



A.C.T. LEGISLATIVE
ASSEMBLY
COMMITTEE OFFICE

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TION

Insecure work

UnionsACT Submission

TO INQUIRY INTO EXTENT, NATURE AND
CONSEQUENCE OF INSECURE WORK IN THE ACT

UNIONSACT

WE STAND FOR WORKING PEOPLE. ALWAYS.

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Trades & Labour Council of the ACT **ABN 31 724 041 495**

UnionsACT acknowledges that Canberra has been built on the land of the Ngunnawal people.

We pay respect to their Elders and recognise the strength and resilience of Aboriginal and Torres Strait Islander peoples.

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About UnionsACT

UnionsACT is the peak council for the ACT's union movement, representing 24 unions and over 33,000 union members. Many tens of thousands more have their conditions of employment shaped by the work and representation performed by our affiliates.

Formed in 1931 as the Trades and Labour Council of the ACT, UnionsACT and our affiliated unions have campaigned for, and successfully won, a wide array of rights and entitlements for working people in the ACT. These include:

- A range of Awards, including for public servants and other local ACT workers;
- Collective bargaining rights;
- Freedom of association rights, and the rights to be represented by a union;
- Workplace health and safety rights and protections, including Industrial Manslaughter laws;
- Protections against discrimination, bullying and harassment, including rights for LGBTI workers;
- Long service leave entitlements, including portable long service leave;
- Paid parental leave, including paid parental leave in the public service and other sectors;
- Public holidays, including Family & Community Day, Easter Sunday, Labour Day, Boxing Day, and the Queen's Birthday; and
- Paid domestic violence leave.

The ACT has the highest average wages, the lowest unemployment and one of the highest productivity rates in Australia. This is no accident. The high standards of wages, and workplace rights and safety, that working people in Canberra enjoy is due to the work of the Canberra union movement.

Our community's excellent standard of living and quality public services, including schools and hospitals, exists in large part because of the continued advocacy, campaigning and collective bargaining by unions.



UnionsACT represents over 33,000 members, their families and their communities. With over 20,000 community supporters, we are the largest representative organisation for working people in the Canberra region.



Note: UnionsACT has consulted with its affiliates and supports the submissions and recommendations that affiliates make. If there is conflict between a recommendation in this submission and the submission of an affiliate, the affiliate submission should be taken to be the view of UnionsACT.

Summary of Recommendations

Recommendation: ACT Government should fund research into the extent of WHS risks for transient workers.

Recommendation: Introduce license or certificates to protect charity collection workers.

Recommendation: The ACT Government should introduce labour hire licensing scheme, based on the Victorian model, and including a capital requirement.

Recommendation: Introduce mandatory health and safety requirements for public funding of Group Training Organisations (GTOs).

Recommendation: Expand Portable Long Service to entire Private Sector.

Recommendation: The ACT Government should introduce a "Sponsor of Last Resort" law for temporary visa workers.

Recommendation: ACT Government create a Certificate for employers who employ 5+ young

people (via Children and Young People Act 2008).

Recommendation: ACT Government to fund an information service to temporary visa workers and international students.

Recommendation: ACT Government should request additional Fair Work Ombudsman inspectors to be stationed in the ACT.

Recommendation: The ACT Government to work with unions, teachers and curriculum professionals to include workplace rights and workplace safety to college curriculum.

Recommendation: The ACT Government should clarify that the ACT does have industrial relations powers.

Recommendation: The ACT Government should amend the Human Rights Act 2004 to expressly include Article 8 of the Covenant on Economic, Social and Cultural Rights.

Recommendation: The ACT Government should institutionalise genuine tripartite mechanisms with unions and business across its various initiatives and public institutions.

Recommendation: The ACT Government should establish a labour registry and job seeker exchange for the community sector.

Recommendation: The ACT Government should establish an ACT Office of Industrial Relations with inspection and enforcement powers.

Recommendation: ACT Government must cease use of short-term contracts in public service.

Recommendation: ACT Government should completely phase out the use of labour hire and recruitment agencies.

Recommendation: The ACT Government should “in-house” as default for services (e.g. school and hospital cleaning).

Recommendation: ACT Government should use its procurement powers to ensure goods and services providers are compliant with workplace laws and other statutory obligations.

Recommendation: In the absence of a Commonwealth licensing or registration scheme for labour hire, the ACT Government should introduce a scheme, and insofar as possible align it with licensing schemes from other jurisdictions.

Summary

The ACT, as in other jurisdictions, is experiencing a profound change in the nature of work that is undermining the rights and entitlements of working people.

The nature of insecure work, as this submission will assert, exposes already vulnerable workers to exploitation of other kinds, both to do with their industrial and workplace rights, and to their rights to work in a safe environment.

This is particularly evident in minimum wage jobs in the service sectors, but insecure, casualised work is now widespread in areas traditionally considered secure.

ABOUT THIS SUBMISSION

UnionsACT has consulted widely and collaboratively with its affiliated unions, and with Trades and Labour Councils in other jurisdictions, and the Australian Council of Trade Unions. Unions have been encouraged to make their own submissions.

This submission is intended to complement, not replace or supersede the submission of any affiliated

union. UnionsACT would like to thank all of its affiliates for their contributions to this submission.

Unions exist to give working people a voice. To this end, UnionsACT also established an online tool to allow individual workers to make their own submission to this Inquiry. We are aware of several individuals who made a submission using this tool. Many others chose to provide their individual stories and experiences to UnionsACT anonymously. Over 300 local Canberra workers have shared their experiences and accounts with UnionsACT. Fifty five percent of submissions were made by women.

UnionsACT believes that the firsthand accounts of working people who have experienced the detrimental nature of insecure, casualised work should be considered seriously by the Inquiry. For this reason, we have included many of those personal accounts in this submission.

This Inquiry is an important moment for the ACT Assembly to take the issue of workplace exploitation and impact of insecure work seriously. It is not an inquiry that UnionsACT called for – we contend that the issues related to insecure work are widely known – but once the inquiry has run its course, UnionsACT and the 33,000 people we represent will hold the Assembly and the ACT Government to account.

Response to Issues

UnionsACT notes the inquiries undertaken into insecure work, including the Victorian Inquiry into the Labour Hire Industry, the South Australian Inquiry into the Labour Hire Industry, the Queensland parliamentary committee Inquiry into the practices of the Labour Hire Industry, and the Independent Inquiry into Insecure Work. UnionsACT also notes the submissions made by various union peak councils to these inquiries, including the Australian Council of Trade Unions, Victorian Trades Hall Council, Queensland Council of Unions and SA Unions.

This submission is not intended to re-prosecute the arguments made in the submissions to those inquiries. Where possible, this submission adds to those submissions by providing ACT-specific examples, data and evidence.

UnionsACT also notes the jurisdictional limitations in addressing the issue of insecure work. The Fair Work Act is the principle law regulating workplace rights. Nonetheless, the ACT Government does have a range of legislative and regulatory powers affecting long service leave, workplace privacy and surveillance, the employment of children and young people, and licensing and certification of various professions.

The ACT Government also has substantial powers, through the use of commercial contracts, to require

certain workplace relations practices of companies with which it does business. Other governments, including the Federal and Victorian Governments, have used their procurement powers to establish industrial standards. In most cases, the use of procurement powers by governments in this manner is highly prescriptive, regulating every element of the industrial relations activities of contractors including rates of pay, transmission of employment practices, engagement of apprentices and more.

Finally, the ACT Government is one of the largest users of temporary work 457 visas (now renamed TSS visas or temporary skills shortage worker visas) in the ACT. Numerous inquiries and investigations have shown that migrant workers are exceptionally vulnerable to exploitation. This is principally due to the insecure, sponsored nature of their employment: an employer can knowingly mistreat a migrant worker, using the implied or explicit threat that a complaint by the worker will result in the employer withdrawing the visa sponsorship. UnionsACT asserts that the ACT Government has the power to become a “Sponsor of Last Resort” for visa workers who have been exploited and whose visa sponsorship has been withdrawn by the employer. This would allow natural justice and procedural fairness to take its course, so the temporary worker is able to remain in Australia

while their matter goes through the appropriate tribunal or court process.

1. IMPACT OF INSECURE WORK

What is insecure work? There is no standard definition, but UnionsACT supports the definition provided by the Howe Inquiry into Insecure Work:

“Insecure work [is] poor quality work that provides workers with little economic security and little control over their working lives. The characteristics of these jobs can include:

- Unpredictable and fluctuating pay;
- Inferior rights and entitlements;
- Limited or no access to paid leave;
- Irregular and unpredictable working hours; and
- A lack of any say at work over wages, conditions and work organisation.”

The Australian Bureau of Statistics measures casual employment as “employees (excluding owner managers of incorporated enterprises) who were not entitled to paid holiday leave and paid sick leave in their main job.” By this measure, in 2017 approximately 25 percent of employees in the workforce (across Australia) are employed casually. This does not include independent contractors, who make up an additional 9 percent of the workforce.

The ACTU submission to the Victorian Inquiry into Labour Hire, and the Howe inquiry into insecure work, have detailed lists of the impact of insecure work. They include (excerpted from ACTU submission):

- Lower security of employment and higher risk of

underemployment and unemployment: casual employees have double the risk of periods of unemployment compared to permanent employees;

- Lower security of income, hours, overall earnings and reduced predictability and reliability and increased intermittency of pay, including reduced employee-oriented flexibility such as control over hours and days of work and control over quantum of hours (that is, casual employees often receive more or less hours of work than desired). Fluctuating pay is caused by working time insecurity and income insecurity. Casual employees do not have the guaranteed hours and times of work of permanent employees. Some 25% of employees have variable pay from one pay period to the next;
- The variability and insecurity of income that attends casual employment makes financial planning for the medium and long-term very difficult and leads to lower overall wealth accumulation over time;
- Exclusion from leave rights under the National Employment Standards (‘NES’), including annual leave, personal/carer’s leave and compassionate leave, and paid public holidays, as well as notice of termination and redundancy pay. The entitlement to be absent from work during public holidays is weaker for casual employees. The lack of access to paid leave might encourage workers to attend work when they are not sufficiently rested, or sufficiently well;
- Short-term and irregular casual employees are excluded from parental leave, the right to request flexible working arrangements and unfair dismissal protection;
- Lack of, or lower opportunities for, a career path,

Insecure Work in the ACT

ABS Labour Market Statistics, Jul 2014



training and skill development. Employers invest less and less often in training and development of casual employees (and of the casual employees who receive training, they are significantly more likely than permanent workers to have to pay for it themselves). This has the potential to lead to a long-term degradation of the skills base in the Australian economy and undermines innovation, organisational commitment and productivity. The Howe Inquiry report notes that, “Insecure work represents a commoditisation of workers that uses people in an instrumental and short-term manner as opposed to investing in their capabilities”. Hence, as mentioned above, for many, casual employment is a trap rather than a bridge to more secure employment later, especially in low-paid industries and especially for intermittent casual workers. In particular, casual employees are more likely to stay casual or become jobless as they get older and part-time casual employees are much less likely to become permanent than their full-time casual counterparts. Long-term casual employment can deplete the confidence of those seeking permanent employment elsewhere;

- Various adverse health consequences of insecure

work and attendant psychological and financial stress on casual workers and their families.

