widespread and long-lasting unemployment, it can powerfully alter the relationships of work and the quality of jobs on offer. Most often this change is linked to issues of declining employment security.

Taken together, insecure work and technology can be understood as deeply interconnected: twin drivers of change and uncertainty. Whilst technology does not cause insecure work, it can play a role in deepening and accelerating existing fault lines and inequalities in our workplaces. Technological change is closely linked to work intensification and unsafe work practices.

There is a significant gap that currently exists between the capabilities of new technologies and the legal, industrial and social protections necessary to mitigate the risk of harm to workers and rising job insecurity. Many technological issues don't neatly fit into pre-existing dispute resolution processes and legal frameworks are not always specifically applicable to the workplace. Further, many workers express a lack of understanding of their "technological rights."

#### Surveillance

Most workers acknowledge the appropriateness of surveillance in particular environments. This includes highly regulated environments such as casinos, food manufacturing or areas with access to controlled substances. Issues arise however when the scope of surveillance becomes overtly punitive, invasive or disproportionate.

UWU members overwhelmingly report issues of CCTV over-reach and use of surveillance for the singular purpose of disciplining and terminating workers. The footage is presented as irrefutably evidence of wrong-doing, even when the infraction is unclear or manufactured. Often the worker does not have a reasonable opportunity for right of reply or opportunity to defend themselves.

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### Case Study: use of surveillance

Food manufacturer Smiths Chips installed a disproportionate amount of surveillance cameras following the “needles in strawberries” food tampering scandal of 2018. Under the guise of food safety and transparency requirements, the cameras were installed throughout the production area as well as staff break room areas. The company refused to implement policies that would limit the acceptable usage and scope of surveillance to only food security and safety issues. The footage is now used at the discretion of management to discipline and appropriate blame to workers.

### Work intensification

KPIs and work rates are often set at a pace close to the maximum that workers can manage, leading to stress, high turnovers, stress and workplace injuries. These practices seek to increase output and discipline workers. While work intensification is as old as industrialisation, new challenges are faced in light of new technologies that introduce a “steep change in power, intensity and scope.”<sup>37</sup>

Work intensification has historically also been linked to economic downturn. In the current Australian context of growing unemployment, it can be expected that employers laying-off staff will expect those who remain to maintain previous levels of productivity. As the cost of job loss is currently very high, employers have greater power to drive down wages and conditions.

### Case Study: Poultry Workers

Poultry workers work on a production line. Breaks are staggered so that the production line never has to stop. However, when breaks are taken, up to ten workers may leave the production line yet the conveyor belt speed is not adjusted. As a result, a diminished group of workers scramble to keep up with the pace of production for a significant portion of the working day. This work-time is set by the machine and creates extremely unsafe working conditions that can be fatal for workers. The Union has heard anecdotal evidence of a Geelong poultry facility in which predominantly African workers wear nappies on the production line as they do not have time for breaks.

### Automation

In Australia, investment in new technology has actually been slow for the past decade, reflecting a broad failure of the business sector to innovate, accumulate capital, create new jobs and improve living standards.<sup>38</sup> Widespread automation, robots and artificial intelligence has captured the Australian imagination, but not yet the Australian economy which remains suitably less dynamic.

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<sup>37</sup> Moore, P et al. (2018) *Humans and Machines at Work: Monitoring, Surveillance and Automation in Contemporary Capitalism*, Palgrave Macmillan



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Although automation is not a primary driver of declining labour demand in Australia, it can nevertheless cause significant job destruction. For workers unable to easily move into other industries, this is a cause of significant hardship and distress. For UWW members, this is felt most keenly in warehousing, third party logistics, casinos, as well as other service-based industries. While Australia currently lags behind, this may not always be the case. Strong workplace protections and job security are an important aspect of ensuring those most likely to be affected by technological innovation are well-positioned to receive the benefits.

### Case Study: Warehouse & Logistics

The warehouse and logistics industry experiences high rates of industrial action, including strikes, relative to other industries. It is likely that accelerating rates of automation in this industry will lead to industrial action, with the potential to set standards for how automation and other technologies are integrated and democratically managed within other industries.

In Australia, Coles and Woolworths are leading the development of automated warehouses that draw on AI, robotics and machine learning to manage supply chains. Australia's grocery industry is among the most concentrated in the world with only four big players dominating the market. The Coles and Woolworths Group combined claim a majority 60% market share overall and 80% market share in packaged groceries. While Coles and Woolworths are in direct competition for efficiency gains and control over the labour process, each company has adopted a different approach to automation.

Woolworths has partnered with Boston-based Takeoff Technologies to develop an agile model of micro-fulfillment centres (MFCs) located close to or inside urban areas. Such an approach is said to address the "last mile" problem of logistics and responds to increasing ecommerce consumer demands that have skyrocketed in the context of Covid-19 restrictions.

On 23 June 2020 Woolworths announced three warehouses will be closed by 2025 resulting in 1,350 job losses. The replacement smart warehouses are an investment of approximately \$1.2 billion and are set to be operational by 2023 and 2025.

### Gig Economy and Care sectors

While the gig economy isn't exactly an emerging trend, its encroachment into what were once secure industries such as health and social care can be considered a new trend that has the potential to be detrimental for workers.

Demand for health care, in-home support and social assistance is expected to triple by 2050. Current failures of the for-profit aged care system and the NDIS highlight just how important it is to plan for adequacy resource these industries. These are low-carbon, high social value jobs of the future, yet the financial reward and support is currently inadequate. These industries must attract living wages, security, good conditions and respect. Emerging trends in these industries evidence the rising insecurity of work and the negative impact it has and will continue to have on workers and the wider Australian economy. Governments have a role to play in resourcing and investing in sustainable and caring industries of the future.

