



Submission on

Inquiry into the nature, extent and consequence of insecure work in the ACT

Prepared by

National Tertiary Education Union (ACT Division)

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Introduction

The National Tertiary Education Union (NTEU) represents staff employed in the higher education sector across Australia. In the Australian Capital Territory (ACT), these staff are employed by a number of institutions, including:

- Universities, which may be established by federal statute (as in the case of Australian National University); territory statute (as in the case of University of Canberra); or other arrangements, which may include establishment by statute in another jurisdiction (e.g. University of New South Wales, Australian Catholic University).
- Private providers, including those bearing the names of universities and which may be partially owned by them (e.g. University of Canberra College, Australian National University College).
- Student accommodation
- Student unions or associations

This submission notes an earlier submission by the NTEU to the Victorian Government 'Inquiry into the Labour Hire Industry and Insecure Work'.¹ This report has drawn inspiration from the earlier submission, and NTEU wishes to draw attention to that (more comprehensive) submission should it assist with informing the Standing Committee.

¹ National Tertiary Education Union, 'Victorian Inquiry into the Labour Hire Industry and Insecure Work: NTEU Submission', National Tertiary Education Union, 18 December 2015, <http://www.nteu.org.au/library/view/id/6727> (accessed 24 August 2017).

Extent and Nature of Insecure Work

While the extent and nature of insecure work varies between institutions, it is a common feature in the higher education sector which is not unique to the ACT, but occurs across Australia and the developed world. The most common types of insecure work in the sector are fixed-term contract work and casual or sessional work. Both are significant issues with distinctive attributes.

Casualisation

The extent of casualisation in Australian higher education remains difficult to quantify due to flawed reporting mechanisms. The Federal Government's 'Selected Higher Education Statistics' is useful for studying longer term trends, though the estimates from institutions on numbers of casual staff can vary wildly. There is a one year delay between a reconciliation of an institution's estimate of its level of casualisation with the actual figures.

Case Study: University of Canberra

The University of Canberra reported an estimated casual full-time equivalence (FTE) of 200, meaning that casual staff represented the equivalent of 200 full-time jobs.² This figure is then supplemented by the 'actual' number of casual staff (FTE) one year later. The University of Canberra gave the actual number of casual FTE as 171.³ Previous NTEU research has suggested that a multiplier of approximately 6-7 needs to be applied to this FTE figure, in order to obtain an estimate as to headcount (i.e. the number of actual people this figure represents).⁴ The most reliable source of data on the actual headcount of casual staff employed by an institution is the Australian Government Workplace Gender Equality Agency (WGEA). The WGEA figures for 2015 (1121) and 2016 (1000) suggest that this figure is a relatively accurate approximation.⁵

It is worth noting that the University of Canberra reported an estimated casual FTE of 25 for 2016 – a dramatic decline from the 2015 estimation of 200.⁶ Whether this is accurate will not be known until the reconciliation of this figure with the actual number of casual FTE at the end of the year.

Further complicating matters for estimating the extent of casualisation in the ACT is the presence of multiple institutions who have a presence in other jurisdictions. For the purposes of this report, we have not included the University of New South Wales or Australian Catholic University, which operate campuses in the ACT but which are predominantly based interstate.

² Australian Government, '2016 Staff Appendix 1 - Actual staff FTE', Department of Higher Education and Training, 21 December 2016, <https://docs.education.gov.au/node/42386> (accessed 24 August 2017), Appendix 1.2.

³ Ibid.

⁴ 'Victorian Inquiry into the Labour Hire Industry and Insecure Work: NTEU Submission', op. cit.

⁵ Australian Government, '2014-15 public report form submitted by University Of Canberra to the Workplace Gender Equality Agency', Workplace Gender Equality Agency (hereafter WGEA), 9 July 2015, https://www.wgea.gov.au/sites/default/files/public_reports/tempPublicReport_rvrm1pp19y.pdf (accessed 24 August 2017) and Australian Government, 'Public report: 2015-16' (University of Canberra), WGEA, 15 July 2016, https://www.wgea.gov.au/sites/default/files/public_reports/tempPublicReport_pz0sjsfjge.pdf (accessed 24 August 2017).

