11 March 2005

Dr Anna Dacre
Committee Secretary
House of Representatives Standing Committee on Employment,
Workplace Relations and Workforce Participation
House of Representatives
Parliament House
CANBERRA ACT 2600

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Dear Dr Dacre

RE: Inquiry into Independent Contracting and Labour Hire Arrangements

Thank you for the invitation to provide a submission to your current inquiry into Independent Contracting and Labour Hire Arrangements.

The Queensland Nurses' Union (QNU) welcomes the opportunity to provide input into your deliberations given that we hold strong concerns about aspects of current independent contracting and labour hire arrangements as they relate to nurses, especially the insecure nature of such precarious forms of employment and problems in securing compliance with payment of entitlements for these workers.

The QNU would like to place on record our support for submissions made to your inquiry by the Australian Nursing Federation, the Australian Council of Trade Unions and the Queensland Council of Unions.

Before addressing each of the terms of reference for this inquiry we will provide some background information on the QNU and recent trends in nursing that will provide a context for our submission.

Background

The QNU is the principal health union operating in Queensland and is registered in that state. In addition, it operates as the state branch of the federally registered Australian Nursing Federation (ANF). The QNU represents the largest number of women workers of any union in Queensland.

The QNU covers all categories of workers that make up the nursing workforce in Queensland: registered nurses, enrolled nurses and assistants in nursing, employed in the public or the private for-profit and not-for-profit health sectors. Our members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management.

Membership of the QNU has grown steadily since its formation in 1982 and as at January 2005 total membership was in excess of 32,500 and still growing. The QNU represents over 60% of the total employed nursing workforce in Queensland, with density of membership in the public sector being much higher (estimated to be approaching 90%). Like the nursing profession as a whole, the overwhelming majority of our members are female (93%). The QNU has a democratic structure based on workplace or geographical branches. Approximately 250 delegates are elected from the branches to attend the annual QNU conference which is the union's principal policy making body. In addition the QNU has an elected council and an elected executive, which in turn have decision-making responsibilities between conferences. Council is the governing body of the union.

Predominantly, QNU members in the public sector are employed under federal awards and agreements and in the private sector are employed under state awards and agreements. Since 1994 when no enterprise agreements were in place covering nursing workers, the QNU has become party to over 400 enterprise agreements. We therefore have a clear and comprehensive understanding of the complexity of contemporary health service delivery as well as the diversity of locations where health services are delivered.

The fragmentation of the nursing workforce that has occurred under enterprise bargaining is of great significance. Great variations exist in respect of pay and conditions of employment both within state boundaries and between states. This creates distortions with regard to the supply of nurses. (Before the introduction of enterprise bargaining, all nurses in Australia except for those in New South Wales had nationally consistent rates of pay no matter where they worked). Many QNU members work across both the public and private sectors. Such employment arrangements may be of a casual or permanent nature. Employment arrangements vary greatly and it is difficult to obtain detailed information about the exact nature of employment arrangements for nurses employed through nursing agencies. (Information that the QNU has on these arrangements is provided below).

Recent trends in nursing

We believe that it is useful to have an understanding of recent trends in nursing as this provides a context for the issues under consideration by your inquiry. The following information is obtained from the Australian Institute of Health and Welfare's (AIHW) Nursing labour force publications.

Nurses are a significant occupational group. As stated previously, nurses are the largest occupational group in the Australian health workforce, representing 54% of the total employed health occupations in 2001[1] and just over 40% of the total Queensland Health workforce[2] in that same year. As such we are well aware that because of the size of the nursing workforce there is often reluctance by government to address nursing concerns because of the budgetary implications. (Whether employed in the public or private sectors, acute, community or aged care, funding by government - state/territory and federal - is critical to the delivery of services). Nursing, after teaching and administrative personnel, is the third largest single occupational group employed by the Queensland government.