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The term gig economy is often used as shorthand for many of the broader trends of technological change and has taken on an almost symbolic meaning in future of work discussions. Here, the gig economy refers to digital platform on-demand work. Organising work into on-demand gigs, piece-rates and piecemeal arrangements is embedded in a longstanding history of precarious employment practices that underpin many platform-based companies of the modern economy.

Digital or online platforms are a useful form of social infrastructure connecting two or more groups. As a technological development there is nothing wrong or intrinsically negative with such platforms. The digital platform can act as an efficient means through which to connect supply and demand in a market economy. The negative social consequences for workers and communities associated with digital platforms stems from the structuring of relationships in relation to the technological infrastructure.

The recent findings from the Victorian Government on demand workforce inquiry found that platform work is more prevalent than previously thought and is growing, remaining a statistically small yet significant part of the labour market.<sup>39</sup> Independent contracting arrangements are very common and there has been a steady increase in ABN registrations. For most workers, gig work is typically not their primary income, but an additional source of income; a trend closely associated with growing rates of underemployment. Workers may be “multi-platforming” but doing the same kind of work across several platforms.

Publicly funded industries and sectors are increasingly seeing deliberate government policy to expand gig work as the preferred method of service delivery. While rideshare and food delivery apps have understandably dominated media interest in the gig economy, health and care services are increasingly being outsourced to digital platform employment models. Caring industries have been highly disrupted by the implementation of the NDIS and the advent of on-demand gig work.

The inherent risk for these workers is the downward pressure on payrates and job security by an ‘employer’ who exerts control but doesn’t take any responsibilities and risks of an employer. Workers have expressed concerns regarding health and safety, insurance, issues of unpaid work and the long-term training needs of a growing workforce. Platforms that use non-employment modes of engagement can drive down wages by providing workers at a lower cost than those platforms complying with work laws and Awards. Such downward pressure is of great concern in an industry that already fails to match the social value of the work with proportionate remuneration.

### Examples of Care Sector online platforms

Ubercare

<sup>39</sup> Report of the Inquiry into the Victorian On-Demand Workforce, Victorian Government, June 2020.



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Ubercare (unrelated to the rideshare company) launched in South Australia in 2017, with the company founder stating that traditional agencies are not flexible enough. Ubercare boasts the ability to dispatch a qualified carer within 15-20 minutes of a request.

### **Mable**

The platform Mable (formerly Better Caring) sights flexibility for NDIS users as a key benefit and engages workers as independent contractors who negotiate their own rates of pay. The website states: *"With Mable, you can get so much more flexibility from your NDIS package. You get to choose support workers that are right for you, to pursue your passions, achieve your goals and get out and about in the community. You choose who, when and where you receive support and even how much you pay!"*<sup>40</sup>

During the Victorian Inquiry into the Gig Economy, Mable CEO Peter Scutt emphasised that care providers are small business owners and as such are responsible for their own dispute resolution. If a user does not make payment to Mable, the worker will not be paid. On the Mable app, users rate worker performance and these ratings are attached to the worker's profile.

The rise in the on-demand workforce in the health and care sectors is concerning as health is Australia's fastest growing industry and should support and sustain well-paid jobs with security and dignity for workers. While short-termism workers underpin precarious gig work, such an interrelationship is incompatible with caring relationships that require continuity of care in order to achieve quality.<sup>41</sup> Recent findings demonstrate that gig economy workers are overwhelmingly those who have been excluded from standard forms of employment: migrants, people with disabilities, the unemployed, and workers for whom English is not their first language.<sup>42</sup>

A long history of undervaluing feminised industries has also contributed to gig economy encroachment in these essential industries. As Australia's population ages, the need for personal care services will continue to grow. The aged care and disability support sector employed 175,800 workers in 2018. This is expected to grow to 245,000 by 2023.<sup>43</sup> These are the low-carbon, high social value jobs of the future. They must be secure and well-rewarded jobs, too.

In May 2020 the Social Policy Research Centre and UNSW Sydney completed a survey of the Australian Disability workforce for HSU, ASU and UWU.<sup>44</sup> The survey included questions regarding online platforms which enable people with disabilities or their families or carers to directly hire and manage workers who are largely operating as independent contractors.

The survey found that among those who had used an online platform there was disproportionality high numbers of workers who were casual, self-employed or on fixed term

<sup>40</sup> <http://mable.com.au/ourstory/>

<sup>41</sup> Flanagan, F (2019) Theorising the Gig Economy and Home Based Service Work, Journal of Industrial Relations, Vol 61(1), 57-78.

<sup>42</sup> Report of the Inquiry into the Victorian On-Demand Workforce, Victorian Government, June 2020.

<sup>43</sup> Ibid.

<sup>44</sup> Dr Natasha Cortis and Dr Georgina Van Toorn, Working in new disability markets: A survey of Australia's disability workforce, Social Policy Research Centre, May 2020.

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contracts. There was also a higher proportion of workers who were newer to disability services, with 42 per cent with less than five years' experience compared to 24 per cent less than five years' experience who had not used a platform.

