



# **AEU (SA Branch) Submission to Independent Inquiry into Insecure Work in Australia**

## **Introduction:**

The SA Branch of the Australian Education Union has a membership of approximately 14,000 education workers in the SA public education system. Membership of the SA Branch of the AEU is open to public education workers in preschools, schools and TAFE. Members include teachers and education support staff, principals and administrators. 70% of the union's membership are women.

The AEU represents its members industrially and professionally in diverse forums. This includes the maintenance of comprehensive industrial protection and representation through industrial awards and agreements in all industrial tribunals in Australia. This involves industrial research, negotiation and advocacy over a wide range of matters including salaries and teaching and learning conditions.

Reducing the numbers of education workers experiencing insecure employment has been a priority of the SA Branch of the AEU. This priority has featured in our enterprise bargaining and arbitration claims, and in our input to the Department of Education and Child Development (DECD) policies such as the Recruitment and Selection of Teaching Staff in Schools, adopted in 2011.

## **What are the Characteristics of 'Insecure Work' for Education Employees in South Australia?**

Employees in insecure employment can experience unpredictable, fluctuating salaries.

They are often offered inferior rights and entitlements, including limited or no access to paid leave.

They experience serious lack of security and/or uncertainty over the length of the job – particular for those in leadership within DECD.

Such insecurity may result in limited prospects for career progression and skills development.

Employees in insecure work may lack a strong voice at work on wages, conditions and work organisation.

Constant and excessive goodwill by these employees in terms of unpaid overtime and performance of duties is often provided due to a sense of fear/insecurity.

They may also suffer regular relocation in order to find more secure work or to remain in leadership.

## **One of the Biggest Impacts: Financial Security**

Those in insecure work can frequently be the sole income earner in their household. The insecure nature of their employment has a huge impact on the household finances and planning for the future.

Many employees and their families are just coping on the household income.

Regular expenses are heavily affected by insecure work and income including:

- Mortgage repayments and/or rent
- Utility costs
- Rising staple food prices
- Increasing price of domestic annual costs (insurance, council rates)
- Petrol and transport costs

There are also those employees who cannot even contemplate a mortgage or home ownership because banks consider them a financial risk making it almost impossible to even get a bank loan. These people are locked into spiralling rental charges at a time of low vacancy rates.

For many contract and temporary employees in education, Christmas and summer holidays are the most stressful as employment contracts end and future employment is not guaranteed. Often they do not know whether they have further employment until the new school year has begun.

### **The Impact for Women**

The majority of women who take up part time employment or insecure work do so because of caring responsibilities and the need to access more flexible work arrangements in order to meet these responsibilities. Women continue to do two thirds of the domestic and caring work within a family. Women with families and caring responsibilities are more likely to relinquish permanent, full-time employment in an effort to achieve better work life balance because of limits or expectations imposed on them as permanent employees. More often than not however, their personal responsibilities have prevented them from securing permanent secure work with DECD due to an inability to relocate to the country or commute long distances. For some; insecure forms of employment offer a broader range of working hours and flexibility. It is also one of the predominant reasons women within DECD do not assume roles of responsibility or leadership and this ultimately has a long term affect on their career, earning capacity and ultimately their superannuation entitlements.

Many women who work for DECD feel locked out of leadership and career opportunities because of the nature of their employment, their personal circumstances and their access to relevant and worthwhile training and professional development. They have limited rights and benefits in terms of leave and financial security including superannuation. Their financial security in retirement is ultimately impacted because of the nature of their employment and a history of discrimination against women.

Financial and employment insecurity can also have an adverse affect on the private life of many women. A woman's professional confidence and sense of value can be severely eroded through long periods of insecure work; impacting on personal relationships with family, friends and colleagues. It can also have a negative affect on professional performance and confidence where employees feel devalued and unequal in status to other permanent employees.

### **Maternity Leave**

Women working for DECD in temporary or casual employment are also disadvantaged when starting a family. The majority of DECD employees in insecure work are highly likely to start a family. Given that the average age of completing formal education and qualifications has risen, those in insecure employment are also likely to be considering marriage and children. Many women employed by DECD in casual and temporary employment postpone

starting a family due to lack of financial and employment security, lack of paid maternity leave entitlements, fear of missing out on future employment opportunities.