Casual employment has been closely linked to intensified stress, anxiety and frustration in the workplace and reduced physical health including anxiety about gaining more hours or the need to find secure employment. Casual employment is also linked to unwanted sexual advances in the workplace and suicide;

- Lower rates of unionisation and industrial representation leading to little scope or ability of workers to improve their circumstances through bargaining. Casual workers are more vulnerable, less organised and more likely to depend on award and minimum entitlements.

1.1 Extent of insecure work in the ACT

There has been a substantial increase in the number of people in insecure work in the ACT, rising from 26,500 people in 1997 to over 32,700 in 2013 (see chart).

1.2 Gendered nature of insecure work

Insecure work is gendered; women are over-represented in casual jobs, independent contracting, labour hire and/or fixed-term contract work.

According to ABS data (Aug 2016), women comprise 27 percent of the insecure workforce (jobs with no leave entitlements), compared to 23 percent for men.

This exposes the structural barriers and disadvantages that women experience in gaining work and returning to work. It further compounds structural disadvantage due to the gender pay gap; insecure jobs are more likely to be low-paid jobs. Women are more likely to be employed in industries with low pay and insecure conditions, such as retail, hospitality, services and the community sector.

2. LABOUR HIRE

Labour hire is a means of employment that is characterised by exceptional insecurity for the worker. It is widely used, both in the private sector and by the ACT Government and Commonwealth, representing over 13 percent of all workers in the ACT. Labour hire, as explained in the Victorian Inquiry into Labour Hire, “involves a ‘triangular relationship’ in which a labour hire agency supplies the labour of a labour hire worker to a third party.”

In this arrangement, the third party (host employer) can legally avoid almost all the legal obligations of being an employer. Consequently, there are significant risks to workers about their host employer’s or the labour hire agency’s compliance with workplace laws, taxation laws, or WHS laws. Similarly, labour hire arrangements can be used by a host employer

to undermine the rights, wages and conditions of workers directly employed by the employer.

In many instances, there is no obligation on the labour hire agency to provide regular work. Many labour hire workers therefore have only intermittent or short-term work. This can be the case even for labour hire workers in traditionally high wage roles (e.g. as consultants with a high hourly rate).

The recent inquiries into the labour hire industry have found that the outcomes for labour hire workers are predominantly negative. Negative impacts include financial insecurity, difficulty in planning and saving for the future, widespread and substantial underpayments, non-payment of superannuation, and poor health and safety practices, amongst others.

Many labour hire workers reported to the inquiries in other states said they only accepted labour hire arrangements out of necessity (i.e. that it was the only option available to them), and that they would prefer secure, permanent work.

The inquiries also found significant structural barriers to labour hire workers reporting breaches of workplace and safety laws. This was due to concerns that “complaints” would jeopardise their future employment at the host or future placements with the labour hire agency.

2.1 Labour hire as a system

There are eight thousand two hundred people in the ACT who have found their job through a labour hire agency or employment agency, representing approx.

4.3 percent of the ACT pool of employees (ABS, 6333.0, Aug 2016).

The system of labour hire is identical across Australia. This is demonstrated by numerous inquiries, and the fact that many large labour hire agencies operate nationally or in multiple states. A handful of labour hire agencies dominate the sector, and work across multiple industries, including Spotless, Hays, Manpower and Skilled. The same negative impacts for labour hire workers have been reported in multiple reports, inquiries and investigations.

The system of labour hire creates a structural, institutional risk of exploitation. Labour hire is by its nature insecure. They are specifically excluded from participating in the enterprise bargaining process that directly employed workers use to secure working rights.

Labour hire relationships are designed to shift risks related to employing labour from host employers to workers. As a system, it permits employers to avoid industrial relations laws for the labour hire workers they host. For example, labour hire workers cannot access unfair dismissal protections (including unfair dismissal by reason of race, religion, gender, or sexuality). They have no minimum hours and can be expected to be available every day of the week, with minimal notice.

UnionsACT notes and draws the Inquiry's attention to the submissions made by the ACTU to the Victorian Inquiry into Labour Hire, and submissions made to this ACT inquiry by its affiliates including the CSPU, CFMEU and the SDA, which highlight the impact of the use of labour hire in Australia.

2.1.1 Real impact of labour hire

I experienced problems with paying my bills on time & had to prioritise to make ends meet & had to make arrangements with a number of service providers to address the short fall until I found further work.

Male hoist operator, employed through a labour hire agency, less than three months ago

I left a permanent job doing fly in fly out in Darwin NT and relocated my young family consisting of my wife, 1 year old daughter and 7 year old son to Canberra to work on the light rail through [labour hire company]. I was told the job was going to be for 10 to 15 years, but after 3 months of work I was called by [labour hire company] and told I wasn't needed anymore because... work was slow. After receiving the call that afternoon I went home and told my partner the news and she instantly broke down in tears.

Male construction worker, employed through a labour hire agency, less than three months ago.

Yesterday at 5.30 pm I received a text saying due to insurance problems I was not to go to work today.

Male labourer, employed through a labour hire agency, in current job.

3. INSECURE WORK IN SPECIFIC SECTORS

3.1 Insecure work in the public service

Both the ACT and Federal public service now routinely engage labour hire and recruitment companies for low-wage roles, and outsource higher-wage jobs to short-term contract consultancies.

The ACT Government is one of the largest users of temporary work visas in the ACT. Similarly, over 23 percent of ACT Government employees (by head count) are precariously employed (i.e. are non-ongoing, temporary or casual). Within specific directorates, the level of insecure work is higher, for example in Health (36 percent), and Education (27 percent).

This precludes those workers from accessing a range of entitlement aimed at supporting ACT Government policy, including long service leave, paid domestic violence leave, and paid jury duty leave.

As the CPSU submission to this Inquiry notes, the ACT Government has vastly expanded its use of labour hire and recruitment agencies, thereby directly contributing to the erosion of secure work and decent jobs.

The use by the ACT Government of insecure, temporary contracts, as well as labour hire, also undermines the ability of the public service to implement public policy. Correct implementation of often complex policy and regulations requires the Government to invest in skills, training and knowledge of public servants at all levels, but particularly at the front-line.

Short-term contract staff and labour hire staff are rarely afforded the investment in training or development by managers.

3.2 Insecure work in higher education sector

This expansion of contracted-out, insecure work is replicated in Canberra's largest export industry and employer of 16,000 people, the higher education sector. An alarming proportion of work in the university sector is undertaken by casualised workers. Approximately half of all tutoring work is undertaken by casual staff, and a substantial number of academics, traditionally considered a highly secure profession, are now employed on short, fixed-term contracts. Amongst non-academic staff, labour hire is used increasingly to fill administrative and student-facing roles.

Furthermore, insecure, casualised work is ubiquitous amongst international students on study visas. A significant element of the ACT Government's marketing campaign to attract these students emphasises Canberra as a 'good place to work'. However, work for international students in the ACT is impacted by the same serious structural vulnerabilities that have been identified in numerous inquiries and investigations by the Australian Senate, by the 7-Eleven investigation and by other jurisdictions. By enticing these students to Canberra, the ACT Government bears a moral responsibility to them, as well as to the 16,000 higher education employees, to protect them from exploitation.

3.3 Insecure work in the community sector

The community sector is a significant employer in the ACT. The “community sector” comprises many discrete sectors including child care, aged care, community support organisations, disability support services and residential home care, amongst others. Over 19,000 people are employed in the community sector, 78 percent of whom are women. Eighty five percent of workers in the community sector are employed part-time. Earnings for employees in the sector are between 43 percent to 55 percent lower than other industries.

A major complaint of employers in the ACT community sector is that they are unable, generally, to attract and recruit skilled labour. This is acutely so when trying to meet short term or contingency needs prompted by such things as maternity leave (note: 80% of the current community workforce are female & 85% are part-time), expansion of programs to meet client services, etc. The result is labour shortages, overwork and staff “burn out”.

An increasing number of employers in the community sector are turning to labour hire and temporary employment agencies to fill these shortages; this further exacerbates the issues of precarious work, low wages, skills shortages and disadvantage within the sector’s workforce.

The ACT Government funds the sector to the tune of \$539 million per year. The Government currently has substantial regulatory power over the sector, through various specific regulations (e.g. working with vulnerable people requirements), and also through service contracts. Where the ACT Government is the

direct purchaser or services, it should take steps to reduce the prevalence of insecure work within the community sector.

UnionsACT notes the 2016 Community Sector Industry Plan contemplates using the existing levy to fund workforce development and training. The ACT Government must also ensure that through its procurement of services, it adequately funds wages and the costs associated with compliance with various other laws (e.g. WHS, workers compensation, long service leave, etc).

3.4 Insecure work integrated into business models

UnionsACT is deeply concerned that businesses in the ACT, large and small, have integrated unlawful employment practices and unsafe work practices into their business model.

The prevalence of wage theft from vulnerable workers is a clear sign that business is relying on under-payments of wages and superannuation as a business model. These are not rare or isolated incidents.

Sixty nine percent of 7-Eleven franchises had payroll issues, including fraud. The Fair Work Ombudsman investigations into other franchises in Canberra and elsewhere have found a majority of audited franchises were not compliant with their obligations. This includes major pizza chains including Crust, Dominos and Pizza Hut, major fast food chains including Red Rooster, Grill’d, Nandos and McDonalds, and pharmacy chains, including Chemist Warehouse. It also includes other fuel station franchises including Caltex and United Petroleum. Investigations by other

organisations have also found similar widespread, structural non-compliance with the Fair Work Act.

What is clear is that larger business size is no longer a guarantee against unlawful behaviour or the negative consequences of insecure work.

4. FAILURE OF EXISTING REGULATORY AND COMPLIANCE POLICIES

The deterrents that exist in the current regulatory environment are utterly insufficient.

There are few Fair Work Ombudsman staff located in the ACT, and the Ombudsman's preference for "advice and guidance", means that there is rarely a consequence for employers who break the law.

Relying on courts and tribunals to enforce the law also provides little deterrent for employers who rely on systematic non-compliance with the Fair Work Act or WHS Act as part of their business model. Employers who are found to have engaged in deliberate or serious illegal activity can avoid the consequences through engaging in restructuring, asset shifting, or simply in corporate liquidation.