Nursing remains a highly feminised occupation. Over 90% of nurses are women, although the proportion of male nurses in the profession increased by 1% between 1995 and 2001.[3] However the distribution of male nurses in job classifications and salary ranges is interesting to note with male nurses slightly under-represented in the lower levels (and salary ranges) and over-represented in the higher levels.[4]

The nursing workforce (like the health workforce and the community generally) is ageing. The average age of employed nurses was 42.2 years in 2001, having increased from 39.3 years in 1995.[5] The health and community services sector workforce is older and ageing more rapidly than the rest of the workforce. The number of employed registered and enrolled nurses under the age of 35 years decreased from 29.5% to 24.7% between 1995 and 2001 while the percentage aged over 45 years increased from 29.5% to 41.7% over the same period.

Over 50% of nurses are working part time. The number of nurses employed in a part-time capacity has steadily increased in recent years. In 1995 less than half (48.8%) of nurses worked part-time and by 2001 this had increased to 53.7%.[6] At the same time the average number of hours worked per week has decreased from 32.4 hours in 1995 to 30.5 hours in 2001.[7]

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[1] AIHW (2003), *Health and community services labour force, 2001*, Canberra page xiv.
[2] Queensland Health (2001), *Annual Report 2000/2001*, page 35.
[3] AIHW (2003), *Nursing labour force 2002*, Canberra, page 1. Note: AIHW nursing labour force reports only deal with numbers of regulated nurses – RNs and ENs, so this data does not capture unregulated workers performing nursing work.
[4] AIHW (2003), *Nursing labour force 2001*, Canberra, page 23.
[5] AIHW (2003), *Nursing labour force 2002*, Canberra, page 1.
[6] AIHW (2003), *Nursing labour force 2002*, Canberra, page 6.
[7] AIHW (2003), *Nursing labour force 2002*, Canberra, page 6.

Nursing numbers in Queensland are lower than the national average. Queensland continues to fall well below the national averages in terms of both the total number of employed nurses and total fulltime equivalent (FTE) employed nurses. The number of employed nurses (RNs and ENs) per 100,000 of population in Queensland was 1074 in 1995 and 1083 in 2001 compared to the Australian average of 1221 in 1995 and 1176 in 2001.[8] A more meaningful indicator of nursing supply is the number of FTE nurses per 100,000 population. In 1995 the number of FTE employed nurses per 100,000 population in Queensland was 988 (Australian average 1127) and in 2001 this number had decreased to 965 per 100,000 population (Australian average 1024).[9]Although there was a 12% growth in total RN and EN numbers in Queensland between 1995 and 2001, there was a 2.3% decrease in the number of FTE employed nurses per 100,000 population during this period. Significantly the growth in third level unlicensed personnel has been greater in Queensland than any other part of Australia, growing by 47.5% (3.9% per annum) between 1987 and 2001. (Total employment of this category of worker in Queensland in 2001 was 9900).[10]

Pronounced skills shortages exist in all areas of nursing: According to the Department of Employment and Workplace Relations (DEWR) *National Skill Shortage Survey*, the depth and breadth of the skills shortages in nursing remains the greatest of all occupational groups. Workforce modelling commissioned by the recent National Review of Nursing Education predicts that there will be 31,000 nursing vacancies in Australia by 2006 - not so far away! Incredibly Queensland Health and some other employers continue to maintain the line that there is no nursing shortage in Queensland despite all evidence to the contrary.

At the same time changes have also been occurring in the wider community and health sector that have impacted on nurses and nursing. Queensland's population growth is the highest of all states and territories in recent years - between 1995 and 2001 there was a population growth of 11%.[11] . This growth, (which is predicted to continue) has put significant pressure on demand for health services. The Australian community as a whole is ageing therefore increasing demand for health and aged care services. Technological advances and reform in the health sector in recent years has been significant and this has meant changes to care and work patterns. For example, length of stay in hospitals has declined and this has resulted in significant work intensification for nurses, those they are caring for being more acutely ill while in hospital. There has been an increased level of acuity of people across all care settings be this in hospital, community or residential care. Community expectations of care and treatment have also increased significantly in recent years.

What does this all mean for nursing? In a nutshell the nursing workforce is ageing and although there are greater numbers of nurses the actual hours they worked has decreased which means there are fewer nurses caring for sicker and more demanding patients. This situation is only going to intensify given predicted population growth in Queensland in particular and the ageing of the general population and the nursing workforce.