Feedback from workers was largely focused on the risks workers saw associated with platforms. One survey participant:

*"There is no supervision, no safeguarding, minimal training. 'Support available' to staff but an effort to access, not a delegated manager etc. Support or management of [the platform] have no idea about service users when approaching for support. Accounts of the service users can have little to no or inaccurate, uninformed information. It's a regular practice for employees to spend an hour to meet a potential participant unpaid. Worst of all in the case of after hours support there is no one to contact. I once saw a job that a woman had posted saying she was suicidal and needed help and aside from attempting to contact the service user there was no way to contact [the platform] staff to ensure the safety of this participant".*

Other comments focused on remuneration, seeing work offered through platforms involved low rates of remuneration. A key issue was that the fees charged by the platforms were high:

*"The platform charges it's clients an extreme amount and takes a large chunk of our payment. Fees on [the platform] are excessive. I don't earn super as my hours are below the minimum".*

A further source of risk related to processes for getting paid:

*"After submitting hours worked clients can take a long time to approve which can cause delays in payment. Clients can also cancel shifts without notice at any time. This causes us to not get paid for the time we were rostered on even if they do it on the same day".*

The rise of digital on-demand work must be understood in relation to the rise of on-demand and precarious work more generally in a climate of deregulation, austerity and the disenfranchisement of unions and workers. Addressing the problems in the gig economy requires changing the Federal industrial relations regime to address insecure work more generally. Lifting market conditions and standards in public sectors and the not-for profit government funded sectors will ultimately improve create high quality jobs that meet the needs of all workers and save them from being forced to accept low quality gig work. This would also apply market pressure on gig economy platforms to improve conditions in order to attract workers.

### Poor Government Leadership

Another emerging trend is the rising insecurity of employment that was once considered secure due to disruptors such as poor government policy and lack of funding. A prime example of this is the aged care sector. Work that was once considered relatively secure has dramatically changed in recent decades and can now be characterised as insecure.

The aged care sector is characterised by a range of working conditions that are not conducive to secure and quality jobs. These include (but are not limited to): low wages; inadequate or

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unpredictable hours and a reliance on contingent employment arrangements; excessive workloads and inadequate time to care; limited career opportunities; inadequate supervision; inadequate training and peer support and major institutional and funding pressures.

*"I've worked as a carer in aged care for 46 years across multiple organisations. I started when I was only 15 years old. Nowadays, it would be very rare to see a 15 year old working in aged care as times have changed. The job of a carer has also changed dramatically in my time. Now the increasing complexity of care needs is a real issue for carers. So many people are coming into aged care as residents further along in their life. At the beginning of my career, people came into aged care as residents at a low care level and would enjoy 10-15 years at the facility. Now, people coming into aged care tend to be at the end of their life and we only really have them for 2 years before they pass away. This significant change has increased not just the physical demands of the job, but also the mental and emotional demands, as carers constantly have to say goodbye and deal with grief more regularly. The workload has increased so significantly over my 40 year career. So now, our time on the floor is very limited. We simply don't have time for providing emotional support to residents like we used to. Yet, at the same time, the residents in need of emotional support is greater than ever before. Over the years, carers have seen the burden of paperwork increase and therefore the hours spent with residents has decreased. Now it is all about getting things done as fast as possible and then doing paper work - yet all we want to do as carers is to be on the floor and care for residents. We need more time with residents, not at a computer justifying every dollar. In essence, we need more funding for quality care".* – Residential aged care worker

### Safety

Staffing shortages in aged care are a health and safety risk to workers, as well as residents and care recipients and contribute to the insecurity of work. Workers are increasingly placed in demanding and dangerous situations due to insufficient staffing and support. Workers face physical injuries and the emotional toll of care work is compounded by high workloads. The negative effects of staffing shortages are exacerbated by increasing complexity of care. Personal care work inherently entails a level of risk that must be mitigated through practice grounded in occupational health and safety. As the experience of behavioural and mental health conditions such as dementia increases, increased risk of harm to staff has gone unchecked by the existing staffing model.

*"We feel like they expect for us to make miracles and safety is not considered. It is really hard working {short-staffed} in high care as a lot of people are two-assist, which means they have to use two staff or part of their care needs. In particular you need two people to lift them in or out of the bed or a chair."*

*"The extremely heavy workload every single shift. It's not fair having to work so hard and fast every single shift. It's physically and mentally very draining."*

*"The abuse from residents is only going to get worse. I have had broken wrists from residents grabbing on, saying, 'No, I don't want to be moved. I don't want to shower. I'm not going to eat,' so they grab your wrists. Your wrists get pretty tender after a while, so I*

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*have had both wrists broken quite a few times. I have had my arm pulled out of its socket and ribs taken off the front and the back by that injury. That took me two years to come back from. I have been stabbed with scissors. I have been stabbed with forks. I have been pushed, punched, kicked, had hair pulled out from people who do not know what they are doing. That is the risk that we take every day when we are out on the floor':*

### Isolation

Home care workers are inherently 'isolated' at work. They work alone, and do not have fixed, regular places of work. As a result, home care workers lack many of the supports and networks available to residential care workers. It is resultantly difficult for home care workers to form networks, and for the union to connect with home care workers in their workplace. Further, the home care industry itself is largely desegregated. Unlike residential care in which large private providers with a significant number of facilities constitute a large proportion of the sector, home care is characterised by a proliferation of smaller, localised care providers.

### Unpredictable hours

Unpredictable and inadequate hours are a significant feature of current aged care work that can negatively impact on job quality and thus the quality of care provided to residents. Security of hours is undermined in the residential care setting through changes to roster arrangements which typically result in a reduction of rostered hours for many part-time employees. Where employees are on minimal hour contracts, or where their contracts of employment don't adequately reflect the number of hours they actually work, they may have no legal recourse to address a sudden and significant reduction of hours.