The most recent audit of small businesses in Canberra by the Fair Work Ombudsman in July 2016 found that 43 percent of small businesses in retail, hairdressing and accommodation and food services were not compliant with all of their workplace responsibilities. This substantial non-compliance rate followed an awareness and education campaign by Fair Work inspectors, including advising the Canberra Business Chamber.

The same regulatory failures exist with the ACT Work Health and Safety Act, the ACT Workers Compensation Act, and with the regulator, Work Safe ACT. The compliance approach taken by Work Safe ACT now places a significant weighting on education and engagement with employers. The consequence for this is that there is almost no deterrent to being caught for breaking the WHS Act. When compliance activities take the form of improvement notices or prosecutions, the evidence from the past decade show that businesses are prepared to absorb the costs of disruption or fines – that is, penalties for WHS breaches are considered to be a business cost.

Furthermore, the work safety regulator is unwilling, or under-resourced, to enforce the law with new businesses in the so-called "gig" economy and companies such as Airtasker and Deliveroo. The regulator and the ACT Government have stated that these businesses exist in a legal "grey zone", due to being "an online platform facilitating the connection of services with consumers needing them". In fact, they are materially no different to existing contingent labour hire and temp agency services.

5. EXCEPTIONALLY VULNERABLE WORKERS

Some workers are exceptionally vulnerable to exploitation, caused or exacerbated by insecure work. This vulnerability can be because of age, gender, ethnicity, work-status or industry.

5.1 Young workers

UnionsACT research into young workers' experiences has found substantial negative impacts of insecure,

precarious work. Young workers (aged under 25) are more likely to be employed informally or on a casual basis. They typically report low awareness of their rights under the Fair Work or WHS Act.

Over half of young workers in the ACT reported risky, unsafe working conditions, or exposure to bullying and harassment. A third of young workers reported underpayments, non-payment of superannuation, non-payment of penalty rates, or payment by cash-in-hand. Many young workers reported not receiving pay slips.

Our research has shown that a third of young workers who are children have experienced unsafe working conditions and unlawful payment practices. There is clearly widespread exploitation of young workers.

UnionsACT is concerned that exploitation of children who are workers is not treated as serious by authorities and regulators. In our experience, workplace rights and safety are not considered to be major concerns for the Education & Training Directorate (which manages work experience programs in schools) or Skills Canberra (which funds or administers many apprenticeships and traineeships).

Additionally, the Child and Youth Protection Services typically refers workplace exploitation of children to the Fair Work Ombudsman; this is despite there being specific ACT regulations and standards regulating the employment of children.

Finally, UnionsACT's experience with Work Safe ACT is that safety of young workers is not treated as a priority, even though young workers are at twice the risk of injury compared to older workers.

My son had a suspect employment experience in which he was employed part time at a coffee shop until he turned 18 and then let off (probably after about 6 weeks). There was no reason given. During his short time of employment, he was given positive feedback on his performance including how quickly he learned the ropes. This lack of care and consideration has hit his self-esteem badly and he is reluctant to apply for positions again. He is still at school, and suffers depression. He cannot now bring himself to apply for jobs as his self-esteem has been hit badly which was starting from an already low level.

Mother, name provided

5.1.1 Student Workers

With a consistently low rate of unemployment, and correlated high rates of workforce participation, the ACT private sector labour market, currently numbering approximately 140,000 workers, is a "tight" one. Accordingly, what can be properly designated as the "student worker sector" occupies and plays a significant in the ACT labour market.

UnionsACT research into experiences of student workers has found that half had experienced unsafe workplaces, and over 70 percent had experienced bullying or harassment at work. This research was made public, provided to the ACT Government, including WorkSafe ACT, and is appended to this submission.

The 2016 Annual Reports of the three major higher education facilities in the ACT – the ANU, University of Canberra and the Australian Catholic University – number the domestic and international undergraduate population at approximately 19,500. A further component of this “student worker sector” comprises the upper (college) years of the school systems which the 2017 School Census numbers at 10,500. That makes a conservative (excluding school years under 11 and postgraduate students) “student worker sector” labour pool in the ACT of between 20-30,000, a figure roughly 20% of the private sector labour market.

The recent Fair Work Commission Decision of Penalty Rates is a good and contemporary source of information about student employment rates in several major industry sectors.

For example, based on the 2011 Census, 55.6 percent of the Takeaway (fast food) sector workforce is comprised of full-time (51.1%) and part-time (4.5%) students. A survey conducted by the Australian Industry Group in July 2015 found the proportions even higher. It is safe to conclude that the ACT fast food sector replicates these proportions.

The same FWA Decision contains workforce profiles for other sectors which also contain high proportions of student workers: hospitality (F/T: 21.3%; P/T: 5.8%); clubs (F/T: 14.4%; P/T: 5.9%); cafes and restaurants (F/T:31.7%; P/T: 6.6%) and in retail (F/T:22.9%; P/T: 4.4%).

Many of these student workers are engaged in the lowest classifications (levels 1 and 2 under the relevant Award) and to compound their precariousness,

are paid according to the youth or training wages (that is, less than an adult wage).

Overall, across the country and in a wider cross section of industries (accommodation, fast food, ancillary health services, cleaning, security, etc.) the Australian economy and more so the ACT economy relies on student workers as a reserve pool of labour.

A further sense of the where the student worker sector fits into the labour market overall is that it sits in the ABS category “employees without paid leave entitlements”. The 2016 ABS report, “Characteristics of Employment” (6333.0) concludes that 75 percent of those aged 15-19 and 41 percent of those aged 20-24 (the age groups most likely to be ‘student workers’) do not receive paid entitlements (for which they are paid casual rates). These represent very high (but not surprising) proportions when the same Report notes that 97 percent of the 15-24 age group (approximately 1.7m out of 9.8m [17%]) are engaged as employees. To draw down even further, this student worker population of 15-24 year-olds comprises 68 percent of all employees engaged without paid entitlements.

5.2 Migrant workers

Numerous inquiries into the rights of migrant workers have demonstrated that exploitation is systemic, widespread and severe. It includes the finding that forced labour (modern day slavery) is present in a range of service, manufacturing, primary industry and other sectors.

For example, a temporary migrant worker on a TSS (temporary skills shortage visa or 457 visa) who is

unfairly dismissed, and who seeks reinstatement, goes to the Fair Work Commission. After sixty days, while waiting for their matter to be heard, the worker's visa expires and they are deported from Australia. The matter then lapses. The worker is penalised and the employer experiences no consequence for breaking the law (legislation, statute, Award or industrial instrument).

The problems include:

- Temporary migrant workers are vulnerable to exploitation, unsafe working conditions and discrimination;
- Temporary migrant workers are often denied natural justice and procedural fairness;
- The current migration system deports migrant workers before they can exercise their rights;
- Some employers deliberately exploit this and there is no consequence if they do so.

The reasons for increased vulnerability to exploitation of migrant workers are varied, and layered.

Many migrant workers have contingent working visas, either linked to business sponsorship, education or (in Canberra) diplomatic status. The consequence is that the worker's presence in Australia is at the discretion of the employer. This is by its nature precarious and insecure employment. An employer can decide to withdraw their sponsorship (thereby effectively terminating the employment relationship); the employee has 60 days to find another employer or face deportation. This creates a strong disincentive to complain about mistreatment and exploitation. The Fair Work Ombudsman has noted that "fear of

retribution" can prevent exploited migrant workers from reporting underpayments and other breaches.

There is a significant lack of accessible and appropriate information for migrant workers about their workplace rights, including a lack of information in languages other than English. This can be compounded by poor English skills and lack of translation services.

Migrant workers also face cultural barriers to exercising their workplace rights. Many of the recent instances of severe workplace exploitation revealed by the Fair Work Ombudsman, unions or media investigations, have involved employers from a particular cultural or ethnic group exploiting workers from the same group.

5.3 Charity street collectors

UnionsACT has recently raised with the ACT Government the plight of charity street collectors (commonly known as "charity muggers" or "chuggers"). Recent investigations into the charity collection industry by the Fair Work Ombudsman, as well as class actions launched by exploited workers against charity collection companies, have exposed a business model characterised by callous disregard for workers' rights. The Fair Work Ombudsman has also successfully prosecuted some charity collection agencies, and implemented enforceable undertakings on others.

Both the investigation and prosecution concluded that sham contracting, underpayments and systematic exploitation was widespread throughout the commercial fundraising supply chain. Most of

the exploited workers are temporary visa workers (classified as ‘transient’ or ‘at risk migrant workers’), or are high-school or work experience students. The most common temporary work visa in this instance was the backpacker visa.

The Fair Work Ombudsman found that the exploitation was conducted “deliberately” and “recklessly”. The FWO has raised concerns about this industry for several years. Exploitation in this industry is not new.

The exploitation revealed by media and FWO investigations is severe, involving systematic wage-theft and underpayments, bullying, harassment, and unsafe working conditions.

Charity fundraising is predominantly done by for-profit sales and marketing companies on behalf of the charities. Charities raise over \$1 billion each year from face-to-face fundraising alone.

Most face-to-face fundraisers (workers) are engaged in a sham-contracting arrangement, whereby they are engaged on an ABN with a service contract by a company under the guise of independent contractors, and paid per sign up, required to undertake unpaid training, have their pay docked if a new donor defaults on a payment, do not receive superannuation, are not covered by workers compensation, etc.

Charity collections in public places were, until recently, regulated in the ACT through the Charity Collections Act which established a licensing scheme. The licensing scheme did not afford any protections for workers collecting donations on behalf of a charity, and did not require as a condition of the license

that the company comply with relevant Federal or ACT laws.

Since October 2016, UnionsACT has been working with the ACT Government to strengthen protections for this group of workers. Unfortunately, the ACT Government decided in early 2017 to abolish the licensing conditions regulating public charity collections, leaving charity collection workers with fewer avenues for protection against exploitation.

Despite public statements that protecting this group of vulnerable workers, no action has yet been taken by the Government and systematic exploitation continues.

5.4 ABN workers and Odco workers (sham contracting)

Closely related to labour hire, Odco arrangements are a form of contracting-out, where an employer hosts workers on a purported independent contract basis, via a third-party agency. Odco arrangements arise from a 1991 case (Building Workers Industrial Union of Australia v Odco Pty Ltd (1991) 29 FCR 104) that allowed employers to hire labour using service agreements as opposed to labour contracts.

Odco arrangements are, following a 2015 High Court decision, now considered unlawful sham contracting. Nonetheless, sham contracting and Odco arrangements continue to be widespread. Businesses can access restructuring services designed specifically to allow employers to avoid their workplace law obligations. The Odco contracting system was a licensed business model of national labour hire agency Labour

Force Australia, and the system is used in all states and territories, including the ACT.

Workers surveyed by UnionsACT for this submission described employment that is Odco-style sham contracting.