Casual DECD employees and some temporary/contract employees do not qualify for the employer funded paid maternity leave (currently 14 weeks at full pay) and depending on their hours of employment and the date of birth of the child, they may not qualify for the Federal Government Paid Parental Leave Scheme either (a requirement to have been employed for 10 of the previous 13 months and worked 330 hours in the 10 months). A woman working for DECD as a casual School Support Officer at eight hours a week who has a baby in July; may struggle to reach the required hours of work given periods of unemployment and school holiday breaks where she is not technically contracted. It is often the temporary and casual employees that most need schemes such as the Paid Parental Leave and yet they may be denied it due to the precarious and random nature of their employment.

### **Leadership and Insecure Work – Another Angle**

Further to the general issues that arise from insecure employment is the situation with leadership roles within DECD. The meritorious leadership model which DECD employs carries a unique set of limitations which result in levels of insecurity for temporary, casual and permanent employees alike.

The basis of merit selection within DECD is that an individual wins a leadership position on merit and the position is limited to a specific tenure; usually three to five years. This process in itself adds a level of insecurity to those in leadership for several reasons.

Many DECD employees who choose to step into leadership positions do so in country locations. For some this involves relocation for themselves and possibly their immediate family. Due to the restriction on tenure for leadership positions; these employees technically find themselves in a situation of insecure work. At the end of their tenure they must either re win the position, win another leadership position in another location or return to classroom teaching. There is a very real element of insecurity with this process that has an impact on the employee and their family; including financial, physical and/or psychological.

### **Added Workload Associated with Insecure Employment**

From affidavits provided by the AEU in the course of achieving an arbitrated award in 2009/10, there was very clear evidence that insecure work has implications for employees in terms of workload and confidence of voice within the work place. Employees in insecure work are less inclined to feel a sense of ownership of educational and site decisions or express their opinions regarding such decisions, problems or issues.

Those in insecure employment often provide excessive amounts of “goodwill” in order to remain in the “good books”. Professor Barbara Pocock, Director of the Work + Life at the University of South Australia, cites research, including results from a 2008 survey conducted by the Centre for Work + Life, that clearly shows casual or limited term contract workers have less work- related flexibility than ongoing workers because of this lack of voice and fear of losing their job. They remain silent on issues which affect them directly for fear of ramifications including loss of employment.

There is also a clear increase in work load for casual and temporary employees who constantly have to familiarise themselves with a new workplace and possibly a new role on a regular basis. Every new work place or role requires a degree of adjustment and learning and results in a degree of increased work load. These added work pressures have an adverse affect on the employee and their capacity to perform their duties effectively and to a high professional standard.

## **Industrial Perspective**

### **Definitions**

Public Service definitions in South Australia are a barrier to employing teachers and ancillary staff as ongoing.

Teachers are employed on a casual basis if they work less than two days per week (0.4 full-time equivalent (FTE)).

School Services Officers (SSOs), Early Childhood Workers (ECWs) and Aboriginal Education Workers (AEWs) are defined as casual if they are employed for less than 15 hours per week and/or two school terms or less.

This has resulted in the employer engaging SSOs at less than 15 hours per week for an extended period of time and ensuring that they remain casual employees.

### **Example A**

A language teacher was employed to provide support to New Arrival children. The position was a temporary contract of 0.4 FTE for 12 months.

As a contract teacher she was eligible for leave entitlements such as sick leave and special leave.

The following year she was employed for 0.3 FTE for 12 months. The position was described as casual even though she had regular work for 1.5 days per week.

### **Example B**

A country school was found to have employed four of its six SSOs on 14.5 hours per week, for over 10 years. As casual employees they were ineligible for conversion to permanency.

### **Salary Increases – Denied**

In 2010, as a result of a lengthy arbitration the teacher salary scale was extended from eight steps to nine steps. Teachers progressing to Step 9 had to agree to strive to undertake agreed training and development and mentor other teachers if appropriate. It provided an additional salary increase to the majority of teachers who were at the top of the salary scale.

The employer took the view that casual teachers (Temporary Relieving Teachers (TRTs)) were ineligible for this classification step. The AEU (SA Branch) successfully challenged this decision, and won for its members the right to be a casual teacher paid at Step 9. It took an additional 12 months for casual teachers to gain the benefits of the arbitrated award due to an ideological position taken by the employer.

