



Implementation of COVID-19 Measures

CPSU SUBMISSION

8 OCTOBER 2021

Committee Secretary
Joint Committee of Public Accounts and Audit
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Dear Committee Secretary

Implementation of COVID-19 Measures

As the primary union representing Australian Public Service (APS) employees, the Community and Public Sector Union (CPSU) is committed to providing a strong voice for our members in key public policy and political debates.

The CPSU welcomes the opportunity to make a submission to this Joint Committee on Public Accounts and Audit inquiry into the implementation of COVID-19 measures. Our submission is focused on the following Australian National Audit Office audits:

- No. 20 (2020-21) Management of the Australian Public Service's Workforce Response to COVID-19
- No. 23 (2020-21) Services Australia COVID-19 Measures and Enterprise Risk Management
- No. 24 (2020-21) The Australian Taxation Office's Management of Risks Related to the Rapid Implementation of COVID-19 Economic Response Measures

Management of the Australian Public Service's Workforce Response to COVID-19

This section focuses on whether appropriate arrangements were established to oversee and monitor the APS workforce response to COVID-19 and whether efforts to position the APS workforce to respond to COVID-19 were managed effectively.

The CPSU has worked closely with the Australian Public Service Commission (APSC) and APS agencies on the implementation of the APS's COVID-19 response since the COVID-19 pandemic began in Australia in February 2020. In June and July 2020, the CPSU partnered with Associate Professor Linda Colley of CQUniversity and Dr Sue Williamson of UNSW Canberra to conduct a survey of APS employees' experience with the APS's COVID-19 response, and to produce a report entitled Working During the Pandemic. This section is based on the data the CPSU

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obtained from that survey, and the CPSU's own direct experience working with the APSC and APS agencies during the COVID-19 pandemic.

The APS has played a critical role in responding to the COVID-19 pandemic, and APS employees have gone above and beyond their usual duties to fulfil this role. However, the capacity of the APS to effectively respond to COVID-19 has been hampered by a series of flaws in the administrative arrangements that were put into place to manage the APS's COVID-19 response, which are reflective of broader systemic issues in the management of the APS over recent years. Those systemic issues are:

- the Average Staffing Level cap,
- the casualisation of the APS workforce,
- the failure to provide paid pandemic leave to non-APS staff,
- inconsistent pay and conditions,
- an inconsistent approach to work from home,
- communications issues, and
- the decision to defer wage increases.

The Average Staffing Level (ASL) Cap

The capacity of the APS to respond to the COVID-19 pandemic was hampered by the ASL cap currently in place across APS agencies. Prior to the COVID-19 pandemic, the ASL cap was already hampering the ability of APS agencies to deliver services to the community, resulting in an increased reliance on labour hire employees which in turn has caused a hollowing out of in-house expertise in the APS and increased costs in delivering public services.

During the COVID-19 pandemic, the ASL cap had the effect of diminishing the available pool of experienced, permanently employed APS employees available for redeployment to agencies that were experiencing increased demand for services because of the pandemic, such as Services Australia. This experience confirmed that the APS needs an adequate, stable, and permanent workforce to meet demand for government services, particularly during crises such as the COVID-19 pandemic.

Casualisation of the APS Workforce and Reliance on Labour Hire

As noted above, the ASL cap has resulted in APS agencies increasingly relying on casual and labour hire employees to meet the community's need for public services. At the start of the COVID-19 pandemic, the APS did not have a clear and consistent approach for managing its casual and labour hire workforce. Many casual employees reported to the CPSU that they had their shifts cut either partly or entirely at the start of the pandemic. Others reported that they had no access to leave when they were required to self-isolate due to COVID-19 (because of public health orders including orders for people identified as close contacts of COVID-19 cases).

The APS did eventually implement arrangements for casual employees to continue to work during the pandemic (including through redeployment to agencies needing additional capacity, such as Services Australia), and paid pandemic leave arrangements for casual employees required to self-isolate. However, these measures were implemented slowly, and many casual employees lost employment opportunities and income in the interim. Labour hire employees were excluded altogether.