Triangular “independent contracting” arrangements make workers particularly vulnerable. Sham contracting contravenes not only the Fair Work Act, but also the ACT WHS Act, taxation laws, workers compensation laws and a range of other employment related laws and regulations.

As a so-called subbie, I had to take care of safety and PPE [personal protective equipment].

Male apprentice, contracted on an ABN to one employer, more than three years ago.

6. ACT GOVERNMENT AS A MODEL EMPLOYER

The ACT Government has, for the past decade, stated its desire to be an exemplary employer, providing good wages and decent conditions. However, as the CPSU submission to this inquiry notes, over 23 per cent of its employees (by head count) are employed precariously as temporary or casual employees.

Furthermore, the ACT Government is a major user of labour hire services. UnionsACT has sought details from the ACT Government regarding what, if any, policies guide the use of labour hire. UnionsACT has been advised that the ACT Government currently hosts over 100 labour hire workers. This does not include labour hire workers engaged by contractors

for work on government work. These labour hire positions are call-centre roles and roles in “shop fronts” for Access Canberra offices, as well as a smaller number performing municipal services such as maintenance and parking inspections. There does not appear to be any government-wide policy covering the use of labour hire; it is instead conducted as a normal procurement of services.

6.1 Undermining public policy implementation

The growing use of labour hire in front-line roles, and short-term contracts, undermines the ability of the public service to implement public policy. Front-line workers provide advice and support to citizens and residents, and are also required to implement public policy (e.g. work that could include administration of licensing applications, initial advice regarding regulations, properly directing inquiries, etc).

Use of temporary, short-term contracts or labour hire, can result in inadequate training of those workers. Their ability to correctly implement public policy is undermined by the precarious nature of their work.

The use of labour hire can also undermine the ACT Government’s public policy objectives regarding social inclusion, gender and wages.

6.2 Subcontracting

The ACT Government is a major procurer of services – in fact the second largest buyer in the Territory, after the Commonwealth. Most of these service contracts involve labour. Major contracts include maintenance services for public housing, and public

facilities (e.g. schools, hospitals), or major events (Multicultural Festival, Floriade, event services).

The real effect of these procurement contracts is to transfer the employment of maintenance or property services workers (security guards, cleaners) from being direct ACT government employees, to being employees of contractors.

As the ACT Government knows, through reviews of various service contracts (e.g. Spotless and public housing, school cleaning, hospital cleaning), the workers performing the contracted services have all seen reduced incomes because of the contracts.

In the case of major maintenance contracts (public housing, Spotless), the head contractor uses a network of subcontractors, using Odco, labour hire or agency hire arrangements.

The ACT Government has demonstrated that it is not capable of managing the contracts, large or small, to adequately prevent labour rights abuses and unlawful workplace practices by its contractors. UnionsACT has advocated for over a decade for the ACT Government to cease or reduce outsourcing, and to adequately resource contract management roles for major procurements.

7. REAL IMPACTS OF INSECURE WORK

UnionsACT surveyed more than 300 workers for this submission; many other workers have contacted UnionsACT over the past two years seeking advice, assistance and support about work related issues.

7.1 Impact on safety

UnionsACT surveyed more than 300 workers for this submission. Of those we surveyed:

- 51 percent reported that their work was not always safe.
- 27 percent of those surveyed were not provided with information about Work Safe or workers compensation, or what to do if they were injured.
- Almost half (47 percent) felt they could not discuss health and safety without risking their jobs.

ABS injury data, and Safe Work Australia statistics show that injuries are more frequent in sectors and jobs that are highly casualised and precarious. In “blue collar” industries, labourers, drivers and machine operators have high injury rates; and these are occupations over-represented with labour hire and casualisation. For “white collar” work, occupations in clerical, administration and sales, and in community and allied health, have high injury rates; these are occupations with higher rates of women employees, and with higher casualisation and use of labour hire.

ABS data shows that up to 36 percent of workers, mainly those on low incomes and with insecure jobs, do not report workplace injuries, and do not lodge workers compensation claims.

The ACT Work Safety Council and Safe Work Australia, for several years have identified “transient” workers as a key priority area for improving safety. Transient workers in this instance principally means workers with temporary work visas (e.g. 457 or backpacker working visas). Both SWA and WSC

note that there is a significant gap in data for this group of workers; this is due to the structural barriers and disincentives for temporary migrant workers. Nevertheless, there is a recognised high risk of injury for this group of workers.

I sometimes experienced inappropriate comments, questions, or sometimes touching from customers, but you can't tell your manager when they make sexist comments and dirty "jokes" behind the scenes as well. Sometimes I am seriously worried about dropping the plates as I run them and often have very minor burns on my hands after a shift. Although, you can't really complain because as a waiter it's just an expected part of your job.

Female waiter, employed casually, current job.

I felt unsafe at work because my employer made some comments on my appearance on several occasions, including that I had a 'cute ass.' This whole day I felt very uncomfortable and unsafe in light of his comments to me that morning, and also because he and I were the only workers at our stall that day.

Female sales representative, informally employed less than a year ago.

I experienced, constant lack of support to do my job properly. Safety was seen as an impediment to production. Crane faults and regulations were ignored by builders and crane owners.

Male crane driver, employed casually more than a year ago.

Countless times I hurt myself because of unsafe working environments but I was never able to receive the help I needed as my supervisors deemed me a drama queen. I've seen incident reports ripped up and young workers ignored/or laughed at when they hurt themselves. Injuries were only taken serious if other people witnessed them or if they were on camera. To them if nobody else saw it then it didn't happen.

Female fast food worker, casually employed more than a year ago.

7.2 Impact on income

UnionsACT surveyed more than 300 workers for this submission. Of those we surveyed:

- 33 percent reported not being paid fairly or lawfully.
- 33 percent reported that they felt they could not discuss their wages or conditions of work without risking their job.

The ACTU submission to the Victorian Labour Hire Inquiry notes that the impact of casualisation on wages is significant. Median weekly earnings for casual employees is \$425, compared to \$1052 for permanent employees. The ACTU submission also notes OECD research that found “temporary workers receive less than permanent workers even when controlling for job differences.”

There is a gender element to this wage gap. Casual women employees earn \$351 per week (median), compared to men who earn \$685. Although workforce participation has increased significantly for women, by and large they are employed in low wage and insecure jobs. Fifty-five percent of casual jobs are held by women in industries known to have a gender pay gap (health services, social services, retail).

The impact of low wages from insecure work has flow-on impacts for women in retirement. Low wages during working life often result in insufficient superannuation savings for retirement. Women who had low incomes during work are at increased risks of housing stress and homelessness due to continued low income from a low superannuation income.

Casual wages are supposed to include a loading (of 25 percent) to compensate workers for lack of access to traditional entitlements such as leave and other securities. Decades of evidence shows that casual workers earn less and are not compensated for their job insecurity. This is contrary to neoliberal economic assumptions that workers will insist on higher wages in exchange for less job security. A lack of bargaining power for casualised workers and the inherent precariousness of their employment prevents them

from insisting upon fair compensation for precarious work.

Finally, countless reviews and reports, including by the Fair Work Ombudsman, unions and other authorities, have revealed that for many workers with an insecure work arrangement simply aren't paid lawfully or aren't paid at all.

This was revealed as a business model by the 7-Eleven scandal, but the various methods of wage-theft (cash-back, cash-in-hand, etc) are commonly used by many franchises. To clear: underpayment of wages is a common business model in Canberra and around Australia for many franchise businesses.

Some employers use unpaid trial shifts, unpaid internships or unpaid work experience, to avoid their legal obligation to pay workers.

*I went for a job trial and I thought I'd got the job, so I showed up to the next shift with all my paperwork. But after that shift I never heard back from them because I think they wanted to pay me cash off the books. I never got paid for my trial and shift because they wouldn't take my payment details.
Female waiter, employed casually, current job.*

I worked for many years for [major sports retailer]. This meant working after hours many nights a week without pay on a regular basis, working as the store manager for months on end while they looked to hire a manager and doing stock takes without being paid at all because there was no wage budget for it. Female retail manager, employed casually more than a year ago.

I'm a preservice high school teacher. This means that in total there will be almost 4 months where I am in schools teaching/working full time as the practical component of my 4 year degree. I am unable to work my casual retail job doing this time. This of course means I have no income during this time. I am not eligible for centrelink support payments as I am 20 years old. Female pre-service teacher, informally employed in current job.

I experienced being employed as a casual retail assistant in a small business for 13 years. I was the only employee apart from my boss who also owned the business. I was never paid the award wage, he failed to pay my superannuation for the first 6 years. Female retail worker, employed casually less than a year ago.

I was paid for all the time I worked, but the pay was only \$11.20 per hour. I was 17 at the time. They also "forgot" to give me forms to fill in about tax and forgot to pay me for the first 6 weeks of working there. They never gave me a payslip and have not given me anything I can use for my tax returns. Female waitress, employed casually less than a year ago.

I was employed for three years as a residential carer on a full time roster. I was paid below award wages, as I was paid a flat wage of \$25 per hour with no accounting for penalty rates for the night and weekend shifts I worked. Male aged care worker, employed informally more than a year ago.

I was underpaid for over a month when I began this job. It took three meetings with my boss (and an email higher up the chain of command) before I was compensated. I was also occasionally unpaid for work when I was called in to cover someone else's shift. Female front-of-store staff member, employed casually less than a year ago.

I experienced working as casual cleaner at a [major] supermarket, employed by a subcontractor. I was paid cash, only \$15 dollars per hour to work 7 days per week.

Male supermarket cleaner, employed as a subcontractor more than three years ago.

I would constantly have to stay back an hour or half an hour after every shift, never got paid for it and I was too scared to talk to the managers about it.

Female cashier, employed casually more than a year ago.

7.3 Impact on working conditions

UnionsACT surveyed more than 300 workers for this submission. Of those we surveyed:

- 36 percent reported that they felt their employer was not complying with workplace laws.

The recent underpayment scandal involving 7-Eleven has exposed a culture of non-compliance with the Fair Work Act and other workplace laws within one of Australia's largest franchises. The Fair Work report into 7-Eleven, as well as the Allan Fels report, the Commonwealth Migrant Workers' Taskforce, and media exposés of 7-Eleven and other major franchises show that non-compliance has become a business model for many large franchises.

I never received pay slips and when I asked for a payslip the boss said and I quote ('we don't do payslips here').

Female café worker, casually employed more than a year ago.

I experienced rosters that were often only finalised on the Sunday evening for the next week. This meant I frequently had less than 12 hours notice of a Monday morning shift (the rosters were sent out online). Furthermore, my coworkers and I were often called up to fill shifts on short notice and I was often made to feel that if I couldn't fill the shift it would have a negative impact on my job security.

Female front-of-store staff member, employed casually less than a year ago.