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[8] AIHW (2003), *Nursing labour force 2002*, Canberra, page 8.
[9] AIHW (2003), *Nursing labour force 2002*, Canberra, page 18.
[10] Shah C and Burke G, *Job Growth and Replacement Needs in Nursing Occupations,* DEST (National Review of Nursing Education) Canberra, page 40.
[11] AIHW (2003), *Nursing labour force 2002*, Canberra, page 18.

The nature of this crisis in nursing and its causes has been identified—all that is missing is the political will to address the issues in a comprehensive manner. Some work has been done within Queensland Health through the Nursing Recruitment and Retention Taskforce and subsequent bodies though some areas (especially in relation to establishing appropriate nursing workloads) require further urgent attention. Also, there is an urgent need to establish and support mechanisms to promote appropriate nursing workforce planning across all sectors in Queensland and at the national level.

Specific Terms of Reference for this inquiry

1. The status and range of independent contracting and labour hire arrangements

It is difficult to obtain detailed information on the extent and nature of contracting and labour hire arrangements for nurses in Queensland and elsewhere in Australia. For the purposes of this submission we have gathered information from three sources, The Australian Institute of Health and Welfare's (AIHW) latest Nursing labour force publication (*Nursing Labour Force 2002*), a survey of nursing agencies conducted by the QNU in 2004 and independent research of QNU membership by the University of Southern Queensland that was conducted in 2001 and 2004. (Preliminary data only provided for the 2004 survey as at time of writing researchers are still in the process of analyzing data).

AIHW Nursing Labour Force data

The latest national nursing labour force survey by the AIHW (*Nursing Labour Force 2002*) provides only limited information on the extent of employment of nurses by nursing agencies. This is based on surveys of employed registered and enrolled nurses conducted in 2001. Nurses were asked to identify their main work setting and data is only provided on a national basis. Because of the way the survey was structured this would represent a significant under-statement of nurses who are employed by nursing agencies because most nurses using such agencies are employed in a "main" job elsewhere. That is, the agency work is seen by them as secondary to their main employment. (Note: Unregulated nurses such as Assistants in Nursing who are also employed by nursing agencies are also not captured in this survey as they are not regulated by state/territory nursing regulatory bodies and therefore are not surveyed annually).

Extract from: Table 14: Employed registered and enrolled nurses by main work setting: selected characteristics, 2001 [12]

Work setting	Number	% of total	Average age (years)	% male	% registered	Average weekly hours worked	% part time
Employment Agency	1,732	0.8%	40.6	11.3	70.8	25.9	69.3
Total	228,230	100%	42.2	8.4	80.3	30.5	53.7

[12] AIHW (2003), *Nursing Labour Force 2002*, page 15.

This is a relatively small number of the total employed registered nurse and employed nurse workforce. As stated before, this does not represent the total number of nurses who are engaged by nursing agencies as it excludes those who may work for agencies but have noted their main place of employment as being elsewhere. It also excludes Assistants in Nursing and other unregulated nursing workers. There are some interesting distinguishing characteristics of this group who identified employment agency as their main place of employment. Compared to the total number of employed registered and enrolled nurses they are slightly younger, a higher proportion are male, a lower percentage of registered nurses are employed, a higher proportion are employed in a part-time capacity but fewer average hours are worked each week. Also, the accuracy of our database relies upon members advising us of changes in their details such as employer and employment status.

We do not have access to any Queensland specific data on agency nurse employment. However, an examination of QNU membership reveals that of the total QNU financial membership as at January 2005, only 512 members recorded their main employer as being a nursing agency. This constitutes only 1.7% of total financial QNU membership. Again, we believe this represents a significant understatement of nursing agency employment given that many nurses employed by agencies have an additional primary place of employment that would be noted on our membership database as their main employer.

QNU Survey of Nursing Agencies – 2004

In 2004 we noted an increasing number of complaints from members employed at nursing agencies regarding inconsistencies between agencies in contract arrangements and problems with accessing payment of entitlements. One area of particular concern for members was in relation to superannuation matters. Some agencies treat every engagement separately, so despite the fact that a nurse may be working a significant number of hours through an agency, the agency was not paying superannuation until such time that the nurse earned $450 each month with that particular employer. Indeed, the QNU had been informally advised that other nursing agencies were angry that some of their counterparts were circumventing their superannuation obligations in this manner.