### **Long Service Leave**

Long Service Leave (LSL) provisions for teachers in South Australia are governed by the Education Act, 1972 under Division 3, Long Service Leave. The employer has tried to limit the LSL entitlements of temporary and casual teachers through attempting to engage them as employees of the Department, under Section 101B of the Education Act, 1972, rather than officers of the teaching service, prescribed under Section 15 of the Education Act, 1972. The effect of this technical employment arrangement is to deny precariously employed staff the benefit of greater breaks in service which are a feature of the Education Act. The AEU is challenging this practice and the matter has been appealed in the High Court of Australia.

## **Travel Allowances**

Permanent Relieving Teachers (PRTs) are paid accommodation, meals and travel allowances when working away from home in country locations.

TRTs undertaking the same work, and working in the same schools are not paid these allowances. We know of instances where city based TRTs have been asked to work in the Far North of South Australia to cover teacher shortages and have had to pay their own travel, meals and accommodation costs.

### **Example A**

A teacher working as a TRT in the northern suburbs of Adelaide was asked to undertake a week's worth of casual teaching in a school over 500 kilometres from Adelaide.

After teaching for the week the TRT tried to claim the cost of travel, meals and accommodation. These claims were denied by the employer.

### **Example B**

A casual SSO was required to work across three country school sites, so that she could earn enough money for a living wage. The SSO had to pay, out of her own pocket, travel costs between schools, the closest being 70 kilometres away.

## **Access to Tools of the Trade**

As a teacher it is important to have access to online curriculum materials to plan teaching programs.

Through most of 2011 casual teachers were denied access to curriculum materials through restrictions in the online login through the Department website.

This limited the ability of casual teachers to keep abreast of changes to the Australian Curriculum.

The AEU (SA Branch) had to intervene in the matter to negotiate for these employees so that they could have access via their local school.

## **Professional Development**

TRTs are not provided with professional development by their employer in South Australia. To keep abreast of professional changes TRTs have to undertake the training in their own time and at their own expense.

## **Tea Breaks**

Casual SSOs often are second class citizens and in some schools are denied access to tea breaks that other staff receive. The precarious nature of their employment makes it difficult for them to feel confident in challenging these issues.

## **Conversion to Permanency Clauses**

The South Australian Education Staff (Government Preschools and Schools) Arbitrated Enterprise Bargaining Award 2010 includes two conversion-to-permanency clauses. These are Clause 2.2 Conversion to Permanency Criteria for SSOs and ECWs and Clause 2.3 Permanency Criteria for AEWs.

### **Aboriginal Education Workers (AEWs)**

This provision has operated successfully for many years. It enables AEWs to be converted to permanent employment after one year of continuous employment; when converted the

employee will be offered a minimum of 30 hours work per week. Temporary reductions in time may be requested. A review of casual employment practices is also to occur.

### **School Services Officers (SSOs)**

The Industrial Relations Commission of South Australia determined that temporary employees with two years continuous employment would be converted to ongoing employment subject to genuine operational requirements. This process has seen over 800 SSOs converted to permanent employment. Despite this a recent report published by the employer states that 46% of SSOs are still casually employed.

### **Technical and Further Education (TAFE)**

The Industrial Relations Commission of South Australia determined a clear definition of temporary positions in the TAFE SA Education Staff Arbitrated Enterprise Bargaining Award 2010, at clause 2.1 Definition of Employment Categories and clause 2.2 Conversion of Temporary Employees to Permanent Employment.

A review was undertaken to ensure that such positions complied with the definition of permanent and ongoing employment.

## **Secure Ongoing Employment – That Glittering Prize**

### **The Voices of AEU Members**

It cannot be doubted that insecure employment is inferior from an employee's perspective. It brings with it detriments that are not suffered by ongoing employees. In so far as the advantages of ongoing employment can be provided to employees without reasonable impact upon the business of the Employer those advantages should ordinarily be available.

Casual and temporary employees have provided to the AEU evidence of disadvantage. It includes:

- Diminished opportunities for professional experience, development, and promotion, which causes harm to affected employees' careers. Indeed, insecure employment functions as a de facto form of very long probation.
- Economic prejudice arising from not being paid during non-teaching periods or being paid incorrectly, extending to employees electing not to apply for reclassification in case it harms their prospects of future employment.
- Inability to plan because of income insecurity.
- Inability or reluctance to make long term financial commitments, such as purchasing a home.
- Anxiety arising from uncertainty, including anxiety associated with variable income and the uncertainty of future employment and income, as well as uncertainty in relation to the employee's professional and personal standing and competence.
- The inconvenience and anxiety of complying with job application procedures for the same job on an annual basis.
- In the case of teachers, the inconvenience, distress and professional detriment of having to move from school to school on a much more frequent basis than ongoing teachers.
- The assumption of higher workload to improve the prospects of re-employment.