⁶ Australian Government, '2016 Staff Appendix 1 - Actual staff FTE', op. cit.

Extent of Casualisation

The below tables illustrate the extent of casualisation at both the Australian National University and University of Canberra, expressed in both headcount (i.e. actual people) and FTE. Figure 4 also demonstrates the gendered nature of casual work, in which women are most often overrepresented.

Employees employed on a casual basis (headcount)

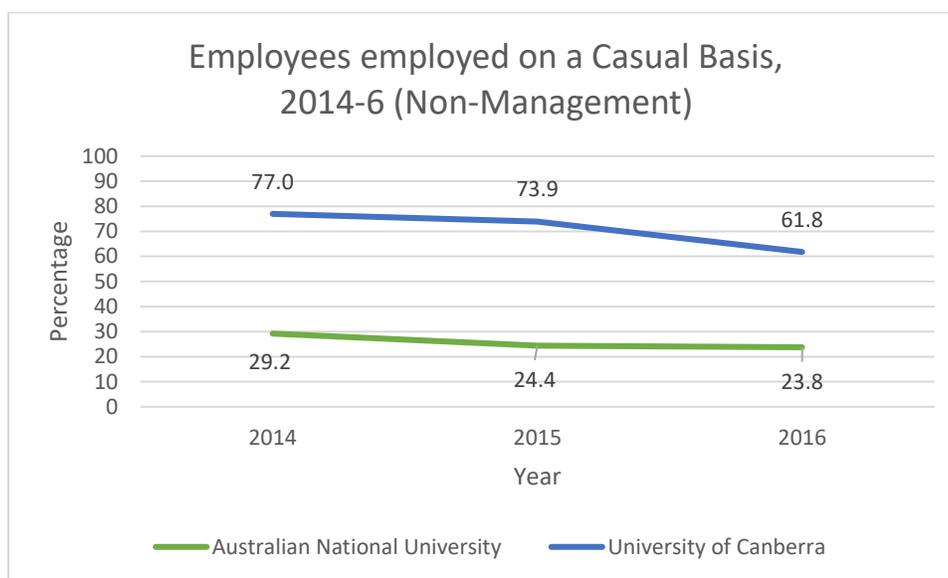


Figure 1: Employment of non-management staff at ACT universities, expressed as a percentage of total employees.⁷

⁷ For ANU statistics see Australian Government, '2013-14 public report form submitted by Australian National University to the Workplace Gender Equality Agency', WGEA, 29 July 2014, https://www.wgea.gov.au/sites/default/files/public_reports/tempPublicReport_7grrecw8hp.pdf (accessed 25 August 2017); Australian Government, '2014-15 public report form submitted by Australian National University to the Workplace Gender Equality Agency', WGEA, 27 July 2015, https://www.wgea.gov.au/sites/default/files/public_reports/tempPublicReport_iu2znwwa0n.pdf (accessed 25 August 2017); Australian Government, 'Public report: 2015-16' (Australian National University), 27 July 2016, https://www.wgea.gov.au/sites/default/files/public_reports/tempPublicReport_s0h14n43ht.pdf (accessed 25 August 2017). For University of Canberra see Australian Government, '2013-14 public report form submitted by University of Canberra to the Workplace Gender Equality Agency', WGEA, 7 August 2014, https://www.wgea.gov.au/sites/default/files/public_reports/tempPublicReport_78crsiwliu.pdf (accessed 25 August 2017); Australian Government, '2014-15 public report form submitted by University of Canberra to the Workplace Gender Equality Agency', op. cit.; Australian Government, 'Public report: 2015-16' (University of Canberra), op. cit.