We undertook a survey of all nursing agencies operating in Queensland and have made a collated version of the responses available to our members on the QNU website. We undertook a manual search of the telephone and other directories available to us and from this compiled a list of 46 nursing agencies that operate in Queensland. (Eight of these operated from Victoria but stated they provided services in Queensland). A copy of the responses from this survey is attached for your information. Despite following up with the agencies - both in writing and by phone - regarding the survey we only received 11 responses (24% response rate). We particularly stressed to the agencies that we would be providing the collated responses to interested members. Given the acute nursing shortage and high levels of competition between agencies it is surprising that more did not respond to our survey. It leads us to believe that a high proportion of non-respondents may be seeking to avoid paying nurses their lawful entitlements, or at least are not prepared to be open about their employment arrangements and thus enable nurses to make an informed choice about which agency to utilise.

As you can see from the responses to the questions asked, a wide range of practices exists. It appears that in some key areas there is little commonality of approach. Issues the QNU wish to highlight from this survey include:

- The lack of standardised contracts and reluctance by some to disclose the contents of contracts.

- The lack of a standard approach with regard to who is considered the employer of the contracted nurse – this could create confusion and potential problems with respect to ensuring compliance for industrial (including superannuation), taxation and workers compensation matters.

- Differing arrangements with regard to application of industrial instruments – though most who responded appear to pay in accordance with the relevant industrial instrument or above the rate stipulated in the instrument. (There was also a degree of confusion expressed about industrial matters – see differing responses to question 6).

- A variety of arrangements exist with regard to superannuation, especially in relation to how/when the $450 per month threshold is met – a particular concern given that most state that the 9% SG payment is factored into the fee charged to the health service provider using the agency.

- There appears to be a number of arrangements with regard to professional indemnity insurance arrangements for nurses, depending on the agency. (Also note comments expressed regarding the difficulties experienced in getting professional indemnity insurance cover for all categories of nurses and increasing cost of coverage. It is unfortunate that in respect of professional indemnity insurance the federal government elected to only “bail out” the medical indemnity funds and did not adopt a holistic strategy that addressed this issue for all health workers faced with the growing cost.

- There can be differences with respect to who is considered the employer for workers compensation purposes, depending on the contract between the agency and the health facility, though most respondents stated they were deemed to be the employer for these purposes.

- A variety of views were expressed in relation to the health and safety responsibilities of agencies.

- A range of different “incentives” are provided to nurses who are engaged by agencies.

USQ research – QNU members 2001 and 2004

In 2001 and again in 2004 the QNU commissioned the University of Southern Queensland (USQ) to undertake independent research based on a comprehensive survey of QNU members employed in the public, private and aged care sectors. Although this survey did not seek to particularly address the issue of nursing agency employment, some interesting information can be gleaned from this research about changing employment patterns; the views of nurses with respect to the impact that agency nurse utilisation has on quality/continuity of patient care; and the additional stresses that changes to membership of nursing teams (in the form of unfamiliar agency staff) causes for permanent nursing staff. It is appreciated that nursing agency personnel fulfill an important "stopgap" measure, especially in relation to covering unplanned absences that arise through illness. However there is increasing evidence that in many facilities agency nursing personnel are over-represented. This is especially the case when providers of health and aged care services have failed to address the underlying causes of nursing wastage/turnover and have therefore become over-reliant on the use of agency staff.

It should also be noted that over 82% of respondents to the survey in 2001 identified they had only one paid job in nursing, though there were slight variations across sectors of those with only one paid nursing position (89% of nurses in the aged care sector had only one position, compared to 75% of nurses in the private sector and 84% of nurses in the public sector). The main reason identified for having more than one nursing position was to maintain currency of nursing skills in another areas of nursing. Only a small number of respondents to the survey (between 5-10% depending on sector) identified that they were employed casually, with the greatest number of casual employees identified as working in private hospitals. It should be noted that these nurses may not be engaged by a nursing agency as many health and aged care facilities operate their own casual nursing staff "pools".