- The assumption of all the risk of redundancy without the benefits or entitlements that apply to ongoing employees.
- Inferior employment rights and privileges that are not justified by the work needs of the Employer.
- Arbitrary rules that differ across the workforce. For example, until recently, in TAFE a lecturer would be converted to ongoing employment if he or she has served five years on contract. In the same workplaces, employees engaged under the *Public Sector Act* are entitled to conversion after two years. By contrast, a teacher at a government school has no right of conversion. Moreover, for those who were not prepared to re-locate to the country at the beginning of their teaching career, ongoing employment is almost indefinitely unattainable.

This summary is derived from the evidence given to the Industrial Relations Commission of South Australia in 2009 of the 19 teachers, school support staff, Lecturers and Hourly Paid Instructors, supported by a number of Principals and Educational Managers, who give independent, first hand and unchallenged evidence of the personal impact of the Employer's practices. What follows refers to and extracts aspects of that evidence.

### Teachers

Rebecca has been employed as a teacher on continuous contracts since 1994. For four years she was employed on annual contracts at the one school. She explains:

*“Despite the years I spent at the school I was farewelled each year and received a gift. I cleared out my desk and returned everything at the beginning of Term 1. It is always upsetting, made worse by the fact that at the end of each I am routinely questioned by other teachers where I will be going in the following year. At the end of each teaching year, teachers who have applied for a transfer and are moving or teachers moving because they have reached 10 years’ service at the school receive their notices informing them where they will be going the following. That always causes a great deal of discussion and provokes the questions about my future. On the occasions I am asked, I say I don’t know where I will be next year, which always leaves me flat and depressed.*

*As a contract teacher, with no end in sight, I don’t feel rewarded for the effort I have put in over the years. I get nice feedback about my work at the end of the year from the principal and other teachers but then the cycle begins again and I have to build my relationships and deal with the anxiety of not knowing whether or not I will have a job for the year following. The reality is that I have to relearn my job in every new environment. There are also the emotional consequences. At the end of my last year at the school I had a student with whom I had a good relationship in tears, upset I was leaving. That is both a reward, because she said to me that I had made a contribution to her life, but also discouraging and very upsetting. It is unfortunate that this is a common place experience at the end of each contract, not only with students whose lives have impacted upon my teaching experience, but with my peers as well.”*

The constant contracts have made her feel as if she is not good enough to be a permanent teacher. She worries that if she applies for a permanent position and is unsuccessful it will damage her confidence even further. It feels like, she says, being on constant probation.

Judith has been a contract teacher for 10 years after returning to teaching in 1998. She also points to a number of detriments including:

- the absence of teaching choice;

- a fear of asserting herself in case it creates a negative impression which may affect her chances of securing subsequent contract positions;
- the inability to make long term plans;
- difficulty accessing professional training and development;
- diminished opportunities to obtain leadership positions;
- an absence of financial security;
- delays in being paid after resuming from leave; and
- a feeling that her skills, knowledge and expertise are not valued by the system that employs her.

Judith identifies the themes that run through the evidence of other employees engaged in precarious employment in the Department for Education and Child Development (DECD). The human dimension of these detriments is amply demonstrated by what she says about the last item in the above list:

*“I feel as if I am dispensable after all my dedication, training and contribution to the field of teaching. No matter how well I do my job, I am not guaranteed further placements”.*

The evidence of Gillian is likewise compelling; she is a teacher who has been employed on full and part-time contracts since 1991.

*“I look back on my long association with teaching and in pessimistic moments wonder if I have had any significant impact on the children in my classes. A permanent teacher can rely on being part of the ongoing learning of the children he or she teaches. Whilst I certainly tried to do my best for all my students my lack of employment permanency has curtailed my sense of being part of their ongoing learning continuum. Instead I have learnt to celebrate short term successes on a day-to-day basis and within the confines of the contract. However, this is a compromise, making do with what I have, rather than my preferred position. It has a negative impact on my sense of job satisfaction and worth. I am now 55. I still crave permanency but my hopes of obtaining it after 18 years are fading.”*

Merridy is a country teacher. She was a permanent teacher for seven years before she resigned in November 1982 after the birth of her second child. She then spent 10 years working as a temporary relieving teacher and swimming and aquatics instructor. In 1995 she returned to teaching, but says the only work available was as a contract teacher. She confirms the familiar story of insecurity, both professional and financial, and anxiety associated with whether or not she will have employment from one year to the next.