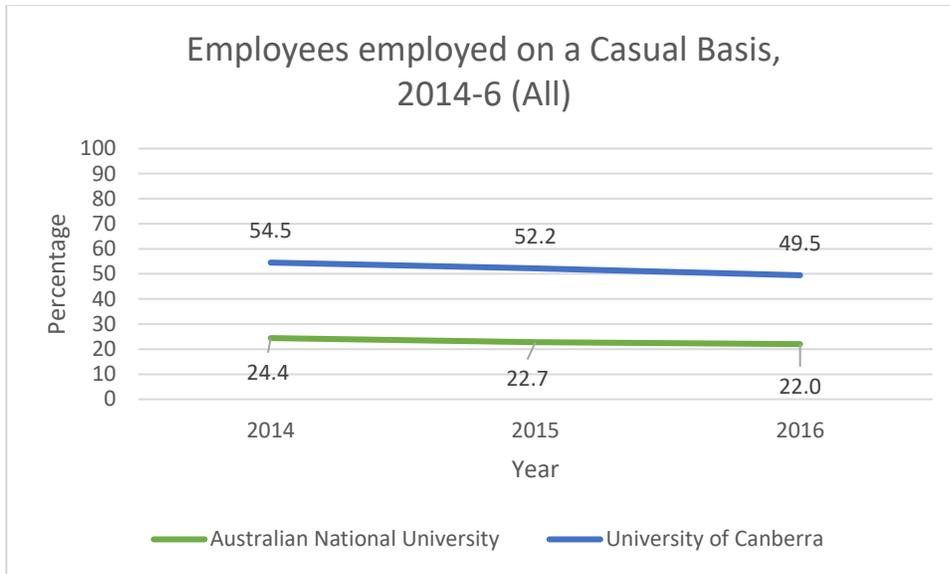


Figure 2: Employment of all staff at ACT universities, expressed as a percentage of total employees.⁸

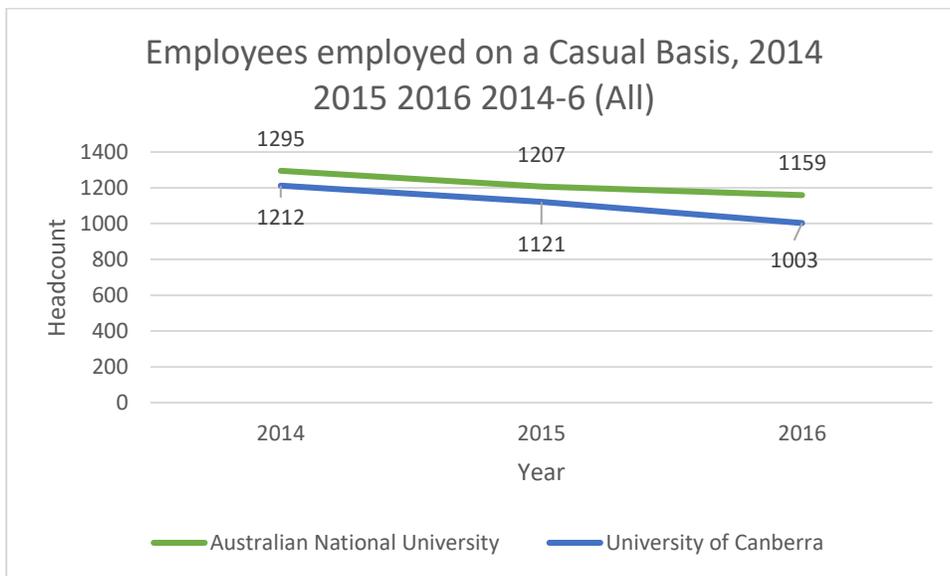


Figure 3: Employment of all casually employed staff at ACT universities, expressed as headcount of total employees.⁹

⁸ Ibid.

⁹ Ibid.