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Failure to provide paid pandemic leave for labour hire and privatised call centre staff

COVID-19 is a health and safety risk yet many doing work for the APS were placed in a situation where there was a risk of being forced to choose between meeting their immediate financial needs and the health and safety of themselves, their workmates, and close contacts because they did not have access to paid pandemic leave.

In 2020, the Australian Public Service Commission published a circular regarding leave arrangements during COVID-19.¹ In this circular, labour hire staff were specifically excluded from these leave arrangements, albeit subject to the same health risks as regular staff.

The CPSU wrote to the APS Commissioner in March 2020, expressing concern about the lack of paid leave for labour hire staff affected by COVID-19 and that it needed to be addressed urgently as an issue of equity and public safety. The response from the APSC was that “with regard to labour hire workers, who are not Australian Government employees, their leave, pay and conditions remain a matter for their parent labour hire companies.”

The CPSU also wrote to the Prime Minister in March 2020, flagging concerns about working arrangements in privatised call centres. This was followed by correspondence to a range of Ministers in April 2020, about working arrangements in privatised call centres run by Stellar that failed to comply with COVID-19 guidelines issued by the Department of Health. The situation required the Deputy Chief Medical Officer to intervene to protect the health and safety of staff.

In July 2020, the CPSU wrote to the Prime Minister asking that labour hire workers and contractors be provided with paid pandemic leave equivalent to leave arrangements available to APS employees. Despite the growing public recognition since that this is essential to reduce transmission, many continue to have no access to pay while in isolation.²

The CPSU’s request for paid pandemic leave for non-APS staff was not based on abstract fears. In the thick of the COVID-19 pandemic, ACQSC asked for staff volunteers to do infection control monitoring visits. While no staff visited a facility that had a known COVID-19 outbreak, assessors travelled in COVID-19 hotspots. Of deep concern was that labour hire staff would be doing these assessments, with no access to paid sick leave, or paid pandemic leave.

The CPSU wrote to Senator Richard Colbeck with our concerns regarding staffing and safety at ACQSC. Noting that converting a workforce to APS employment would take administrative time, the CPSU asked that labour hire staff have immediate access to paid sick leave and paid pandemic leave. Senator Colbeck responded with the following:

- “some highly skilled capable quality assessors prefer to work as contractors rather than employees”

¹ Circular 2020/1: COVID-19 leave arrangements, <https://www.apsc.gov.au/circular-20201-covid-19-leave-arrangements>

² Gerard Cockburn and Sarah Basford Canales (2021, 30 August). Thousands of APS contractors left without vaccination leave, quarantine pay. Canberra Times. Retrieved from <https://www.canberratimes.com.au/story/7407085/thousands-of-aps-contractors-left-without-vaccine-and-quarantine-pay/>

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- “contractors have been advised to contact their labour hire company to enquire about the support and provisions they have in place should they contract COVID-19 or are required to self-isolate.”³

The Commonwealth’s response to the question of pandemic leave for staff employed through labour hire or contract arrangements with responsibility for aged care regulation at the height of the pandemic was “not my problem”, creating a massive risk for both staff and the wider public.

Inconsistent Pay and Conditions

At present, approximately 100 different industrial instruments set APS wages and conditions of employment. Wages and conditions differ significantly across APS agencies. During the COVID-19 pandemic, this complicated and slowed the process of redeploying employees between agencies, as arrangements needed to be negotiated between agencies for seconded employees to maintain wages and conditions. This could have been avoided entirely if the APS had one, consistent set of wages and conditions for the entire workforce.

Inconsistent Approach to Work from Home Arrangements

Working from home was a critical and necessary part of the overall community response to the COVID-19 pandemic, including the APS response. However, several agencies were slow to implement working from home arrangements (including working from home policies) including for employees in non-public-facing, computer-based roles which were clearly suitable for working from home.⁴ This caused significant stress and uncertainty to hundreds of APS employees who continued to be required to report to work in their offices during the pandemic. It also increased the likelihood of APS employees being exposed to COVID-19.