Jodie has been a contract teacher employed at the same site every year since 2003, apart from one year in 2007 when she taught at another school. She explains that she is typically engaged at the commencement of Term 1 or soon thereafter and the contract is then extended until the end of the year.

Jodie explains the benefits of teaching continuously at the one site, a benefit that corresponds with a permanent teacher. However, despite there being sufficient work year in, year out she is engaged on successive contracts. As a result she suffers the consequences of not knowing from one year to the next whether she will be re-employed. A particular detriment she points to feeling like a second class teacher. As she says:



*“Interstate contract teachers are made permanent after a year in New South Wales and Victoria. I have been informed of this by interstate teachers when I have attended conferences, training programs and forums for teachers from across Australia. Interstate colleagues therefore misunderstand that a teacher on contract in South Australia is a capable professional. The widespread belief from interstate teaching colleagues is that if teachers have been employed as a contract teacher for longer than a year, that they are in some way below standard. This is a heavy burden to carry as a professional teacher in South Australia. I feel DECS puts its employees in a position where they are discriminated against by teachers in other States. Interstate teachers feel more secure and positive about their profession and can make plans financially that will affect their lives.”*

Jodie vividly describes her feelings about permanency. She says:

*“In my opinion, permanency in teaching is like some glittering prize that is constantly just out of reach.”*

Susan is a primary school teacher, and has been employed and re-employed every year on contract since 2001. However, since 2003 she has been re-employed at the same school. The manner in which she is engaged by the Employer is explained below:

*“Soon after the beginning of Term 1 2003, the principal of the school rang me and said that as a result of a vacancy she was able to offer me a full-time job for the year teaching a Year five class that had some kids with difficult behaviours.*

*I liked teaching at the school. However, my contract finished at the end of the year. I was farewelled and received a gift. My name went in the newsletter and I was thanked for the contribution I had made to the school in that year. I then spent the Christmas/New Year period like the one previous, with a diminishing stock of money and the anxiety of not having a job to return to in the next year.*

*On my own initiative, I returned to the school at the beginning of Term 1, 2004 and asked the principal if work was available. She says there was and offered me work as a temporary relieving teacher with a two day induction which always begins at Term 1 of each year. I was then offered a contract for the full year. This practice has characterised the seven years I have been a teacher at the one school. The only variations are that for some of those years the paperwork was not completed in time for me to attend the induction days as a temporary relieving teacher. In the last 2 years, I have attended anyway without pay. By attending induction I do not fall behind the other teachers and it gives me an opportunity to meet the students, rather than meet them for the first time in a class.”*

The effects of this pattern of employment verge on the ridiculous. For instance, each year for the last seven years she is farewelled by the school, and then packs up all of her materials and equipment. The same is said by Robyn and Merridy. The next year she returns, bringing back what she has cleared out. However, the detriment is more than mere inconvenience. Susan says that she has applied to rent six houses, but in each case has been unsuccessful. She attributes the reason to her insecure employment since she has references that say she is a good tenant and pays her rent. Her inability to find a house means that she and her child must live with her parents. Moreover, she has applied for permanency in each of the seven years she has been at the same school. All of them have been unsuccessful, even though year after year she is asked to return by the Principal of the school.

### School Services Officers (SSOs)

Leanne is an SSO who has been on contract for 12 years continuously at the same school. She says:

*“I have been working at this school since August 1997, when I first started on a relief basis, backfilling another SSO who was on WorkCover. That appointment continued until the end of that year, at which time I was given a 12month contract. This was my first 12-month contract. From that time (the beginning of 1998) up until the present, I have been employed in continual 12month contracts. Over that time my normal rostered work hours varied from 12 hours per week to 30 hours per week. Classroom Support SSOs are only employed for a maximum of 30 hours per week, which have been my normal rostered hours for the last five to six years.*

*Despite being continually placed on the contracts, I have participated fully in any relevant training and development, which includes training in classroom support, front reception work and finance training. In 2008, I engaged in 41.75 hours of Professional Development, which did not include my University study.”*

Leanne explains the myriad of problems SSOs on short term contract face at her school:

- There are delays in the contract being issued which leads to three or four week delays in the payment of salaries by DECD;
- There are payroll difficulties experienced by contract SSOs which are “frequent and frustrating”.