In the home care setting, where work is more immediately driven by client demand, security of hours is a significant problem. Home care workers are typically engaged on minimal-hour contracts by which the provider commits only to provide additional work within the employee's stated availability as it becomes available and based on client need. Many workers will indicate a wide span of availability, so as to maximise their hours of work, yet there is no obligation on the employer to provide any more than minimum contracted hours.

Further, workers can be effectively rostered on for an entire day but only be paid for a small number of hours when they are with a client. The pervasiveness of these split or broken shift arrangements means it can be hard for people to gain additional work and takes them away from family and other responsibilities for lengthy periods of time for which they are not being financially compensated. Such workers are essentially 'on call' without pay. If the worker reduces their availability with the provider (for example, in order to gain work elsewhere), the provider may reduce the worker's minimum contracted hours to the extent of the reduction in availability.

This variability of earnings means workers have no certainty over meeting bills and planning for the future and throws into doubt an individual's eligibility to claim various forms of social benefits. While weekly income can frequently be inadequate, the need to be available for work when required by the employer hinders the ability of workers to take up other employment. The need to respond to calls to attend work, frequently at short notice, disrupts life outside



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work and places particular strain on families and arranging care for children. This is particularly problematic given that the majority of the aged care workforce is women.

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### 4. Effectiveness of Industrial Relations System

An effective industrial relations system is one that ensures the dignity of workers by protecting the right to fair and just treatment in the workplace, fair and just access to wealth and security, and allows people to have a voice in their workplaces and communities. Australian workers need a participative industrial relations system that is fit for purpose in the modern workplace.

The current industrial relations system is failing workers. The balance of power has tipped so far that it is now solely in the hands of employers. Big business and successive conservative governments have reshaped our national economy and values so it is now considered acceptable that people who go to work every day should live in poverty. Nationally, workers are facing attacks to their rights at work, the minimum wage has fallen below the poverty line, avenues for dispute have become so costly and complex they can be considered inaccessible for most workers and wage theft is now so common that it has become a business model for some employers. Working people need better and stronger rights at work to keep up with the growing power of employers and reverse growing inequality.

The COVID-19 crisis has shown once again that workers need to redesign our industrial relations system to make it fit for purpose, work for *all* workers, and to adequately regulate the employment relationship under conditions of ‘fissured’ as well as direct, employment.

#### Union Rights

Restoring freedom of association for all workers in Australia is integral to eliminating worker exploitation. Exploitation occurs because workers’ voices have been diminished and their rights to organise and advocate through their union for improvements to living standards and workplace rights have been under persistent attack. Workplace unionism creates a ‘virtuous circle’ of legal compliance, worker engagement and mutual striving for high standards. Such cultures of compliance are decentralised and self-sustaining; they do not require external surveillance by state agencies or complaints-based detection strategies. By coming together and taking action, unions can transform the working lives of working people. UWU calls for improved right of entry and access for unions to workplaces to make this transformation happen. This is especially important as we move into a more competitive, and thus exploitative, economy.

UWU also demands the removal of restrictions on workers taking industrial action and collectively bargaining. The right to strike is a fundamental organising right and a key means for workers to further their industrial, economic and social interests. Australian laws on industrial action put Australia at odds with both international labour law standards (which permit sympathy strikes as long as the original strike is lawful) and the industrial law frameworks of most OECD countries. This needs to change and be reflected in Australian legislation if we are to develop a system that values essential workers in more than just words.

#### Collective Bargaining Rights

The fundamental goal of collective bargaining is to provide workers with a democratic and effective mechanism to counterbalance the concentrated economic power possessed by employers. Unfortunately, millions of workers have not seen reasonable, reliable or sustainable gains from workplace enterprise bargaining. In fact, many workers have lost out.

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Currently in Australia, one in four people are being paid the barest legal minimum.<sup>45</sup> In many cases that's hardworking Australians earning a wage of less than \$700 a week. Four in ten people rely on insecure work.<sup>46</sup> That's forty per cent of Australians not knowing from one day to the next whether they will work enough hours to put food on the table this week. The impact of this wage crisis is clear, sustained and devastating. Business models have been set up to deliberately rip off vulnerable groups in the labour market. Whole classes of workers experience regular and systemic exploitation. Good people, doing decent and meaningful work are living in poverty.

*"I work as an educator in long day care, I earn \$650 roughly a week after tax. If I miss a day because myself or my daughter is sick it means I cannot afford a bill the following week."* ECEC Educator, Queensland

*"I work weekends and nights till at least 4am. I'm then up at 7am for the school run. My pay has been dropping dramatically over the past few years. I'm still a casual, no sick pay, no paid holidays."* – Hotel Worker, South Australia

*"Living on the wage of school cleaner, 88% of my wage goes on RENT! Never mind paying any other bill or having a life."* School Cleaner, New South Wales

In 1991 Australia's then Labor government embraced enterprise-level bargaining. Enterprise bargaining was supported by Labor and the ACTU as part of the Accord, on the basis that the existing system was too centralised. The new model saw workers bargaining at the workplace level, within a safety net of minimum standards provided by tribunals setting awards. Awards were designed to be a safety net of wages and conditions, underpinning wages growth and acting as a fallback in the rare instance where enterprise bargaining did not occur.