Problems with skill mix can relate to a number of factors, one of which may be the high utilisation of agency personnel who may not have adequate skills and experience in that area. As you can see from the table below, there were differences in responses depending on the sector that the nurse was employed in. Differences exist across sectors with regard to a perception that too many agency staff are being used.

In both surveys members were asked whether in their professional opinion as a nurse, over the last 6 months (or less if you have been in your current job for less than 6 months), were sufficient nursing staff employed in your work unit (e.g. ward) to meet patient/client needs (including physical, social and mental health needs)? Where respondents identified that the skill mix in their workplace are never, seldom or sometimes adequate they were asked to identify reasons for this inadequacy. (They were asked to identify all responses that apply).

The following table provides a breakdown of responses (number of respondents in brackets).

Issues of Concern identified related to skill mix	Sector Breakdown - % of respondents identifying concern (2001 and 2004 survey responses)					
	Aged Care		**Public Hospitals**		**Private Hospitals**	
	2001	**2004**	**2001**	**2004**	**2001**	**2004**
Too many inexperienced staff	41.4% (113)	38.2% (83)	41.9% (90)	53.3% (96)	42.9% (97)	36.4% (68)
Too few experienced staff	48% (131)	47.5% (103)	56.7% (122)	67.8% (122)	61.9% (140)	64.7% (121)
Too many unlicensed care providers	15.4% (42)	8.8% (19)	3.3% (7)	2.2% (4)	8.8% (20)	6.4% (12)
Too many agency staff used	19.4% (53)	18% (39)	22.8% (49)	16.7% (30)	34.5% (78)	30.5% (57)
Too many casual staff used	20.1% (55)	11.5% (25)	27% (58)	31.1% (56)	19% (43)	20.3% (38)
Too few relief/agency staff available	22% (60)	23% (50)	34.4% (74)	34.4% (62)	34.1% (77)	32.6% (61)
Lack of funding	47.6% (130)	43.3% (94)	34.9% (75)	22.8% (41)	13.3% (30)	15.5% (29)
Employer policy on skill mix	34.4% (94)	33.2% (72)	14% (30)	14.4% (26)	17.7% (40)	25.1% (47)
Other	10.6% (29)	10.1% (22)	16.3% (35)	10.6% (19)	9.3% (21)	9.1% (17)

Although use of agency staff was not identified as a major source of concern the change in responses between surveys is of interest. For example, the change in responses relating to “Too many agency staff used” versus “Too many casual staff used” for members employed in the public sector for example may arise from the increased promotion of internal casual nursing pools within Queensland Health instead of employing agency staff. The number of respondents identifying that skill mix concerns relate to there being too few agency/relief staff available has remained stable.

Many respondents provided additional written comments that identified problems in relation to additional effort required to ensure appropriate orientation of these staff; the agency staff not possessing the appropriate skill set for the area; problems experienced when high numbers of agency staff are engaged on a shift or on a regular; basis and the potential negative impact in relation to lack of continuity of care. These problems are at times mitigated by agency nurses who undertake regular work in a particular area/agency but the potential continuity of care/patient safety issues associated with the use of agency nurses are significant and therefore add a particular dimension (public interest/community safety) that may not be evidenced in other industries.

It is difficult to separate the issue of the use of agency staff from the context of widespread nursing shortages. These issues are all related and a holistic response to strategies to address demand and supply of nursing service is long overdue. Both employers and nurses have concerns regarding the use of agency personnel. From our members' perspective these largely relate to concerns over standards/continuity of care and the additional time and effort that is often involved in orientating and supervising agency personnel. Many employers also hold concerns about these issues, but another significant issue for them is the additional costs associated with employing agency personnel and the difficulties (and additional time and effort) associated with locating nursing agency personnel when they are required. These problems result from the existing nursing shortages and some employers have implemented a range of strategies to attempt to deal with this problem. For example, many employers run their own "pool" of agency personnel (thus cutting down costs associated with agency fees while at the same time in part attempting to address familiarity/orientation issues). Other employers are attempting to adjust their nursing skill mix and this often involves replacing qualified and/or licensed nursing personnel with unqualified and or unlicensed personnel (who are usually cheaper to employ).