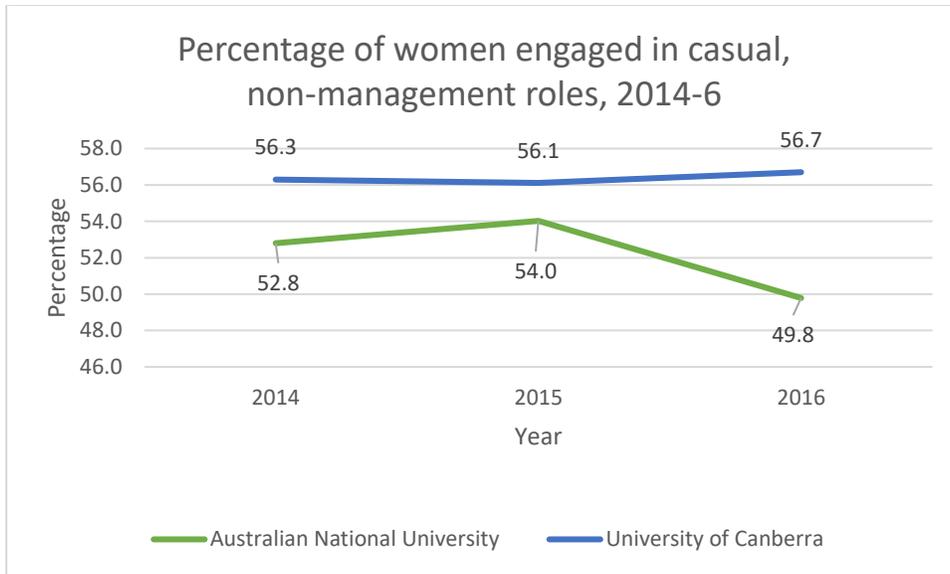


Figure 4: Employment of all casually employed women at ACT universities, expressed as percentage of total, non-management casual employees.¹⁰

Employees employed on a casual basis (FTE)

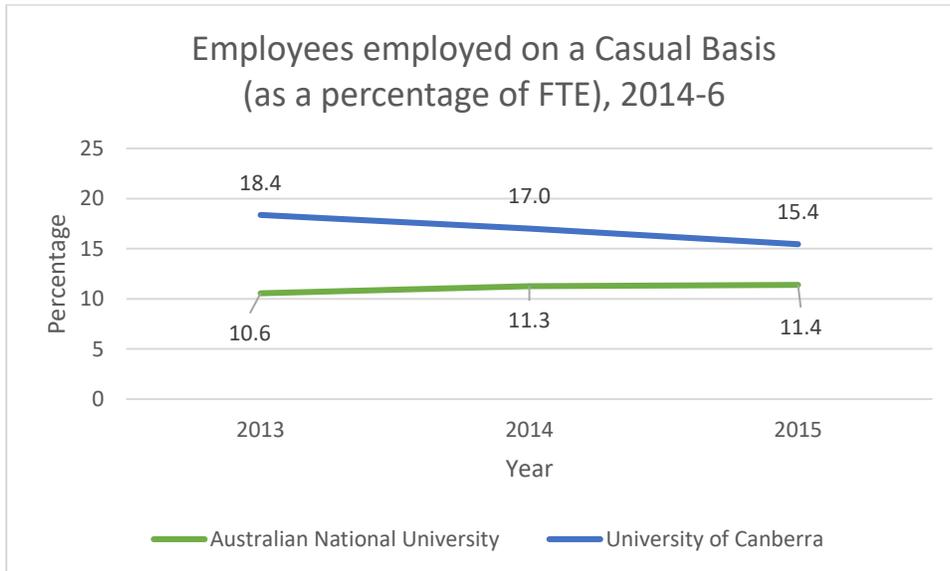


Figure 5: Employment of all casually employed staff at ACT universities, expressed as percentage of FTE (based on actual numbers).¹¹ Figures for 2016 are not yet available.

¹⁰ Ibid.

¹¹ Australian Government, '2014 Staff Appendix 1 - Actual staff FTE', Department of Higher Education and Training, 7 October 2014, <https://docs.education.gov.au/node/36259> (accessed 24 August 2017), Appendix 1.2; Australian Government, '2015 Staff Appendix 1 - Actual staff FTE', Department of Higher Education and Training, 27 January

Nature of Casualisation

Staff employed on a casual basis in universities can be divided into two broad categories – professional staff and academic staff. Despite the division between categories of staff, there exist some common areas of disadvantage when compared to ongoing staff.

Casual staff wages are calculated based on wages of ongoing staff at the appropriate level as per Enterprise Agreements. In addition, casual staff receive a 25 percent loading. While a loading would normally compensate casual staff for sick leave and annual leave, the overall arrangement of casual work in this way disadvantages staff as they are not entitled to many other conditions guaranteed by Enterprise Agreements. These conditions have been negotiated through successive rounds of Enterprise Bargaining, and usually involve a trade-off of wages (e.g. a lower wage rise than would have occurred without improvement in conditions). Casual staff are thus doubly disadvantaged. Their rates are calculated on these wages which are lower because they have been traded for conditions, but they do not themselves get the benefit of these conditions. Such conditions include, but are not limited to:

- 17 percent superannuation;
- Paid parental leave;
- Paid adoption leave;
- Paid domestic/intimate partner violence leave;
- Substantially higher than minimum-standard redundancy entitlements;
- Incremental advancement through classification pay levels; and
- Paid personal leave in excess of the statutory minimum.