The reality is that more and more workers are dependent on the awards system to maintain their wages and conditions.<sup>47</sup> The award system can no longer be considered a floor but a ceiling capping workers' wages and conditions across large proportions of the workforce, and this number is growing. What was once a safety net has now transformed into a cage, with more working people unable to negotiate for above-award pay.

Even when working people can bargain, the current rules limit their power and protect employer's interests above all else. Further workers are often restricted from directly bargaining for improved job security in their workplaces. Workers should be free to lawfully claim for improvements to job security in whatever way they want without the current restrictions on agreement content and should be permitted to take protected industrial action in support of those claims.

The consequences of the disappearance of collective bargaining are profound for workers, employers and the overall economy. It is clear that the rapid decline in enterprise

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<sup>45</sup> Centre for Future Work, Submission to the Fair Work Commission Annual Wage Review, March 2020.

<sup>46</sup> Change the Rules: The Rise of Insecure Work in Australia, ACTU, 2018.

<sup>47</sup> Alison Pennington, On the Brink: The Erosion of Enterprise Agreement Coverage in Australia's Private Sector, Centre for Future Work, 2018.



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agreements coverage in the private sector has been a significant factor in the unprecedented deceleration of wages in Australia. Fewer workers on bargained agreements means lower wages growth. With the collapse in the incidence of private sector collective bargaining and more than five years of wage suppression it is clear that the current system of enterprise bargaining cannot be relied upon to deliver fair and decent outcomes for Australian workers.<sup>48</sup>

### Industry Bargaining

Australia's system for bargaining is at the extreme end in terms of its level of decentralisation. Most other OECD countries have a more moderate mix of coordination and decentralisation. With only 11 per cent of private sector employees covered by a current enterprise agreement, Australia's highly decentralised enterprise-level bargaining system is failing to extend bargaining rights to the majority of workers. Having spotted this power imbalance, many employers have exploited it.

Decades of neoliberal economic restructuring have increased inequality, removed key workplace protections, eroded workers' bargaining power, and led to a dramatic rise in the incidence of precarious and insecure work, underemployment, wage theft, and wage stagnation.

UWU believes that workers must be able to collectively bargain for improved workplace standards with the controlling economic entities across industries and along supply chains. Workers need to be able to bargain with the host business in labour hire; with franchisors; with lead businesses in supply chains; and across industries. Industry bargaining is a necessity for resolving worker bargaining imbalances created by increased contracting out, labour hire, insecure working conditions, decentralised working and attacks on unions that create barriers for union power in the workplace.

The case for implementing this change in Australian labour law is even stronger in light of the devastating impact of the COVID-19 pandemic on workers. Inclusion of all workers in a functional system of collective bargaining, that goes beyond the enterprise that happens to directly employ them, is not just a matter of economic power. It is a vital mechanism to ensure workers have control over the safety of their work, across sectors, industries, franchises, labour hire arrangements, supply chains – or however work is configured.<sup>49</sup>

### Case Study: Fresh Food Supply Chain

One example of a continuing plan to turn around this systematic suppression of worker dignity has been the UWU's commitment to organise along the entire Fresh Food Supply Chain. The union had always maintained high membership and bargaining activity in food processing and distribution. The decision to organise further upstream in the supply chain, in the fresh food sector, was predicated on a number of interconnected factors. First, the investment in control of the fresh food supply chain by the major supermarkets. Second, the supermarket strategy of

<sup>48</sup> Alison Pennington, "The Fair Work Act and the decline of enterprise bargaining in Australia's private sector" *Australian Journal of Labour Law* 33, 2020.

<sup>49</sup> Block, S. and Sachs, B. 2020. *Clean Slate for Worker Power: Building a Just Economy and Democracy*. Labor and Worklife Program: Harvard Law School.



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moving risk from themselves to the workers through formal contracting out of labour provision, through to more shadowy and extremely exploitative arrangements prevalent in fresh food production.

It was clear to the UWW that without linking workers together through supply chains, the highly exploitative employment practices in fresh food would slowly move through the supply chain controlled by the major supermarkets. The union's response to the limits of the current enterprise bargaining scheme has been to create a nationally coordinated bargaining approach, which has had some success in pushing back against the shifting of risk onto workers. Through coordinated and synchronised bargaining, workers have won secure and direct jobs and an end to outsourcing in some instances. Logistics workers have supported farm workers by establishing and prosecuting shareholder resolutions for labour rights. Both groups of workers have attended company AGMs to speak in support of one another.

These solidarity actions have seen thousands of farm workers subjected to precarious and exploitative arrangements join the union and collectively bargain for basic labour rights. The major supermarket retailers that have established enormous control over their supply chains now sit down with the UWW and recognise their role in the working conditions of farm workers. While this recognition is hard-won and fragile, the supply chain organising approach (even within a legal scheme hostile and ignorant of modern employment methods) is building solidarity and hope amongst workers that they do deserve jobs that they can count on.

While its precise shape requires much further consideration, for industry bargaining to be successful it must follow these three principles:

- It must be universal: it must meet the needs of workers who have fallen through the gaps in the current system.
- It must be accessible in that all workers, including labour hire and contractors, must be able to benefit.
- It must give workers a real voice and restore their power to determine their living standards.

### IR Omnibus Bill

While UWW strongly believes the current system of industrial relations system is not working, the recent attempts to reshape the system as proposed by the Federal Government are clearly not the solution. Under the guise of helping Australia to re-build the national economy during a global health pandemic, the Morrison Government made a clear promise to all Australians - no worker would be worse off. They have broken that promise.