Yet another response has been to limit financial exposure to agency fees by employers forming alliances to tender collectively with agencies for the use of nursing services. For example Health Purchasing Victoria, acting on behalf of various Victorian public health services and one private hospital, sought approval from the Australian Competition and Consumer Commission (ACCC) to jointly tender for nursing agency services and thus contain costs and effort. They had to obtain authorisation from the ACCC to do so because the action could:

> *make or give effect to a contract, arrangement, or understanding, a provision of which would have the purpose, or would or might have the effect, of substantially lessening competition within the meaning of section 45 of the TPA and make or give effect to a provision of a contract, arrangement or understanding where the provision is, or may be, an exclusionary provision within the meaning of section 45 of the TPA.*[13]

The Commission assessed that the likely public benefit arising from this arrangement outweighed any detriment arising from the anti-competitive nature of the arrangement. Such a ruling is not a common occurrence and does have the effect of potentially limiting the earning capacity of agency nurses and nursing agencies alike. We are unaware of any similar rulings in other sectors that utilise labour hire arrangements and would recommend that your inquiry investigate whether similar arrangements in other sectors have achieved ACCC authorisation. It is not that we do not acknowledge the public interest issues involved but rather it appears to us that a double standard may exist. It appears acceptable to attempt to reign in additional costs associated with skills shortages by authorising anti-competitive tendering arrangements for the engagement of agency nurses but would such arrangements be considered in other industries (especially in the male dominated trades area)?

[13] ACCC determination (Dec 2002), *Agreements between HPV and Victorian public health services for the exclusive award of tender to nursing agencies (Public Register No C2001/1712), page i.*

2. Ways independent contracting can be pursued consistently across state and federal jurisdictions

The QNU believes that industrial relations systems in Australia should be sufficiently broad in their scope to ensure that non standard forms of employment, including contract arrangements, are captured. As we have stated previously, some nurse's work across a range of different employers and situations, others find themselves having widely fluctuating hours with the one employer.

In this regard the working arrangements of nurses working for agencies are of particular concern to the QNU. These nurses find themselves in the confusing situation of being deemed employees of nursing agencies or by the WorkCover authority but not necessarily by the Australian Taxation Office. Other interpretations apply depending on whether the issue concerns superannuation, dismissal proceedings, eligibility for retrenchment pay in the event of redundancy or some other common employment occurrence. The QNU has experienced different conclusions as to the employment status of an agency nurse from different authorities on the same sets of facts.

There needs to be consistency with respect to the definitions of employee and employer within the relevant legislation across both the state and federal jurisdictions. This would necessitate a review of definitions used beyond industrial relations legislation. (For example, workers compensation, health and safety and taxation legislation). In recent years there has been a shifting of interpretation by the courts with respect to employment relationships and the various industrial relations systems have demonstrated differing capacity to deal with these changes.

There needs to be robust legislation to ensure that nurses, the subject of these various relationships, be they contracts of service or contracts for service, are able to pursue and uphold fair and equitable conditions.

Such measures should include an accessible unfair contracts jurisdiction.

For example, the Queensland Industrial Relations legislation contains unfair contract provisions (S276). The New South Wales industrial relations legislation also contains unfair contract provisions (S 106). (The New South Wales provisions are favoured by the QNU). On the other hand, the provisions of the Workplace Relations Act (S 127A) are not strong enough in our view. In addition the Queensland Industrial Relations Act provides for deeming certain people to be employees (S 275). We recommend that your inquiry pay particular attention to this issue and urge upon the legislation a strong unfair contracts regime.

3. The role of labour hire arrangements in the modern Australian economy

The QNU acknowledges that there is a role for labour hire arrangements in the modern Australian economy but we do not support the promotion of such arrangements at the expense of permanent forms of employment. Where they do exist then industrial relations systems should continue to, accommodate non-standard forms of employment. Nursing is an occupational group that highlights the need for appropriate forms of labour hire to cover unexpected absences and emergencies.