I experienced inconsistent pay, lack of payslips, verbal abuse and no breaks for 8+ hour shifts. I was very scared but didn't understand my rights as a casual worker. I was 15 at the time.

Female cashier, employed as a casual more than a year ago.

*As a delivery driver I was paid 32% percent under award and off books. Myself and fellow employees experienced threats of termination when we raised the issue of pay and conditions. When I insisted upon being paid the award I was terminated.
Male food delivery driver, informally employed, less than a year ago.*

*I was in casual work for approx 5 years in the ACT (and before that because my husband and I moved States to find employment, I had been casually employed since I was 20 years old). Therefore, I had financial insecurity, deep ongoing dissatisfaction about not being able to fulfil my full potential in my chosen career. Periods in between contracts where I had no income and had to rely on my ex-husband for food, shelter and clothing, as well as him supporting our daughter living at home. I suffered deep ongoing depression (which I believe has subsequently lifted in the last few years because I have had employment security). The depression had an impact on my marital relationship and I believe was a contributor to my marriage breakup.
Female teacher, employed casually more than three years ago.*

7.4 Impact on personal life and relationships

UnionsACT surveyed more than 300 workers for this submission. Of those we surveyed:

- 44 percent reported that their unpredictable roster or working hours meant they could not plan their life.
- Almost half of women (47 percent) reported significant negative impact on their ability to organise child care due to their hours of work, shifts or rosters.
- 36 percent reported that they felt unable to take leave (including sick leave) due to concerns that they would lose their job.

*Because my days were not regular and rosters often were not released online until the day before the roster was due to start (supposed to be listed two weeks out but rarely happened for casuals), that meant I could not actually make appointments or plan activities in case I was rostered on or called in to work.
Female retail worker, employed casually less than a year ago.*

7.5 Impact on health

As noted in the Howe Report into insecure work, casual employment has been closely linked to intensified stress, anxiety and frustration in the workplace and reduced physical health. Research overseas also indicates that insecure work can result in worse mental health outcomes for workers.

Finally, insecure work creates structural disincentives for working people to medical aid; for example, the lack of sick leave entitlements forces ill workers to choose between an income and visiting a doctor.

I experienced employment over a five year period that was at first casual contracts, followed by short-term semester-long contracts on a rolling basis. On asking about being made permanent, I was made to feel as though I should think myself lucky to just get another contract. It was an environment where you felt as though getting ill (physically or mentally) would endanger further contracts.

Male tertiary educator, employed on rolling short-term contract less than a year ago.

I experienced aggression when asking for leave and submitting leave paperwork.
Hair stylist, employed informally less than a year ago.

Also, one great fear was getting sick. If you don't work as a casual you don't get paid. In a year and a half, I missed one shift due to illness. The rest of the time I turned up even if I was unwell.

Female retail worker, employed casually less than a year ago.

I dreaded public holidays and Christmas and illness as on these occasions I did not get paid and so could not afford to pay the mortgage or feed my 3 children the stress was terrible and took a toll on my health.

Female retail worker, employed casually less than a year ago.

I experienced some stress every six months when my contract would come due for renewal. Ultimately I was employed for over 18 months.

Male ICT Trainer, on rolling short-term contract in APS via labour hire agency, less than a year ago.

7.6 Impact on housing

UnionsACT surveyed more than 300 workers for this submission. Of those we surveyed:

- 35 percent reported that they could not pay rent or their mortgage due to low wages or

unpredictable income.

Canberra has a stable housing market that has comparatively high prices and poor affordability. The combined impact of the Mr Fluffy crisis, foreign buyers and low interest rates have pushed up purchasing prices. Low vacancy rates (second lowest in Australia) demonstrates a shortage of rental properties.

The real impact of this for people experiencing insecure work is housing stress which impacts upon all other aspects of life.

I experienced having to move home from not being able to afford rent and food whilst on placement in a school.

Female pre-service teacher, informally employed in current job.

I was always worried I wouldn't pay rent on time because I was never ever sure how much I was going to get paid this time around.

Female café worker, casually employed more than a year ago

7.7 Impact on personal finances

UnionsACT surveyed more than 300 workers for this submission. Of those we surveyed:

- 42 percent reported that low wages and/or

unpredictable income negatively impacted their ability to pay bills or buy food.

As noted earlier, insecure work and low incomes go hand-in-hand (although some insecure work can be highly remunerated, these roles are in the minority). Consequently, this has a profound, material impact on the ability for workers to buy food or pay bills.

The most pernicious impact of the inability to pay bills or buy food is the erosion of human dignity for those workers. Absence of financial independence results in dependence (on friends, family), or reduced ability to resist degrading demands or work. This erosion of dignity affects workers' sense of self-worth, self-esteem and independence.

In particular, this impacts women, who are often the primary care-givers of children or aged relatives. The inability to pay bills or buy food can diminish workers' sense of how their dependents, their family or their community, perceive them.

I was employed on rolling short-term contracts. Often it was in the last week that I would find out if the contract was being extended or not. Then it was a mad rush around to find another contract in the same Department if it wasn't extended. couldn't plan beyond each contract. I was not able to apply for a loan not knowing what the future held.

Female research assistant, employed on rolling short-term contract more than three years ago.

*I experienced significant financial difficulties at times. I always made sure my rent was paid if nothing else. Usually we managed the basics, but there were weeks when the meals were really REALLY basic (2-minute-noodle level basic). The main worry was in case something went wrong. Like, if my car broke down, or my son needed money for a school excursion or new shoes, or the time he lost his glasses which was pretty disastrous financially. I'd get a bill that was unexpectedly high and worry about how to pay it, if I was lucky I might score an extra shift but quite frankly, when people say "oh, just ask for more hours" they are absolutely *dreaming*. Stores have budgets to work towards and even if your manager feels sorry for you he or she can't just whip up more hours from out of thin air. You just have to hope someone calls in sick or something.
Female retail worker, employed casually less than a year ago.*

*I was not provided any kind of reliable roster and was often contacted an hour or so before in order to ask me to come into work. Because of this my university studies suffered and eventually, because of the termination of the job, I was unemployed for a time which had a negative impact on my finances.
Female waiter, employed casually less than a year ago.*

8. WHAT DO WORKERS WANT THE ACT GOVERNMENT TO DO?

UnionsACT surveyed more than 300 workers and asked what their solutions are. The question was "If you could improve things, and you were the ACT Government, what would you do?"

The answers provided by workers provide an insight to the challenges posed by insecure work. While some suggested solutions are the province of the Commonwealth, the ACT Government should consider what more it can do to empower vulnerable workers.

*If I were the Government, I would make sure that young people know their rights at work. It needs to be taught about in schools. I would also make sure that people know where they can go to complain. At the moment people either put up with the work, pay and conditions, or they find a new job and cross their fingers that it will be better.
Female waiter, employed casually, current job.*

*If I were the Government, I would employ workplace inspectors who regularly visited workplaces unannounced.
Male chef, employed casually more than three years ago.*

I think a lot of the issues is that employees are not being educated on their rights which means their employers feel like they are in a position to exploit them.

Female fast food worker, casually employed more than a year ago.

If I were the Government, I would consider a combination of increased enforcement of workplace laws and penalties. At present, it seems to me, employers are doing the actuarials and consistently making conscious business decisions to under pay staff and under employ people as a means of control and coercion due to peoples' financial distress.

Male food delivery driver, informally employed, less than a year ago.

If I were the Government, I would legislate mandatory requirements for all labour hire companies and the main one being that they all have to have a collective agreement negotiated by the appropriate union, and OHS legislation that is mandatory to be policed and enforced by both the principal employer, sub-contractors and the union as well as the appropriate safety authority.

Male scaffolder/rigger, employed through labour hire agency in current job

If I were the Government, I would provide better checks to small business and greater penalties for not complying with the law.

Female retail worker, employed casually less than a year ago.

If I were the Government, I would ensure that there is an easy way to complain about unfair treatment by employers and make employees aware of it.

Female waiter, employed casually less than a year ago.

Detailed Recommendations

9.1 TOR: The extent, nature and consequence of insecure work in the ACT

Recommendation: ACT Government should fund research into the extent of WHS risks for transient workers.

UnionsACT has previously provided a detailed proposal to the ACT Government regarding the limits of available detailed data into workplace safety, injury and illness data for transient workers.

Transient workers are broadly defined as 'at-risk migrant workers'. This covers people in Australia on the various classes of visa that allow for work.

As part of the Work Safety Council Transient Worker Committee, the Work Safety Council and the University of Canberra have conducted preliminary studies into the workplace safety risks for transient workers. It includes workers on international student visas, working holiday visas, diplomatic visas, and skilled work visas. This work has complimented research by Safe Work Australia. The sole focus of this body of work has been on workplace health and safety. The Fair Work Ombudsman has separately

conducted research into exploitation of temporary migrant visa workers in specific industries.

UnionsACT is a member of the Work Safety Council's Transient Worker Committee, and also a member of the ACT Network into Exploitation and Slavery (convened by the Salvation Army), which has documented numerous cases of modern-day slavery taking place in Canberra in the past two years. Additionally, a large number (thousands) of transient workers in the ACT are international students undertaking paid work as part of their study visa.

The research to date has highlighted insufficient information, research and data collection on workplace-related injuries and illness for transient workers, and on workplace exploitation.

What is clear from investigations and reports of Safe Work Australia, the Fair Work Ombudsman, the ACT Work Safety Council, and numerous Canberra-based unions, is that unsafe and exploitative working conditions are widespread in the ACT.

UnionsACT recommends that the ACT Government fund UnionsACT to conduct a two-year detailed

research project into the full extent of ACT-based non-compliance with ACT and federal laws. This research will assist government to develop appropriate and effective policy to protect vulnerable workers from exploitation.

Recommendation: Introduce license or certificates to protect charity collection workers

The ACT Government must, as a matter of urgency, introduce licensing or certificate system to protect the rights of charity collection workers. This should create a chain of accountability through the charity collection supply chain, from the contracting charity, to the principle contractor, to the worker on the street.

The system must prohibit the use of all forms of sham contracting, and require compliance with the Fair Work Act, WHS Act and workers compensation laws, as a condition of access to public spaces for public charity collections. There should be clear obligations on charities to ensure that workers collecting donations on their behalf receive all their legal rights and entitlements under various workplace laws (both Commonwealth and ACT). The ACT government can play an important role in protecting these vulnerable workers through appropriate regulation of the industry.

9.2 TOR: the use of group training, labour hire and sham contracting in particular industries and in the supply chains of particular sectors

Recommendation: The ACT Government should introduce labour hire licensing scheme, based on the Victorian model, and including a capital requirement.

It will come as no surprise to the Inquiry that UnionsACT supports the introduction of a licensing scheme for labour hire.