Julie, an SSO 1 has been employed on a series of either short term or casual contracts for the last 16 years and four months. She says:

*“I fear applying for a reclassification of my job. I worry that if I apply for a reclassification I will not be re-employed, that I will price myself out of the market, or through increasing classification make the position more attractive to permanent SSOs in other schools who will transfer in. The school has to apply for funds to the Department. If student numbers increase or we are successful in applying for additional funds then my hours increase. If I am cheaper the school needs to apply for less funds, which to my mind makes it more likely I will remain in a job.”*

Julie also deposes that:

- She has never been offered a permanent position in all the years she has worked in schools;
- Despite being employed on short term contracts there is an assumption that she will return to the school at the expiration of the term;
- While she has worked for DECD for many years she does not have access to sick leave which was recently a problem when she had to take leave without pay;
- Over the summer break it is difficult to manage finances as she is not paid for the period including during the Christmas Period;
- She feels she has to prove herself all the time to ensure she is offered the next contract. This means that she is continually worried about her work and if she will get further employment. She deposes:

*“This would not be the case if I was permanent. I feel devalued, a number not a name and face. I only keep doing it for the children.”*

Marg, an SSO 1 who has been on ten years of rolling part-time contracts, notes:

*“The reclassification process is very complicated and risky for casual employees. If the school reclassifies a position it may be advertised as a new position if there is a substantial change to the classification. If there is a permanent SSO or redeployed employee that applies for the position who meets the job requirements, the casual may not win the position. This is another example of why casual SSOs are marooned on level one. My experience is many SSOs are not brave enough to risk losing their job for the possible benefit of having their job appropriately classified.”*

*“...Most of the SSOs at school are employed on a casual or temporary basis; often on a term by term or semester contract. This means we have no job security, public holiday pay or sick leave entitlements. This creates uncertainty and anxiety whether there will be a job next term or semester. I have worked with SSOs who have been casuals for over 20 years.”*

*“When your job is casual there are lots of things that you are not confident to speak up about. There is no job security and it does not pay “to rock the boat”. This has consequences for casual SSOs raising problems they are having with workload or with unpaid overtime. If they file a grievance or have the matter dealt with in the PAC there is a chance their contract will not be renewed. I believe this leads to under reporting of workload problems.”*

Sally, an SSO 1 who has been working on a series of temporary or casual appointment for 15 years deposes that:

*“I haven’t applied for the position to be reclassification (sic), even though I know the duties I perform are SSO2 duties. For example, I run the Resource Centre without any teacher supervision, as well as ordering and managing the budget. However, if I applied for reclassification, I run the risk that I would be less attractive to the school because I would become more expensive. I might not be re-employed. The result is that I do work at a higher level, but do not get paid for it. For example, in the (sic) 2004 I was working in a special class, I was classified and paid as a SSO 1. Later a permanent SSO worked in this class by (sic) she was classified and paid SSO 2 even though we were doing exactly the same work.”*

*“I feel I have to “keep in the good books” with the Principal. I feel I have to prove myself every day, just to keep the position. While I have been continuously employed for 15 years, I know that my employment could end at the end of the year. The uncertainty of my employment causes me a lot of anxiety. While I have been at Mansfield Park for 10 years, I worry about whether I will get work next year. I always become anxious about this from the beginning of term 4 every year.*

*I am normally notified of my hours and continuing employment near the end of term Four, sometimes not until the holidays. These hours are often done on a term by term basis, because the school is so worried about declining enrolments, yet I seem to be offered work each term. The other staff and the parents assume that I am always coming back, because I do.”*

*“The stress level over Christmas break is high. There is a shortage of money because I am not paid in the period. I am not really sure if I will have a job in the New Year. Moreover, I usually have to wait at least three weeks until I get my first pay, sometimes longer.”*

Michael has been employed as an SSO 2 at a secondary school on rolling contracts since 2002. He says:

*"I am also concerned that I have worked for seven years. The lack of job security leads to a tendency to "put your head down" rather than complain about legitimate issues like workload."*

## **TAFE**

Prior to arbitration of a new award the use of precarious forms of employment in TAFE was particularly high. The discovered data revealed that 77% of Lecturer's Assistants, and 36.7% of Lecturers were temporary employees, 48.8% of Lecturers up to step 8 of the salary scale were temporary employees. Overall, 39% of the TAFE workforce employed under the *Technical and Further Education Act* were employed on a non-permanent basis. Like school employees, the evidence given was that precarious forms of employment inflict real disadvantage.