However, the use of such arrangements must be the exception rather than the rule. In our experience an over-reliance on such arrangements is an indication of poor management and represents a failure of employers to plan for peaks and troughs in activity and implement strategies to recruit and retain nurses. Particular problems exist in the aged care sector where the wages of nurses fall far behind their colleagues in the public and private hospital sectors. The consequent failure to attract permanent staff has led to an increase in labour hire nurses resulting in increased costs to the industry and diminution of care outcomes.

The QNU does not believe that innovation is dependent upon the "flexibility" afforded by labour hire arrangements. "Flexibility" does not ensure quality outcomes, innovation or responsiveness. In our view the formation and sustaining of strong and balanced team structures where authority is appropriately devolved is critical to promoting quality outcomes, innovation and responsiveness. Ensuring continuity and effective team relationships are significant contributors to achieving these ends. Excessive and inappropriate utilisation of labour hire arrangements simply serve to undermine the achievement of these objectives in our opinion.

The need for financial security and job certainty mean that it is preferable that "flexibility" for the employee be achieved through permanent forms of employment (for example permanent part-time work or job sharing) rather than through casual or contract employment arrangements. Significant skills shortages that already exist in occupations such as nursing and the current use of agency or casual nursing staff represents an inadequate band aid response. Projected labour shortages arising from Australia's demographic challenges will exacerbate current deficiencies. In our view a comprehensive range of strategies will be required to address the demand for labour. For example, strategies that facilitate a better balance of work and family responsibilities will be vitally important, especially in a predominantly female occupation such as nursing. The emphasis must be on achieving the requisite change in workplace culture to meet the economic challenges facing Australia rather than focusing on implementing "new and improved" labour hire arrangements. The latter addresses the symptoms rather than the cause.

For too long the focus has been on finding short term fixes to problems and labour hire arrangements are in large part an example of this. Rather the emphasis should be on the strategic – achieving long term economic objectives in a sustainable and inclusive manner. In our strong view this is best achieved in a cooperative, inclusive and constructive industrial relations environment, not a combative one.

4. Strategies to ensure independent contract arrangements are legitimate.

We have in large part addressed this issue throughout our submission. We have an interest in this issue from the perspective of a trade union representing the interests of members be they employed as agency nurses or working alongside agency nurses. Given that our union has both industrial and professional objectives we are also very concerned to ensure the maintenance of high standards of nursing care for the Australian community and therefore our interest in ensuring the legitimacy of labour hire arrangements goes beyond a narrow industrial or economic perspective.

It is essential to ensure legitimacy of independent contract arrangements and the appropriate utilisation of labour hire/independent contactors in the health sector given the community's needs and expectations regarding the quality of care provided and the importance continuity of care plays in ensuring quality outcomes.

Strategies to ensure legitimacy of independent contract arrangements can be found in the following recommendations to this inquiry:

The QNU recommends that:

1. **A national Code of Practice for Contracting Out and Labour Hire should be developed in consultation with unions, employers, government (state/territory and federal) and other key stakeholders.**

2. **Industrial and other relevant legislation (eg. Taxation, workers compensation, health and safety and superannuation) be amended to ensure consistency of approach and definitions exist - especially, to ensure consistency of definitions of employer and employee.**

3. **Specifically we strongly recommend strengthening of existing unfair contract provisions and amending legislation to ensure that employees of labour hire companies, independent contractors and dependent contractors are covered by awards and collective agreements; have the right to join and fully participate in their unions; and are generally subject to the jurisdiction of the relevant industrial tribunal(s).**

4. **The $450 per month earning threshold for the employer liability to pay Superannuation Guarantee for employees is removed immediately.**

5. **Given the obvious public interest in ensuring patient safety and quality and continuity of care there be further close examination of the impact of the use of labour hire and contractors in the health and community services sector.**

Thank you again for the invitation to address this important inquiry. Should you have any inquiries about our submission or require any additional information or clarification please do not hesitate to contact me (or in my absence QNU Project Officer Beth Mohle) on 07 3840 1444.

Yours sincerely

GAY HAWKSWORTH
Secretary