The 25 percent casual loading is insufficient to compensate for the value of the conditions not applied to casual workers.

Casual academic staff are overwhelmingly in teaching-only roles. An academic year may have approximately 26 weeks of non-teaching periods, but it is not correct to assert that this period does not involve work. Much of this period involves paid work for assessment and other forms of marking; meetings prior to a teaching period; and preparation of course materials. This period may also include work which is commonly unpaid, such as casually employed staff familiarising themselves with university policy and procedures. Such unpaid work may also include maintaining currency in a particular discipline or subject area. Research done by casually employed staff often contributes to university rankings, but is often unpaid.

While casual teaching work may, in some cases, be used as a legitimate means of developing the academic skills of postgraduate students, casualisation remains a significant problem. While casual work may have been seen by many in the past as an entrée to the sector, many staff can now be employed casually for ten years or more. Rather than a transitional phase, casualised teaching has become a new norm.

It should also be noted that a majority of staff aspire to ongoing work. Universities, from time to time, may claim that their employees prefer the flexibility of casual employment. In fact, only 12 percent of casually employed academic staff see themselves as 'casual by choice'.¹² In addition, casualisation disproportionately affects women (as demonstrated in Figure 4), with percentages of women consistently above 50 percent. The combination of overrepresentation in this particular form of insecure work and the nature of many of the benefits not enjoyed by

2016, <https://docs.education.gov.au/node/38395> (accessed 24 August 2017), Appendix 1.2; Australian Government, '2016 Staff Appendix 1 - Actual staff FTE', op. cit.

¹² R. May, D. Peetz & G. Strachan, 'The casual academic workforce and labour market segmentation in Australia', *Labour & Industry: a journal of the social and economic relations of work*, vol. 23, no. 3, 2013, pp. 258-75.

casually employed staff demonstrate that the issue of casualisation has particular significance as a gender equity issue.

We have included some testimonies from our members. Issues that often arise for casually employed staff include (but are not limited to) issues such as financial hardship; threats of adverse action (such as not being re-employed) for speaking up; lack of certainty; anxiety and stress.

Fixed-Term Employment

Extent of Fixed-Term Employment

The below tables illustrate the extent of employment on fixed-term contracts at both the Australian National University and University of Canberra, expressed as percentages based on headcount. Figure 9 also demonstrates the gendered nature of fixed-term work, in which women are most often overrepresented.

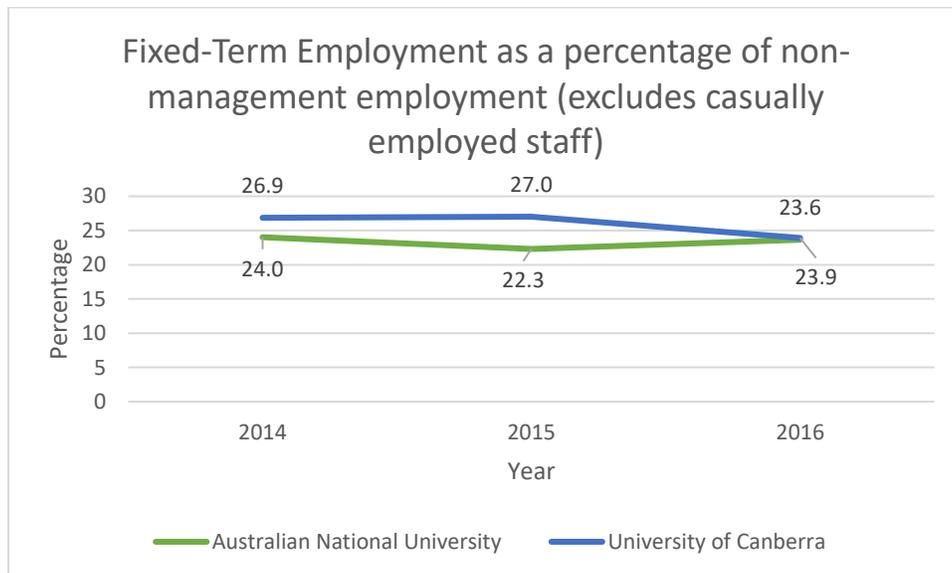


Figure 6: Employment of fixed-term staff as a percentage of non-management staff at ACT universities. The above data excludes casually employed staff.¹³