The licensing scheme must protect the rights and entitlements of labour hire workers. It must:

- Create a registry of licensed labour hire companies;
- Require that licenses be held by both companies and individual company directors;
- Require a fit-and-proper-person test for labour hire company directors to obtain a license;
- Impose minimum capital requirements for companies or persons seeking to register as a labour hire provider;
- Contain measures to ensure that workers are not underpaid, are not underpaid superannuation, and can access other entitlements;
- Contain measures to ensure labour hire companies do not avoid tax obligations and liabilities;
- Contain provisions that allow for ACT Government agencies to pursue labour hire companies for underpayment of wages and superannuation;
- Consider establishing a funded ACT Government

agency with responsibility for auditing, enforcing and penalising non-compliant labour hire companies;

- Contain multiple avenues for enforcement and penalties; including fines, suspension and revocation of licenses, suspension of pre-qualification for ACT Government procurement contracts, and bans of individual labour hire company directors from holding licenses; and
- Mirror other elements of the Queensland and Victorian schemes, such as to allow the establishment of a national licensing scheme.

UnionsACT is not proposing that new industrial rights or entitlements be created. Rather, we are seeking a scheme that ensures that existing rights are not avoided by labour hire companies.

UnionsACT refers the ACT Inquiry Committee to the detailed ACTU submission to the Victorian Inquiry into Labour Hire for details of potential scheme design, as well as technical and constitutional issues arising from implementation.

Recommendation: Introduce mandatory health and safety requirements for public funding of Group Training Organisations (GTOs).

Group Training is an exploitative form of traineeship characterised by the use of apprentices as low-cost labour hire in the construction industry. In reality, there is little difference between group training apprenticeships and labour hire; GTO apprentices are employed by a GTO provider and provided to host employers. This is a triangular employment

relationship characteristic of labour hire. Host employers have few obligations to their GT apprentices.

The main difference from labour hire is that the GTO is required to provide supervision and training. In practice, in the ACT, apprentices and GTO apprentices are at significantly higher risk of workplace injury; the evidence shows that the rate of injury of GT apprentices is between two to three times the industry rate.

The ACT Government should implement funding conditions through the Training Fund Authority that are linked to the health and safety of GTO apprentices. GTOs that do not provide safe working environments for their GTO apprentice should have their funding reviewed; funding authorities must have the powers to suspend or cancel funding on the basis of work health and safety grounds.

9.3 TOR: allegations that labour hire and sham contracting arrangements are being used to avoid workplace laws and other statutory obligations, such as underpayment of wages and entitlements and avoidance of payroll and income tax;

Recommendation: Expand Portable Long Service to entire Private Sector

The ACT has a successful and effective portable long service leave scheme. It currently covers the following industries:

- Construction;
- Cleaning;
- Community sector and aged care; and

- Security.

This scheme works well, and ensures that many tens of thousands of workers can access long service leave. There is no reason for it to be limited to a few industries; every private worker in the ACT should be able to access it.

9.4 TOR: the use of working visas, particularly in insecure, low paid, unskilled or semi-skilled jobs and trades

Recommendation: The ACT Government should introduce a “Sponsor of Last Resort” law for temporary visa workers.

UnionsACT has recently advocated an innovative policy that would see the ACT Government act as “visa sponsor of last resort”.

Numerous ACT and federal government agencies acknowledge that workers on temporary work visas of various classifications are exceptionally vulnerable to exploitation, unsafe work practices and other discrimination. This fundamental fault in the temporary migration and work visa schemes has been recognised since at least 2008 when it was exposed by the Deegan Review; and again with the 2014 review into skilled migration; and the 2016 review into exploitation of temporary work visa holders.

The risks for temporary migrant workers is further compounded because most classes of visa require a sponsoring employer. This requirement effectively creates a bonded labour relationship. In the event that a temporary migrant worker is dismissed by their

employer, they have a limited time to secure a new sponsoring employer.

In practice, this substantially limits a temporary migrant worker’s ability to exercise their lawful rights if an employer is breaking an industrial or workplace safety law.

UnionsACT asks the ACT Government to investigate whether it has the power to become a “visa sponsor of last resort”.

This policy would establish a “Territory Sponsor”, to whom Registered Organisations would be able to apply to on behalf of a temporary visa worker. The Territory Sponsor would then register under the appropriate Commonwealth migration law to be a visa sponsor.

Access to the Sponsor of Last Resort should be limited to:

- Non-citizens in the ACT on a form of temporary working visa, who have initiated a formal tribunal or court process (e.g. in the Fair Work Commission) related to the Fair Work Act or an associated Act (including Territory acts such as the WHS Act or Long Service Leave Act); and
- Who do not have a sponsoring employer and are at risk of deportation.

The “Territory Sponsor” would become the legal employer of the person for the duration of the tribunal (Fair Work) or court process. At the conclusion of the tribunal or court process, the “Territory Sponsor” would cease being the “Sponsor of Last Resort”.

UnionsACT's legal advice on this proposal suggests that the ACT Government has all the necessary powers to enact this policy. This policy will provide valuable protection for workers who are currently effectively unprotected and in practice unable to access remedies for breaches of their employment rights.

9.5 TOR: allegations related to the exploitation of vulnerable classes of workers including working visa holders, young people, the under-employed and migrants

Recommendation: ACT Government create a Certificate for employers who employ 5+ young people (via Children and Young People Act 2008)

UnionsACT's research has found that 25 percent of workers aged under 18 have worked in unsafe conditions, with 60 percent reporting feeling harassed and bullied at work. The levels of non-compliance by employers of young workers with WHS requirements is scandalously high.

There are approximately 10,000 students in college (year 11 and year 12, aged 16-18), and thousands more aged under 16. Where this group are employed, they are predominately employed on a part-time casual basis (this is partly due to study requirements).

The ACT Government regulates the employment of children and young people as part of the Children and Young People Act 2008, which was introduced in 2011. A substantial number of children aged under 18 are in some form of paid employment. Existing

regulations create requirements that childrens' studies are not impacted by work; and requiring guardians' consent for children aged under 15 to be eligible to work. The regulations are set out in the Children and Young People (Employment) Standards 2011 (No 1).

In 2013, the ACT Government has established a certificate system, called Active Certification, to implement the health and safety recommendations of the 2012 Getting Home Safely report. The aim of Active Certification is "to drive a process of cultural change to improve safety" for all employers in the construction sector by establishing an auditing regime and points system for contractors seeking prequalification for government contracts.

UnionsACT recommends that the Children and Young People (Employment) Standards be amended, or a new standard be created, to create a certification and auditing regime for employers of children to improve work health and safety standards. The system should be modelled on the existing Active Certification policy for health and safety in the construction sector, and apply to employers who employ five or more young people. This would create a certificate for employers of five or more young people, that requires the employer to demonstrate they have appropriate WHS systems in place to address work safety for young people. The certification system would also be used to ensure the employer complies with the existing Standards for employing children and young people. Using a points system, employers may have their certificate reviewed, suspended or revoked for non-conformance with WHS laws or the Standards.

Work Safe ACT should be responsible for the administration of this certification system, and work closely with Child and Youth Protection Services.

Recommendation: ACT Government to fund an information service to temporary visa workers and international students

Recommendation 6 of the South Australian inquiry into labour hire is:

That the South Australian Government work with the Federal agencies to ensure that inductions for foreign workers take place as early as possible upon arrival in Australia, and that such inductions include detailed information about workplace rights, workplace health and safety, workers compensation, superannuation and other entitlements.

The Committee noted that “an educated workforce is less susceptible to exploitation” and that migrant workers “are especially vulnerable to exploitation”.

The ACT Government currently undertakes substantial marketing and promotion to international students through Study Canberra. The marketing makes specific claims that Canberra “offers plenty of employment opportunities during study”. However, international students are then referred to the “Canberra Your Future” website where information about workplace rights and safety rights are relegated to a relatively minor section, “Working Conditions”, that refers web page visitors to the Fair Work Ombudsman site. There are no references to other work rights, such as WHS rights or workers

compensation. This is a convoluted process and, in practice, obscures access to information about workplace rights for international students.

The ACT Government has a moral duty to ensure that international students’ rights at work and safety rights are upheld. There are over 10,600 international students in the ACT, almost all of whom work.

Additionally, the ACT Government is the second largest user of temporary work visa sponsorships in the ACT.

UnionsACT recommends that the ACT Government fund a program, in partnership with UnionsACT and the relevant public-sector unions, to provide information sessions for all temporary workers that the ACT Government directly employs.

UnionsACT further recommends that the ACT Government fund a program, in partnership with UnionsACT and relevant student associations at ANU, University of Canberra and CIT, to provide an information service for to all international students. UnionsACT has previously provided a detailed proposal on how the ACT Government could fund this initiative.

This initiative is crucial to fulfil ACT government’s obligations to ensure safe and legally appropriate working conditions for international students and temporary visa workers who work in the ACT.

9.6 TOR: the impact of insecure work arrangements on vulnerable workers including young people, the unemployed and under-employed, migrants and short term visa holders

Recommendation: ACT Government should request additional Fair Work Ombudsman inspectors to be stationed in the ACT.

There is currently an insufficient number of Fair Work Ombudsman inspectors stationed in the ACT. Following the conclusion of this ACT inquiry, it is likely that some recommendations will call on Commonwealth action.

A number of concerns raised with this Inquiry by UnionsACT, and our affiliated unions, are directly related to insufficient enforcement of existing laws and regulations, many of which are Commonwealth laws.

The ACT Government should enter into an agreement, similar to the current arrangement between the ACT Government (ACT Policing) and the Australian Federal Police, to fund additional Fair Work inspectors to be located in the ACT. Under this arrangement, the ACT Government would fund FWO inspectors to operate specifically in the ACT. As a servicing arrangement, the ACT Government could direct the priority areas of the inspectors, using similar clauses to clause 8 of the AFP/ACT Policing Arrangement.

The priority areas for any additional FWO inspectors should be to enforce the recommendations of this

inquiry with regard to the Fair Work Act. This would ensure there are increased resources and inspectors to implement recommendations from this inquiry.

Recommendation: The ACT Government to work with unions, teachers and curriculum professionals to include workplace rights and workplace safety to college curriculum.

As part of UnionsACT's survey of more than 300 workers, the chronic lack of education and information for young workers was repeatedly raised. Young workers in particular regularly complained that they cannot access adequate information about their rights at work.

Both the SA inquiry into labour hire and the Senate inquiry noted the importance of educating vulnerable workers about their rights as one of their key recommendations.

UnionsACT recommends that the ACT Government work with unions, teachers and curriculum specialists to develop a new syllabus for senior year students (year 11 and year 12). There should be appropriate engagement and consultation with unions, teachers, and other subject matter experts.

Early education about workplace rights and safety will equip young people to be active and informed participants in ensuring their rights are protected.