At the conclusion of the various state and territory COVID-19 lockdowns, many APS agencies adopted a staged, sensible approach to returning their employees to working from the office. Several agencies, however, rushed to return workers. In some instances, this occurred prior to an adequate COVID-19 risk assessment being conducted or site safety plans being developed. Again, this caused significant distress to affected APS employees and increased the COVID-19 exposure risk.

The CPSU considers that a significant reason for some agencies being reluctant to facilitate their employees working from home at the start of the pandemic and rushing to return them to working from the office at the conclusion of the lockdowns was concern about the agencies’ IT capacity to support working from home. This reflects underinvestment in IT capacity across the APS over several years.⁵

Communication Issues

The APS response to COVID-19 was also hampered by communication issues. The CPSU received reports that APS employees were given confusing and contradictory information about secondments to other agencies during the pandemic, including conflicting information about whether the secondments were voluntary or otherwise, and the duration of those

³ Community and Public Sector Union (2021). Response to Counsel Assisting’s Final Submissions. Royal Commission Into Aged Care Quality And Safety

⁴ CPSU Analysis *Working During the Pandemic* June – July 2020, page 2.

⁵ CPSU Analysis *Working During the Pandemic* June – July 2020, pages 2 -3.

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arrangements. The CPSU also received reports that several employees redeployed during the pandemic felt inadequately informed about, and trained in, the work that they would be required to do as part of their secondment. This was particularly the case for employees redeployed to work in Services Australia, who were required to manage challenging and distressing situations such as responding to requests for assistance from people experiencing domestic violence and homelessness.

Wage Deferral Decision

In that context, the decision to defer wage increases for APS employees was particularly hurtful. APS employees have been and continue to work harder than ever to meet the challenges of the pandemic. The refusal to recognise that work through a pay increase has not been an effective strategy to support the workforce during the pandemic.

The COVID-19 pandemic continues, and the Australian community continues to be affected. The health, social and economic impacts of the pandemic are likely to continue to affect the community for the foreseeable future, meaning that the community will continue to rely on the effective delivery of public services. It is critical therefore that the issues outlined above are addressed. To do so, the CPSU recommends:

- Removal of the ASL cap. The APS needs a stable, permanent, skilled workforce to respond to the ongoing impacts of COVID-19. Agencies should have the ability to assess and plan for the workforce they require, without being hampered by an arbitrary cap.
- Ongoing employment to be the preferred form of employment across all agencies. To ensure that APS agencies have the stable, permanent, and skilled workforce they require, reliance on casual employees and labour hire employees should be reduced.
- Paid pandemic leave for all staff undertaking work for the APS. Labour hire and privatised call centre staff should be provided with paid pandemic leave equivalent to leave arrangements available to APS employees.
- Consistent wages and conditions across the APS. APS employees should have the capacity to bargain collectively for wages and conditions, across agencies.
- ICT capacity in the APS should be improved. Real investment should be made to increase the ICT capacity of the APS, with this work done by existing APS employees or employees recruited for that purpose.
- Working from home arrangements should continue to be made readily available to APS employees.

Services Australia COVID-19 Measures and Enterprise Risk

This section focuses on declining permanent staffing levels at Services Australia despite growing workloads. This trend has been accelerated by Services Australia's response to COVID-19 with significant increases in casuals and labour hire.