UWW strongly opposed the *Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020 (the IR Omnibus Bill)*. The legislation was designed to make insecure workers even less secure; to allow employers to rush through enterprise agreements that undercut the safety net with lesser scrutiny; to lock some workers out of enterprise bargaining for unacceptably long periods; and, to replace more effective criminal sanctions against wage theft with less effective ones. Despite this, the IR Omnibus Bill has now passed both houses of parliament, albeit with significant amendments. The Bill as passed will leave workers worse off

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and will have a significant negative impact on those workers whom we have relied on to deliver us through the COVID-19 pandemic.

The IR Omnibus Bill completely tips the balance in favour of big business. This legislation is nothing more than a return to a WorkChoices, pro-business offensive aimed at slashing wages and resetting work conditions to boost profitability at the expense of everyday working Australians.

Specifically contributing to the rising insecurity of work, the IR Omnibus Bill introduces a new expansive employer-controlled definition of casual work, alongside weak and unenforceable permanency conversion rights. This will expand employer power to engage workers, and keep them, as casuals. Further amendments relating to part time workers that allow for the expanded use of minimum contracted hours will further exacerbate insecurity of hours. Instead of addressing the rising insecurity of work in Australia these amendments will increase the levels of insecurity for all Australian workers.

UWU has made both written and oral submissions to the Senate Standing Committees on Education and Employment inquiry into the IR Omnibus Bill on behalf of our members. UWU members have also appeared as witnesses before the Senate committee and given evidence as to the detrimental impact the IR Omnibus Bill will have on all Australian workers. We do not intend to recite our objections to the Bill here other than to reinforce our position that it will increase insecurity for workers

Quotes attributed to UWU members who appeared as witnesses to the senate inquiry:

*“Along comes this Bill and I’m sick to my stomach. This legislation is a kick in guts to workers like me who have already been brought to our hands and knees well before the pandemic arrived. We are tired and battle weary from decades of fighting for our basic rights and entitlements. We’ve suffered gaslighting, wage stagnation and exploitation and now you want to put forward a Bill that further entrenches these abuses. On behalf of my fellow hospitality workers. How dare you”. – chef*

*“Every time this government changes things to improve jobs growth it just leads to insecure work. Your jobs figures do not tell the truth, you are not creating secure jobs you are creating under employment, increasing workers vulnerability and this bill is just more of the same on steroids. We cannot have an economic recovery by hurting workers. The scales are already tipped against us and your bill is threatening to take away what little protections we have left”. – cleaner*

*“My experiences are not unique. There are so many in the hospitality industry who undermine good businesses and who treat their staff as expendable and disposable. All this legislation does is make it easier for those businesses to continue on and increase their power over workers. All this legislation will do is ensure workers like me continue to be exploited, for wage thieves to get away with it and for our economy to take even longer to recover.” – chef*

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*“Our employer has not been bargaining in good faith, in fact they spent several months ignoring us all together. The cost of living continues to rise, and our wage increase is put on hold while our employer uses stall tactics to wear us down. Every day this is dragged out we “the workers” are losing money and we have no commitment to backpay. We are not asking for the world either, but the offers coming our way do not recognise the hard work we put in to make the mega profits that this company is making. Our employment is based on fixed term contracts, we could lose our jobs every time that contract goes out for tender. And we have no right to redundancies either. The quickest way to trim fat and remain competitive is to cut the wages and conditions from workers. It is a race to the bottom for workers and mega profits for companies. Instead of job security we were offered sympathies. How are we supposed to have any dignity in our jobs when we are treated with no empathy or respect?” – groundsman*

*“I have been working for the same employer for over 6 years. I love my job, but things have been hard. I must know the terms of my agreement well because my employer seems to forget their obligations under our Enterprise Agreement. I have been underpaid, denied overtime rates and it’s been left up to me to have to chase things up. It is not easy to raise these issues and I worried about loosing my job every time that I had to ask for what is my minimum entitlements.” cleaner*

*“I have been working in the security industry for more than 21 years. During this time, I have come across, many instances of wage theft and sub-contractors who pay their staff cash in hand, and always under the minimum wage. Workers like me want to see Government fix the problems that currently make it easy for companies to take advantage of workers and underpay them. Instead this federal government is attempting to undermine our wage theft laws.” – security*

*“I have worked as a casual bartender in the hospitality industry for eight years, and have been paid correctly by one employer out of six. I spent over three years working for one of Australia’s largest hospitality companies with neither casual loading nor penalties. Whenever I queried this, I was gaslit and made to feel undeserving of legal pay. I worked without receiving breaks or overtime pay, and was forced to comply. I was asked “do I want to let down my team?” I was told that other people would happily take the hours, and if I want to work less, that it could be arranged. “It’s the same everywhere”, they said. In my experience, they’re not wrong. We most often have no option but to accept illegal pay” – hospitality*

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### 5. Government Procurement

Effective procurement policy should actively encourage the security of work and not undermine it. Businesses who engage in unethical behaviour or who allow poor business practices to operate in their supply chains should not benefit from government contracts. Where governments engage private suppliers, procurement policy should recognise the businesses that do the right thing and reward those that put Australian workers first.

UWU members share with the broader community the desire for a good life and a fair society. Governments are elected to serve the community and this service should be accountable, transparent, and democratic. Our members believe that the delivery of high quality, well-funded public services should be a priority for the State Government.

### Privatisation of Public Services

UWU fundamentally believes essential public services should not be operated by for-profit, private companies, but from the public sector which aims to provide the best possible service to the Western Australian community.