9.7 TOR: the limits on the ACT Government's legislative and regulatory powers in relation to industrial relations and related matters

Recommendation: The ACT Government should clarify that the ACT does have industrial relations powers

Within various ACT Government directorates, there is confusion and uncertainty as to whether the ACT Government has powers to regulate industrial relations. The ACT Government is, of course, covered by the Fair Work Act.

However, the ACT Government also has a range of Acts, pursuant to the ACT Self Government Act 1988, that regulate workplace relations. These include the Long Service Leave Act 1976, and Workplace Privacy Act 2011.

The ACT Government should clarify the powers it has to regulate industrial relations in the ACT and ensure all ACT Government directorates are aware of these powers.

Recommendation: The ACT Government should amend the Human Rights Act 2004 to expressly include Article 8 of the Covenant on Economic, Social and Cultural Rights.

Presently, the rights of workers to form trade unions, the rights of trade unions to function freely, and the right to strike, are not included as a human right under the ACT Human Rights Act 2004. These rights

are expressly set out in Article 8 of the International Covenant on Economic, Social and Cultural Rights.

UnionsACT wishes to draw the Inquiry's attention to a recent example whereby the absence of this right affected the human rights of workers when amendments were made to the Workplace Privacy Act.

In 2016, the ACT Government amended the Workplace Privacy Act (WPA), to allow for covert surveillance of workers outside of the workplace. The WPA amendments were reviewed by the ACT Human Rights Commission, and examined the human rights of people likely to be affected by the amendments, specifically spouses and children of the worker under surveillance, and other bystanders. The Commission did not consider (and was not able to consider) the human rights to privacy of the worker subjected to the surveillance.

UnionsACT raised several concerns with the ACT Government about the amendments, including that the covert surveillance could be misused to violate a workers' right to take industrial action, or to join a union. These human rights were not able to be considered by the Human Rights Commission in its review of the WPA amendments.

Including Article 8 of the Covenant in the ACT Human Rights Act would ensure the Commission can appropriately consider these rights when reviewing ACT bills.

9.8 TOR: regulatory mechanisms to meet the objective of protecting the rights of vulnerable workers, and the potential impact of any regulatory regime on ACT businesses

Recommendation: The ACT Government should institutionalise genuine tripartite mechanisms with unions and business across its various initiatives and public institutions

Tripartism is a successful policy approach that enables governments to engage with workers and business through permanent institutions. It fosters cooperation between the parties and builds goodwill and trust. It also fosters strong social dialogue that ultimately improves wages and conditions for working people, and improves economic performance.

Presently, the ACT Government has created a range of public institutions and bodies that advise or have governance responsibilities, that have no worker voice. This includes the various boards and advisory bodies including: Study Canberra, the Capital Metro Project Board, City Renewal Authority, Racing and Gaming Commission, Cultural Facilities Corporation Board, and Defence Industry Advisory Board, amongst others.

UnionsACT recommends that the ACT Government develop a tripartite governance policy and framework, to improve worker representation within ACT public institutions.

Recommendation: The ACT Government should establish a labour

registry and job seeker exchange for the community sector

To assist the ACT community sector to address the issue of short-term labour shortages, staff “burn out” and over-work, the ACT Government should establish a community sector labour exchange where all vacancies are placed and where all job seekers are registered. This could be developed in the same way that the current teacher relief system operates for ACT public schools. It would require an initial establishment (including a process of vetting or pre-registration checks and sign up by employers to minimum rates and labour standards, etc) but would then require only systems maintenance afterwards. Employees would be hired directly, rather than through labour hire or temp agencies.

Workers seeking a job in the community sector would then know where to register when in search of work; and registered employers would know where to place vacancies. This would preclude the need for community sector employers to engage labour hire, and create a more transparent system for filling short-term labour demands.

There are several of such schemes already operating including the relief teachers as mentioned above, and the harvest trail jobs vacancies board for the Australian vegetable industry.

Recommendation: The ACT Government should establish an ACT Office of Industrial Relations with inspection and enforcement powers

UnionsACT has provided the ACT Government with a detailed proposal regarding the establishment of an ACT Office of Industrial Relations.

Presently, there are several separate entities, authorities and branches of the ACT Government that are industrial or work safety related that have been established over the years. There is insufficient coordination between these bodies, and no central policy guiding their work. Furthermore, there is no unified compliance and enforcement.

Prior to 2012, there existed an ACT Office of Industrial Relations, which was a policy unit whose remit included workers' compensation. Various administrative changes since 2013 resulted in the office being split and renamed. The primary focus of this office was to provide advice to the Government regarding the 55 percent of workers in the ACT who work in the private sector. It did not undertake enforcement or compliance activities.

There are several ACT Government directorates or entities with enforcement, compliance or contract management powers. They include:

- Building and Construction Industry Training Fund Authority (administers an industry levy and funds approved programs)
- Procurement and Capital Works (Goods & Services, Civil Infrastructure & Capital Works, Infrastructure Commercial, Contingent Labour (Contractor Central) and Infrastructure Health, includes a Superintendent of Works)
- ACT Long Service Leave Authority (Compliance Officers);
- Skills Canberra (Industry Liaison Officers with

responsibilities for apprenticeship programs)

- Construction Occupations Licensing (funded Industry Field Officers, presently located within Group Training organisations)
- Access Canberra (licensing of various trades, including inspectors)

These resources already operate across a broad spectrum of industries (the Long Service Leave compliance ambit covers over 2000 registered employers of nearly 45% of the ACT private sector workforce – e.g. construction, contract cleaning & waste removal, community sector, and security) and in the case of construction there is overlap in relation to the Skills Canberra & Licensing areas. Skills Canberra currently undertakes inspections of apprentices relating to their training, but does not and cannot ask about workplace rights or safety.

UnionsACT proposes that the ACT Government bring together the various units and entities into a single Office – the Office of Industrial Relations. The combined Office should:

- Combine all existing entities with industrial relations and procurement responsibilities.
- Be the principle repository within the public service for industrial relations policy, enforcement and compliance, principally for the private sector.
- House responsibilities for the administration of and compliance with the ACT Government's proposed Local Jobs Code.
- Ensure inspectors have access to a broader range of inspection powers.
- Provide advice to ACT Government business units and directorates regarding procurement,

compliance with the proposed Local Jobs Code, and provide support for contract management and audits.

- Monitor ongoing compliance with existing IRE Certification, Active Certification, and pre-qualification.
- Be a single point of contact for disputes or complaints about industrial and procurement matters.

This body would also be able to coordinate the ACT Government's response to this Inquiry into insecure work.

9.9 TOR: the extent to which the ACT Government's tendering and procurement arrangements are and could be used to encourage best practice in industries where insecure work arrangements have become common

Recommendation: ACT Government must cease use of short-term contracts in public service.

The ACT Government should aim to be an exemplary employer. Precarious work and the consequences of precarious work, are counter to the public policy objectives of the Government to have a high wage economy, with low levels of disadvantage, where no one is left behind. ACT government employees on short-term contracts or who are employed precariously have significant barriers to fully participating in their workplace and their community, barriers erected by the Government.

Recommendation: ACT Government

should completely phase out the use of labour hire and recruitment agencies.

The ACT Government must immediately phase out the use of labour hire and offer labour hire employees direct employment. UnionsACT is very concerned that ACT Government senior officers may be attempting to use labour hire arrangements to avoid obligations under various enterprise agreements.

Recommendation: The ACT Government should "in-house" as default for services (e.g. school and hospital cleaning).

As the default policy, the ACT Government should prefer to provide property services "in house", that is, through direct employment of cleaners, security guards and the like. This would reduce the risk for those workers of the negative impact of precarious work, and exploitation.

Recommendation: ACT Government should use its procurement powers to ensure goods and services providers are compliant with workplace laws and other statutory obligations.

Just as governments in other jurisdictions have, the ACT Government should use its purchasing powers to ensure compliance with industrial and workplace laws. This can be in the form of a legislated instrument.

The ACT Government should require that the businesses it contracts are compliant with workplace laws

and other obligations in all of their business, not just ACT Government work.

9.10 TOR: the ability of any ACT regulatory arrangements to operate effectively in the absence of a national approach

Recommendation: In the absence of a Commonwealth licensing or registration scheme for labour hire, the ACT Government should introduce a scheme, and insofar as possible align it with licensing schemes from other jurisdictions.

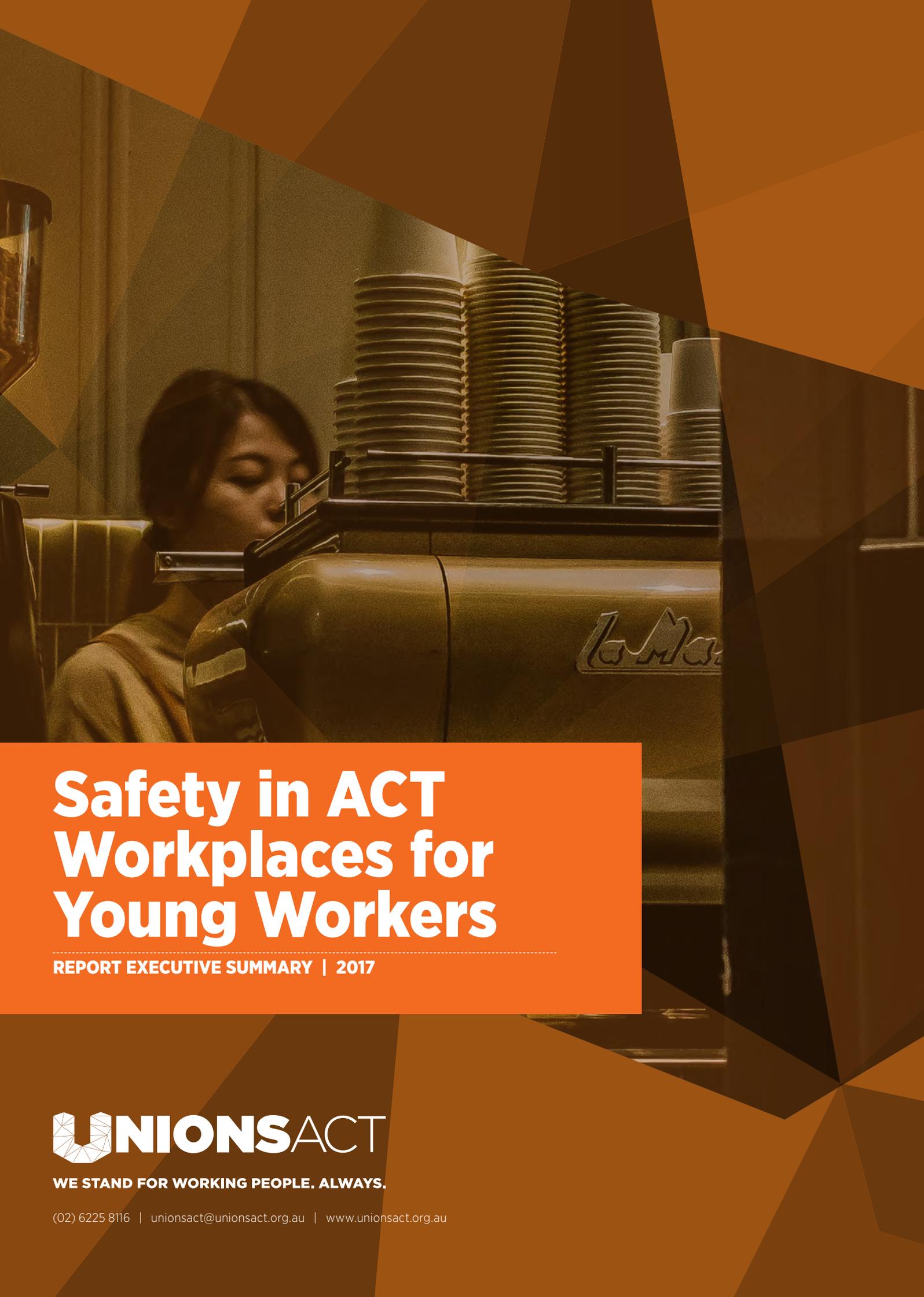
As noted earlier, UnionsACT strongly recommends the establishment of a labour hire licensing scheme. The most desirable outcome is a national scheme. However, with the Commonwealth Government unwilling to act to protect labour hire workers, the ACT Government should introduce a territory-specific scheme.