¹³ For ANU statistics see Australian Government, '2013-14 public report form submitted by Australian National University to the Workplace Gender Equality Agency', op. cit.; Australian Government, '2014-15 public report form submitted by Australian National University to the Workplace Gender Equality Agency', op. cit.; Australian Government, 'Public report: 2015-16' (Australian National University), op. cit. For University of Canberra see Australian Government, '2013-14 public report form submitted by University of Canberra to the Workplace Gender Equality Agency', op. cit.; Australian Government, '2014-15 public report form submitted by University Of Canberra to the Workplace Gender Equality Agency', op. cit.; Australian Government, 'Public report: 2015-16' (University of Canberra), op. cit.

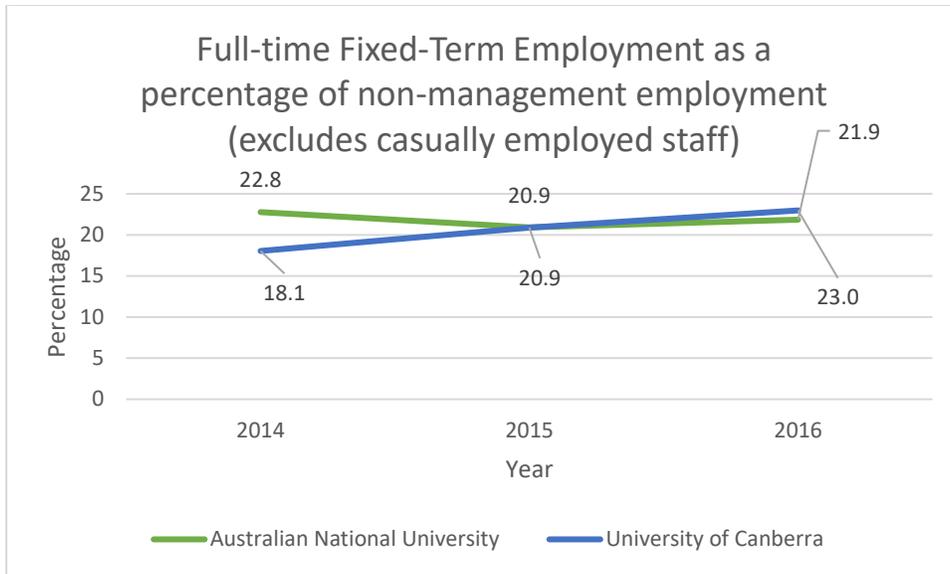


Figure 7: Employment of full-time fixed-term staff as a percentage of non-management staff at ACT universities. The above data excludes casually employed and part-time staff.¹⁴