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Declining permanent staffing levels

Services Australia's permanent workforce has diminished from 33,868 people (94.5 per cent of its total APS workforce) in 2013 to only 27,141 people (85 per cent of its total APS workforce) in 2020 - a reduction of over 6,000 employees.⁶

COVID-19 further eroded permanent employment at Services Australia. Appendix 3 from the ANAO audit shows that Services Australia had more ongoing staff before COVID-19 in February 2020 than it did in September 2020. There was, however, a significant increase in intermittent/irregular workers i.e. casuals (58%) and labour hire (79%).⁷

In October 2020, Services Australia advised Senate Estimates it anticipated continuing labour hire, non-ongoing APS staff, APS Seconded and Service Delivery Partner (SDP) capacity to meet demand. The projected demand for a surge workforce (for the COVID-19 response) from December 2020 to the end of the 2020-21 financial year was for up to 1,400 additional labour hire staff to supplement internal redeployment of up to 13,000 experienced staff.⁸ The CPSU is concerned these non-APS outsourced positions will be continued rather than the recruitment of needed ongoing APS employees, driven by the ASL cap.

The decline is despite a shortfall of staff being identified by Services Australia to deal with projected workloads in March 2020. The ANAO audit notes that Services Australia initially requested an increase of staff by 5,000, however, it was revised downwards to 2,000 and instead labour hire was sought to meet the target of 5,000 (excluding redeployments).⁹ Given what is known about the increased costs of labour hire and the previous higher request, it is unclear why this substantial downward revision was made. The only explanation is the ASL cap. Furthermore, rather than casuals, the majority of this target was met through outsourced service delivery partners and labour hire.

Of the \$345.205m in departmental funds that Services Australia received to manage increased COVID-19 workloads, \$109.415 or 31.7 per cent was spent on outsourced service delivery partners and labour hire, compared to \$29.637m on irregular and intermittent employees and \$52.549m on overtime.¹⁰

In many cases, APS employees and labour hire workers work alongside each other in the workplace, but labour hire workers are denied the same working conditions, paid leave, and National Employment Standards entitlements.

The CPSU is concerned by the continued lack of transparency regarding the pay and conditions of labour hire and service delivery partner workers. In a climate of fiscal constraint and low public trust of traditional institutions there must be stronger accountability and reporting on the use of indirect employment.

⁶ Services Australia (2020). Annual Report 2019-2020. Retrieved from <https://www.servicesaustralia.gov.au/sites/default/files/annual-report-2019-20.pdf>.

⁷ Calculations based on data from Australian National Audit Office (2020). Services Australia COVID-19 Measures and Enterprise Risk Management

⁸ Senate Standing Committee on Community Affairs Legislation Committee, Answers to questions on notice from the Social Services portfolio, Question SQ20-000258, Budget Estimates 2020 - 2021 – 29 October 2020

⁹ Australian National Audit Office (2020). Services Australia COVID-19 Measures and Enterprise Risk Management

¹⁰ Australian National Audit Office (2020). Services Australia COVID-19 Measures and Enterprise Risk Management

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Services Australia should seek and obtain the salaries and conditions of labour hire workers and/or contractors for comparison with APS employees doing the same work and declare the reasons for their engagement (e.g. a lack of skills).

To overcome growing outsourcing and the insecure nature of public sector employment and rebuild capability, the ASL cap must also be abolished. Agencies like Services Australia must be provided the flexibility to optimise their resources, including managing their workforce by hiring more permanent staff, within their budget envelope to deliver government priorities instead of sticking to an arbitrary cap. Australia must end its cuts to ongoing staffing levels and convert labour hire and non-ongoing staff to permanent APS staff.

Engaging more ongoing staff has additional benefits. Turnover of ongoing staff is lower than turnover of the variety of insecure forms of employment being relied on by Services Australia for such a significant proportion of their workforce. Higher levels of ongoing employees provide a better trained and more experienced workforce, reducing errors and delays in processing claims for members of the Australian community in need.

Australian Taxation Office's Management of Risks Related to the Rapid Implementation of COVID-19 Economic Response Measures

This section focuses on redeployment of staff within the ATO, the increased recruitment of over 1,500 casual employee and the ATO entering an outsourced arrangement to engage over 2,500 staff from a privatised call centre to meet contact centre demand.