Privatisation and outsourcing directly results in insecure work, lower wages, casualisation and sham contracting. Privatisation erodes workers' conditions. In a profit-driven race-to-the-bottom, private providers invariably seek to increase workloads, curtail staffing levels, reduce training and cut workers' wages and entitlements. Service contracts frequently lack effective mechanisms for ensuring labour standards. Moreover, contract provisions may prohibit workers from disclosing information deemed 'commercial-in-confidence'. Such provisions may discourage workers from reporting OHS violations and other infractions of their rights to fair, safe and secure employment.

UWU recommends essential sectors that make goods or services society universally relies upon should come under public ownership, including firms in the following sectors:

- Energy
- Health and care
- Early Childhood Education
- Telecommunications
- Transport

#### Case Study: Publicly funded ECEC

The Governments provision of 100% publicly funded early learning education for all Australian children during the COVID-19 pandemic shows that Governments can choose to fund essential services that make workers lives better and the Australian economy more productive. While this emergency funding should be increased to meet increate demand, the welcomed change presents an opportunity to rethink the entire funding structure and system of early learning. If such an essential sector cannot work in a crisis then it isn't working. The Government must move towards a model that offers universal, affordable, high quality early learning that is delivered by valued and professionally paid educators and teachers.

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### Worker Exploitation in Supply Chains

Where governments do engage in contracts with the private sector, procurement policy must follow best practice and support the awarding of state funded work to those who meet the highest ethical and labour standards across their business and throughout their supply chains.

However, rather than being a model for the private sector, government has, on occasion, participated in a race to the bottom when awarding supplier contracts, particularly those that are labour intensive such as cleaning, security and hospitality. It is an unfortunate reality that many State and the Federal Governments have existing contracts with companies who are guilty of worker exploitation either directly or through a sub-contracting arrangement. These contracts undermine any progress towards secure employment for workers in those industries and are ultimately a direct result of poor procurement policy.

Problematic practices and a lack of regulation around supply chains; labour hire; sub- and sham- contracting; migrant workers; and procurement all make worker exploitation part of doing business in Australia. The failure to properly regulate employment relationships and the lack of effective mechanisms to address wage theft has enabled a culture of lawlessness to become entrenched across large segments of the Australian economy, affecting all workers in these industries, and rendering migrant workers particularly vulnerable.

It is the incredible irony that the purchaser of services, being the government, may not know who is ultimately being paid to deliver the service on their property. Many clients are prepared to accept this risk and relinquish control due to the benefit of lower costs associated with deregulated employment relationships. Purchasing services in such a way means end users, including governments, can relinquish responsibility for what is occurring in their supply chains whilst financially benefiting from what is far too often the exploitation of workers.

Ultimately, UWU considers that direct employment is the preferred model for service delivery, wherever possible. As outsourcing, subcontracting and sham contracting, has swept through the labour market in Australia, our members have witnessed the absolute degradation of their employment standards. These arrangements fundamentally undermine workers' rights and conditions. While we do not suggest that all operators who engage in deregulated employment relationships such as subcontracting are unscrupulous, it is clear there are systemic issues in which warrant significant action by Government.

The practice of outsourcing in cleaning and security requires companies to tender for contracts on the basis of very low wage costs and applies powerful economic disincentives to employers to offer fair wage rises or decent work conditions. Under such industry conditions – where adhering to the law is likely to send you out of business, and the chance of being punished for non-compliance with labour laws is low – worker exploitation becomes a rational business decision.

Large companies have enormous market power and often offer contracts on a 'take it or leave it basis', with an overwhelming focus on price rather quality or capacity to deliver. The going tender price tends to remain static, and is often unresponsive to rises in labour costs, public liability insurance expenses, and even CPI. Contractors who wish to survive in such an environment must conform with the de facto norms of the industries, which involve ruthless

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cost-cutting, promises to perform the work at or below cost, and doing and saying ‘whatever it takes’ to win contracts in the short term.

Despite claims to superior levels of ‘innovation’ and ‘efficiency’, it remains the case that many contracts are for sums that are so low that they cannot possibly be adequate to enable the contractor to deliver quality services without either paying unlawfully low wages, intensifying work and/or cutting costs on equipment.

Both the cleaning and security sectors rely heavily on the practice of sub-contracting, a corporate structure that results in a much higher incidence of exploitation and unlawful behaviour than arises from direct employment relationships. The layers of contractual obfuscation often mean it is very difficult to ascertain the nature of the employment relationship, the actual entitlements being provided to a worker, and even who the employee is engaged by. In the unions experience contraventions of the award in both the cleaning and security industries is common, with the frequency of breaches becoming exponentially higher once a second-tier or more of subcontracting is introduced.

Many workers in these supply chains are not receiving payslips, are paid a flat cash rate for all hours worked (and so are not paid minimum wages, part-time allowances, night shift, weekend or public holiday penalty rates), do not receive overtime, do not receive superannuation, and are often unable to provide a clear indication of the business which has employed them. While they may be wearing a uniform with the Wilson Security logo on it, guarding a site for which Wilson has the contract, they are actually legally employed by a sub-contractor two levels down from Wilson, at lower, often sub-standard wages, and with none of the entitlements and job security the directly employed officers receive.

### Case Study: Subcontracting in Security

While we do not suggest that all contracting operators are unscrupulous, it is clear there are systemic issues in the cleaning and security sectors which warrant significant action by Government at the procurement level.