Both Queensland and Victorian governments have commenced the legislative process to license labour hire. Any ACT scheme should mirror such elements of those schemes to as much as possible regulate cross-border labour hire businesses.

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Safety in ACT Workplaces for Young Workers

REPORT EXECUTIVE SUMMARY | 2017

UNIONSACT

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UnionsACT is the independent voice for over 33,000 union members and 15,000 community supporters. Many tens of thousands more working people have their conditions of work set and improved by the work of our affiliates.



We are the ACT's leading voice for working people, their families and communities.

We are proudly and fearlessly independent, and advocate solely in the interests of our affiliates and their members.

Our mission is to create a society and economy that operates in the genuine interests of working people.

We campaign for **big, important and permanent changes** to improve the safety, dignity and health of all working people, at work and in the community.

OUR VALUES

WE ARE UNION

We are proudly union and stand for the principles of unity, solidarity, democracy and dignity of work.

WE ARE INDEPENDENT

We fiercely and fearlessly represent the interests of our affiliates, their members and working people, and the communities they live in.

WE ARE RESPECTFUL

We respect each other, our affiliates, our allies and we do not underestimate our opponents.

About UnionsACT



UnionsACT is the Canberra region's leading advocate for working people, their families and their communities.

UnionsACT advocates for big, important and permanent changes to make the ACT economy and society operate in the genuine interests of working people.

We are proudly and fearlessly independent, and advocate solely in the interests of our affiliates and their members.



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Trades & Labour Council of the ACT **ABN 31 724 041 495**

UnionsACT acknowledges that Canberra has been built on the land of the Ngunnawal people.

We pay respect to their Elders and recognise the strength and resilience of Aboriginal and Torres Strait Islander peoples.

About this Report



As part of its commitment to promoting workplace safety, UnionsACT engages in research on attitudes and awareness of safety in the workplace. Promoting safe workplaces is core business for UnionsACT.

In January/February 2017, UnionsACT conducted research interviews with young workers aged 15 to 25 about their experiences in work. The purpose of this research was to gain insights into the attitudes of young workers towards safety, and to better understand what issues young workers face in their workplaces.

With this information, UnionsACT hopes to better understand the challenges and priorities for young workers on a range of issues to do with workplace rights and workplace safety, and to improve awareness raising activities and initiatives.

Summary of Findings

Young workers lack experience and are generally unfamiliar with workplace procedures and policies.

Over half of respondents stated that they had been exposed to unsafe work practices.

Most respondents were not aware of their basic rights as workers

Over seventy percent of respondents reported being bullied or harassed at work.

Respondents who were aware of their rights reported that they felt afraid or to speak up or complain, with the principle concern being dismissal.

A high number of female respondents reported unsafe work practices or harassment of a sexual nature.



Methodology

UnionsACT undertook interviews with young people aged 15-25. The interviews consisted of 21 questions, covering areas including “bullying and harassment”, “unsafe workplaces”, awareness of minimum workplace standards, and demographic questions. Questions included open-ended “essay” style questions.

The randomly selected sample totalled 263 people. The surveys were conducted in person and online during January/February 2017.



Safety Findings

Two specific questions were asked relating to their safety at work:

1. *Have you ever worked in conditions that felt unsafe? If yes, tell us about what happened.*
2. *Have you ever felt bullied or harassed at work? If yes, tell us about what happened.*

UNSAFE WORKING CONDITIONS

53% of respondents have been put in conditions that made them feel unsafe at work.

YOUNG WORKERS SAID:

“There was one instance where the cafe had a faulty power point back of house and one young worker got zapped, so the bosses tried to comfort her and be super nice obviously so that she wouldn’t fill in an incident report. an older worker also got zapped and he pushed the bosses to do something about it.”

Aged 21

Have you ever worked in conditions that felt unsafe?



■ Yes - 53% ■ No - 47%

“When I had my first job at 14 and 9 months, I worked a lot in the back docks of the retail store. I often cut my hand on rusty nails, old staples, and metal trolleys, and would fall and hurt myself occasionally due to lots of rubbish on the ground.”

Aged 24

BULLYING & HARASSMENT

70% of respondents have felt bullied or harassed in the work place.

A higher number of respondents who have experienced harassment and unsafe working conditions were female.

- 77% of respondents who felt unsafe in their work environment were female.
- 78% of respondents who were bullied or harassed in the workplace were female.

YOUNG WORKERS SAID:

“I was never allowed to question incorrect pays/ shifts or I would get in trouble from management for causing issues in the workplace.”

Aged 21

“Had \$0.10c/hour deducted for asking why I was being underpaid.”

Aged 18

“Worked with a verbally abusive man who got in a few physical fights with other male employees. He was good at his job so he was never fired.”

Aged 23

Have you ever felt bullied or harassed at work?



■ Yes - 70% ■ No - 30%



SEXUAL HARASSMENT

A significant number of female respondents reported that they had experienced sexual harassment in the workplace.

YOUNG WORKERS SAID:

“I was threatened with rape by an anonymous note at work.”

Aged 21

“At a cafe in Queanbeyan, the staff would look at me in a sexual way and ask me about the size of my boyfriends penis.”

Aged 18

“I was harassed by a coworker. I ended up quitting because my work refused to acknowledge that the guy was doing any wrong.”

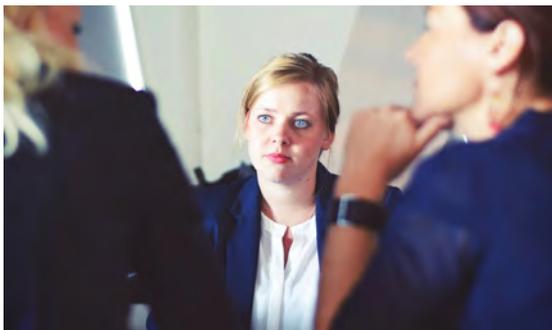
Aged 18

“When I worked for an upper class restaurant I was sexually assaulted a number of times. This was molestation, not rape, but I note that after I complained to my supervisor after the fifth time it happened, there were no repercussion for him, and I had to continue to work with him and deal with his touching and comments. One of my male coworkers eventually spoke to him, and he left me alone. This went on for about 2 months.”

Aged 24

“My manager called me fat (I was severely underweight) and made sexist comments constantly to female staff - but was really ‘buds’ with the male staff.”

Aged 21



RESPONDENTS UNDER 18 – SAFETY

The largest group of respondents aged under 18 were in Year 11 (33 percent), with the remainder in Year 12, apprenticeships, commencing tertiary studies.

- Respondents aged 18 years or under were less likely to report working in conditions that felt unsafe, or being bullied.
- Over half (60 percent) of respondents reported feeling bullied or harassed (compared to 70 percent overall).
- Respondents reported that inexperience and lack of awareness of their safety and workplace rights was primary reason for unsafe conditions.

YOUNG WORKERS SAID:

“My boss at the pizza place was really horrible to me in every shift and then fired me for no reason.”

Aged 16

“A older and higher ranking employee and Hogs Breath constantly was belittling me, giving me looks that made me feel very uncomfortable and would often ask if I was a “retard” or “stupid”. Some nights I would come home in tears. My decision to leave the job was largely impacted by her behaviour.”

Aged 16

“A pizza kitchen, the over powering greasy smell made me sick and i had to vomit several times during work”

Aged 17

Have you ever worked in conditions that felt unsafe?



■ Yes - 25% ■ No - 75%

Have you ever felt bullied or harassed at work?



■ Yes - 60% ■ No - 40%

Next Steps

There is very low awareness of safety rights and responsibilities amongst young people entering the workforce or in work.

IMPROVE AWARENESS OF WORK-PLACE SAFETY FOR YOUNG WORKERS

As part of our commitment to promoting safety at work, UnionsACT will work with affiliates, government and industry to increase awareness of workplace safety amongst young workers.

In particular, UnionsACT is expanding its longstanding work with the Education Directorate to engage with students, through Work Experience, and workplace learning. UnionsACT is also working at universities and CIT to raise awareness of workplace amongst young workers.

WORK WITH GOVT. TO STRENGTHEN RIGHTS FOR YOUNG WORKERS AGED UNDER 18 AND INCREASE PENALTIES FOR WHS BREACHES

Young workers are an exceptionally vulnerable group of workers, especially for those workers aged under 18. Currently, the existing ACT safety rights for children in the workplace (aged 15-18) are flouted by unscrupulous employers. Additionally, the regulator

is not adequately resourced to enforce the law or prosecute employers who break the law.

UnionsACT will work the ACT Government and the regulators to strengthen protections for vulnerable young workers, and increase penalties for severe workplace safety violations.

SAFETY REQUIREMENTS FOR TRAINING & APPRENTICE FUNDING

UnionsACT research, as well as data from the ACT Government, shows that apprentices and trainees experience serious workplace accidents at twice the rate of the rest of the workforce. This is especially catastrophic for apprentices and group training apprentices in the construction industry.

UnionsACT will work with the ACT Government to introduce conditions of funding that require apprenticeship and trainee providers, and host employers, to provide safe workplaces. This requirement would see funding suspended or removed in the event of systemic or serious safety incidents involving young workers.

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