Redeployment

While the ATO was able to response quickly to roll-out COVID-19 related initiatives, the redeployment of staff was not without issues. There was a lack of notice with some staff given less than a fortnight to cease working from home and it was not clear how long staff would be redeployed for. Some staff had to return to the office to do work or receive training at the height of the pandemic. This caused considerable stress, particularly for staff with immunocompromised family members, and could not always be worked through. There were also flow-on effects to other areas of the agency which struggled to manage workloads, which should be recognised.

Casualisation

Since 2013, ATO staffing levels have declined by 3,909 or 15.6% from 25,093 to 21,184 at June 2020. Over that same period, casual headcount increased by 1,018 or 40.2% from 2,533 to 3,551.¹¹ Reduced numbers of experienced ongoing staff, high turnover in outsourced call centres and insecure employment arrangements, have resulted in lesser services which has led to significant rework for ATO staff overwhelmed by the COVID-19 response.

The ATO has a growing reliance on casual employees, many of whom report undertaking work that is ongoing in nature over a prolonged period. As of October 2020, the ATO had 2,918 casual workers on their books, representing 13.9% of their total APS workforce.¹² While there has been a slight decline since then, in June 2021, there were 2,307 casuals, representing

¹¹ Calculations based on data from ATO Annual Report 2013-14 and 2019-20

¹² Australian National Audit Office (2020, December). The Australian Taxation Office's Management of Risks Related to the Rapid Implementation of COVID-19 Economic Response Measures

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10.9% of the ATO workforce. The ASL cap has created this casualisation of the workforce across the APS, the ATO being no exception.

Despite undertaking the same or similar work types as many of their ongoing colleagues for extensive periods, casuals in the ATO are unable to access more than half of the conditions outlined in the ATO's Enterprise Agreement or seek conversion to secure employment. This has come about because of the prohibition on so called enhancements in the Coalition Government's bargaining policy.

While there has been some casual conversion, the CPSU is aware of several casual staff who obtained non-ongoing employment for COVID stimulus work. They will miss out despite the stimulus work continuing. The ATO should provide pathways to permanency for these staff to keep that extra capacity given the uncertain environment that we are currently in.

Privatised contact centres

The CPSU has also a longstanding concern about the use of privatised contract call centres to do core ATO work. Private sector providers have an incentive to focus on the measured deliverables in a contract and may neglect less easily defined outcomes. The more complex the service, the more difficult and more costly it is to effectively monitor service delivery. The PSU has raised these and other issues in our submission to the Senate inquiry into APS Capability (attached at Attachment A).

The CPSU has been informed that some outsourced service provider contracts guarantee a certain level of work to privatised providers. This claim should be investigated as it perversely outsources work when direct employment would be more appropriate and cost less.

Members have raised concerns about re-work, the correction of errors adding to their workloads. Escalating calls back to the ATO is often incentivised by the contract KPIs' focus on call times. This double handing is a hidden cost of outsourcing the work. Instead of creating capacity, outsourcing reduces agency capacity with the agency paying for it.


The CPSU have concerns about work health and safety risks at these privatised call centres. There was minimal to no oversight to ensure site safety plans or COVID-safe practices and the CPSU is aware of multiple call centre being shut down because of COVID positive workers showing up. Attempts to ensure consistency with ATO sites was hampered as there was no clear line of responsibility between the ATO and the privatised providers.

ATO workers also hold genuine concerns for data security because of the privatisation of ATO functions and services, as the security and privacy standards of private providers are not as high. The CPSU has raised concerns that outsourced service delivery partners creates a cyber security risk and we have not been able to get decent assurances that these outsourced providers are not the risk that the CPSU see them as being.

The reliance on increased casuals and an outsourced service provider was a missed an opportunity to rebuild more permanent capacity for the ATO and entrenches a two-tiered work. The further lockdowns in Sydney and Melbourne showed that building additional capacity with secure work should be a consideration for all agencies into the future.

The CPSU is happy to provide information on the matters raised in this submission and supplementary information on other relevant issues.

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For further information, please contact Osmond Chiu, Senior Policy and Research Officer 


Yours sincerely



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