*“In my three years in the industry I have always worked as a subcontractor. The big firms don’t want to employ me. I’m an international student and have working restrictions. They just subcontract me through a smaller firm. I’m wearing the company’s uniform, but I’m hired by subcontractor – the main company doesn’t want to take on the responsibility. To be honest it’s so bad, they bully, blackmail, threaten you. Encourage everyone to work on cash only or a bank transfer. We get a flat rate, sometimes as low as \$13 an hour. When I have asked to be paid what I should be they just laugh and say if I won’t work for that then they will just find someone else who will. I need this job so what choice do I have?” – Security Worker*

*“Subcontracting is the biggest problem in our industry at the moment. It’s a joke- there’s no respect for workers. Subcontracted security workers lack experience, continuity, and job security—the company treats them like garbage. I worked at a job site earlier this year where 70 per cent of the security workers were subcontracted. They were all migrant workers and some of them told me they were on \$21 an hour and that was flat rate, no allowances, no supply uniform, the whole lot.*



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*Some of these workers were doing back-to-back job shifts across different work sites—a major health risk during this virus!” – Security Worker*

*“There are always sub-contractors at my worksite. One worker said he’d see me in 12 hours for another shift after he’d already done a 12-hour shift at my site. I told him to have a good res, but he said “I’m off to do an 8 hours work at the bank”. We raised the issue with the company for the guard’s safety and we never saw him again- I’m pretty sure they got rid of him because he’d told us. It’s not fair that he lost his job because we raised issues for his own safety, but that is just what these subcontractors do to their workers.” – Security Worker*

*“I’ve seen guards falling asleep standing up because they’re so tired. I’ve seen car accidents in the carpark when guards have fallen asleep driving. It’s just ridiculously unsafe and unfair because these guys are being paid a flat rate, regardless of weekend or night shift work. They don’t want to talk about visas, money—flat rates – or other jobs. They’re told not to. We see them swapping shirts to go to another job. I just don’t know how they do it.” – Security Worker*

*“They might wear the same uniform as us, but their conditions are totally different. I’ve seen subcontractors sleeping on the job. I don’t blame them; they have to work double shifts or three shifts in a row so they can survive and make ends meet. Some tell me they never get paid on time or paid properly. Subcontracting is a disease that’s eating away at our industry.” – Security Worker*

*“Subcontracting bring the standards down to the bare minimums. People can’t properly make a living/pay bills as a subcontractor. Its largely migrant workers and they are getting paid rubbish. What should be Australian standards it’s a disgrace. Subcontracting in general is an absolute disgrace. It brings down the agreed wages, it forces down wages, it forces down conditions, it forces down entitlements for everyone.” - Security Worker*

*“People doing the sub-contracting they are there because there is nowhere else for them to go. Many of them don’t have knowledge of the industry, they don’t know their rights” – Security Worker*

### Case Study: Hotel Quarantine

The dangers of subcontracting in the security industry were recently brought into stark relief by the Victorian hotel quarantine program. Private security companies, including Wilson, MSS and United Security, were contracted by the State Government to provide security services at quarantine hotels. They then sub-contracted the work to a range of small security contractors.

Employees of the sub-contractors reported being engaged in sham-contracting arrangements, with sub-contractors requiring employees to obtain ABN’s before starting. Employees reported being paid a flat rate of \$25 per hour, which is below the legal minimum. Furthermore, workers were provided with minimal training, limited PPE and were required to work in extremely unsafe conditions.

While Wilson, MSS and Unified Security allegedly included requirements that subcontractors comply with workplace laws and OHS requirements, these were clearly not followed or

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enforced – a phenomenon that is common across the industry. Ultimately the use of sub-contractors in this setting has led to devastating outcomes, with the failings contributing to a sharp rise in Covid-19 cases across Melbourne.

The judicial inquiry into hotel quarantine identified the heavy reliance on subcontracting, and lack of oversight of the use of subcontractors by the government as a significant risk to the success of the hotel quarantine program.<sup>50</sup>

### Effective Procurement Policy

There is much the Federal Government can achieve by improving workers' bargaining power and the quality of jobs by promoting full employment and showing leadership as a major employer and economic actor in the Australian economy.

Businesses who engage in unethical behaviour or who allow poor business practices to operate in their supply chains should not benefit from government contracts. Good procurement policy should recognise the businesses that do the right thing and rewarding those that put Australian workers first. Best practice procurement policy based on the ACT Secure Local Jobs framework that awards government contracts to those employers who show a true commitment to secure jobs and who do not engage in sub-contracting or sham contracting, will ultimately lift market standards and conditions.

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<sup>50</sup> COVID-19 Hotel Quarantine Inquiry Final Report, Victorian Government, July 2020.



### Conclusion

The growth of insecure work is no accident. It is a result of a conscious business model that promotes the fragmentation of traditional employment arrangements and the shifting of financial risk from employers to workers.

All workers are entitled to a fair opportunity to provide for themselves and their families and to work in an economy based on jobs that are safe and secure with guaranteed hours and fair wages. It has always been the role of unions to defend and extend rights at work. Creating and protecting secure jobs and decent working conditions is a top priority for UWU. We are committed to protecting vulnerable workers from exploitation to avoid large numbers of working poor, a disenfranchised underclass, and low intergenerational social mobility.

The rising insecurity of work in Australia has contributed to the sharp rise in inequality that has plagued our society. To restore balance to our labour market we need to restore the voice, rights and dignity of all Australian workers. This Government must commit to significant policy changes that embody and proudly assert the great Australian value of the fair go for all and hold respect for working people at their core.