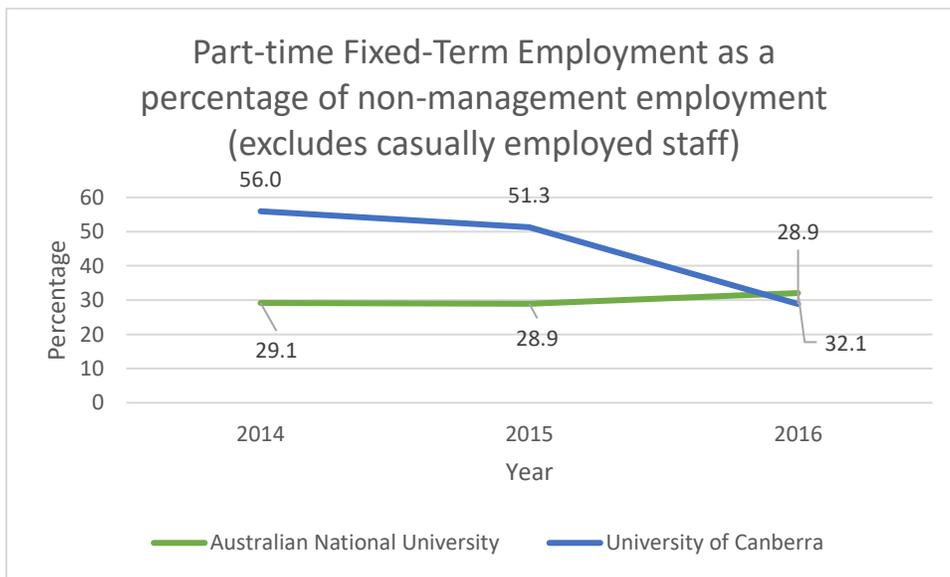


Figure 8: Employment of part-time fixed-term staff as a percentage of non-management staff at ACT universities. The above data excludes casually employed and full-time staff.¹⁵

¹⁴ Ibid.

¹⁵ Ibid.

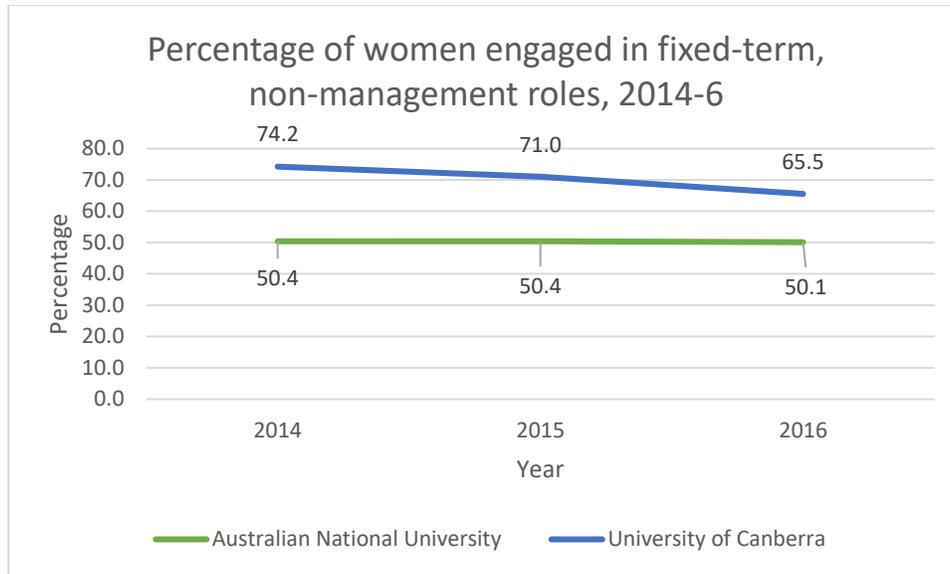


Figure 9

Employment of all women employed on fixed-term contracts at ACT universities, expressed as percentage of total, non-management fixed-term employees.¹⁶

Nature of Fixed-Term Employment

In the higher education sector fixed-term staff can again be separated into two broad categories – professional staff and academic staff.

The use of fixed-term contracts has been a major issue of concern for the NTEU. While we have achieved outcomes which have restricted the use of fixed-term contracts somewhat, there remain issues (particularly for fixed-term academic staff). These can mirror issues for casually employed staff somewhat. Fixed-term staff are paid in accordance with the rates paid to their ongoing colleagues, which (as has been described previously) may have been negotiated on the basis that there were accompanying improvements to working conditions. In some cases, these conditions do not apply to fixed-term staff (for example, fixed-term staff employed for a period of less than one year are paid 9.5 percent superannuation, rather than 17 percent). Unlike casually employed staff, fixed-term staff receive no compensation in the form of loading, meaning that they are financially disadvantaged by their employment status.

Fixed-term staff at ACT universities experience many of the same frustrations casually employed staff do. Their employment status contributes to feelings of insecurity, stress and anxiety; financial hardship; and a lack of certainty over the future. Fixed-term employment, for example, may make it far more difficult to secure finance for housing loans. Many fixed-term staff also feel unwilling or unable to exercise their industrial rights for fear of jeopardising future contracts.

Fixed-term academics are overwhelmingly research (rather than teaching) focused. Often this research is supported (or funded entirely) by external grants. Unfortunately the protections against the use of fixed-term contracts are difficult to apply when the funding may be wholly or partially funded externally, or where the exact source of funding remains unclear.

¹⁶ Ibid.

Similarly to casualised employment, women are overrepresented among fixed-term employees. In the ACT, women are employed in only 48.86 percent of full-time ongoing roles (non-management).¹⁷ Thus fixed-term employment contributes to the contention that insecure work is a significant gender equity issue.

Testimonies

In preparation from this submission, we canvassed some of our membership to provide some testimonies which describe their experiences of insecure work in a qualitative manner. We have de-identified and included abstracts from some of these members below in order to convey their impressions of insecure work.

Working as a tutor is very rewarding, but the conditions almost make it not worth it. In eight weeks the current semester's teaching will finish, and it will be four months until the next semester begins. Since my work as a tutor is how I pay the bills, I will need some other job for four months. Furthermore, there is nothing more than a weak and informal indication I will get another contract next year. This cycle between short-term teaching contracts and short-term fill-in work, with no guarantees about actually getting work in either, is very stressful. This is my job—I have been doing this for four years, and there is no possibility of conversion. The instability and lack of predictability I am talking about makes it impossible to build a life around tutoring (Casually employed academic, Australian National University).

Being a casual sessional academic is stressful on a number of intermingling levels, there isn't any guarantee that you will have work next semester or next year, there is often no idea that you will have any work until the week before semester begins. Getting positions is almost exclusively from 'corridor conversations'. The tenuous nature of work, combined with this need for personal relationships makes it extremely awkward to raise an issue when your conditions are not as would be expected, as you worry that you jeopardise your next semester's work. The lack of sick leave or careers leave means that there is no flex in the system for you and the lack of job continuity also make planning a family more fraught, as not only is there no maternity leave, there is no guarantee of a job to come back to (Casually employed academic, Australian National University).

I've struggled with several banks to obtain a mortgage to purchase a home, since I can't prove that I will actually have a job and be able to make payments after the expiration of my current contract. The issue was not my salary level, but the lack of certainty about future income. One bank asked for a letter from HR guaranteeing my employment, and of course HR refused to do that as I am on a fixed-term contract. It's been a needlessly frustrating experience which wouldn't be faced by someone in stable employment (Fixed-term academic, Australian National University).

I have been on casual or contract roles since completing my PhD nearly 3 years ago. Being on a contract presents several challenges. I don't know whether I can take out a mortgage for a loan on a house because I may find myself unemployed at the end of my contract without a new role to go. While I can access maternity leave while on my contract, there is a fear amongst my colleagues in the same situation that it would be difficult to find new employment after the contract expires. It is difficult to plan ahead when you don't know if you have employment in the future and this can create feelings of anxiety which affect mental health (Fixed-term academic, Australian National University).

¹⁷ Ibid.

Recommendations

The NTEU recommends the following:

- That the ACT Government legislate to ensure that long service leave provisions apply to *all* employees, including those employed on a casual basis;
- That the ACT Government legislate to ensure that paid maternity leave provisions apply to *all* employees, including those employed on a casual basis;
- That the ACT Government legislate to ensure that paid domestic/intimate partner violence leave provisions apply to *all* employees, including those employed on a casual basis;
- That the ACT Government legislate to ensure that there are maximum limits on the extent to which someone can be employed on a casual basis, after which a form of mandatory conversion to ongoing work can be accessed by the employee;
- That the ACT Government legislate to ensure that there are maximum limits on the extent to which someone can be employed on successive fixed-terms contracts (or extensions of existing contracts), after which a form of mandatory conversion to ongoing work can be accessed by the employee;
- And to ensure that in the implementation and enforcement of the following no employer should be permitted to act in a manner so as to avoid any obligation imposed by ACT legislation.

References

Government Reports

Department of Higher Education and Training

Australian Government, '2014 Staff Appendix 1 - Actual staff FTE', Department of Higher Education and Training, 7 October 2014, <https://docs.education.gov.au/node/36259> (accessed 24 August 2017).

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R. May, D. Peetz & G. Strachan, 'The casual academic workforce and labour market segmentation in Australia', *Labour & Industry: a journal of the social and economic relations of work*, vol. 23, no. 3, 2013, pp. 258-75.

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