In TAFE the Employer rigorously applied a rigid conversion process that required an employee to serve five years on contract, irrespective of the program, its work needs or the needs of the employee. As AEU witness Mr Major says:

*"I don't know any lecturers who have been made permanent from the beginning of their employment. The common pathway to permanency is spending five years as a contract lecturer, often after starting as an hourly paid instructor. In my experience, permanency is treated in TAFE as a last resort, something to be avoided if possible creating a core and peripheral workforce."*

In the course of cross examination of Mr Conway, an Institute Director witness for the employer:

*I really need you to answer my question, Mr Conway. What I'm putting to you is that you're saying you need five years, irrespective of the nature of the program, irrespective of whether it's long standing and stable or uncertain and new?---It is right to say that we apply the five-year permanency without any reference to the particular program which the TAFE Act staff member is working in.*

*If, within a program, an ongoing employee retires and there's a need to fill a long-standing position, you apply the five-year policy?---We do, sir.*

*But if, on the other hand, within a program you are creating a new position for the first time, you'd also apply the five-year policy?---That is correct.*

*So your policy allows for no differentiation, Mr Conway, between a long-standing position being refilled and a newly-created position being filled for the first time?---That is true in the application of the policy, but there are circumstances where positions are either advertised as ongoing or are converted to ongoing prior to the five-year policy.*

*Yes. There are very limited circumstances in which that occurs, Mr Conway. That's the truth of it, isn't it?---Well, it depends on the definition of "limited" in respect of educational managers. Predominantly educational management positions are either converted to ongoing prior to the five years or called in the first instance as ongoing.*

*I see. Would you accept that within some programs there might be, or there are, what I might call core positions and other programs which might be more peripheral or non-core to the delivery of the program?---I would accept that, sir.*

*There are, in relation to the core positions, positions that are just vital. The program could not happen without the core position being filled?---I can think of many examples where that would be true.*

*And there are, within programs, the other kind – that is, the peripheral positions – that, for instance, may be dispensed with without the program necessarily not going ahead?---Generally that is true.*

*For instance, if you were expecting a certain number of enrolments and if you reached your enrolment target you were hoping to employ people in both the core and peripheral positions – if that expectation didn't come good, the program could probably still go ahead but perhaps without some of the peripheral positions?---I can only answer in generalities, but - - -*

*Yes, as a generality?--- - - - I think it's a fair generality.*

*Okay. Your five-year policy makes no differentiation, does it, between the filling of core positions and the filling of peripheral positions?---If I could answer it this way, sir – and I will answer your question – the policy does not differentiate but the policy does not have to be followed by the manager in relation to each area.*

*No, because of the exception you've identified?---Well, the exception I identified and other exceptions that are available, but certainly, in relation to your question, the policy does not differentiate.*

*No. In relation to the exception, Mr Conway, it's the truth, isn't it, that your TAFE – TAFE South – advertised one lecturer as ongoing in the whole of 2008?---I don't know that to be true, but if you're putting it to the court, I would accept that to be reasonable.*

*Well, it's in the evidence?---Yes. No, I don't dispute it.*

*All right. You have an aversion, Mr Conway, to a one-size-fits-all approach?---I certainly in my response indicated that, on my reading of the AEU's application, it did tend to read like a one-size-fits-all.*

*I didn't ask you about the AEU's application, I asked you about your aversion to a policy that has a one-size-fits-all approach?---Well, I'm sorry, I was referring to where I used that terminology.*

*Yes, and you use it extensively, don't you?---I did, sir.*

*Would you agree, Mr Conway, that your five-year conversion policy takes a one-size-fits-all approach?---I would not disagree, sir, no.*

The discovered evidence in respect of Lecturers was that:

*“ in 2008 TAFE SA North did not advertise any positions as permanent or ongoing, TAFE SA South advertised only one position as permanent or ongoing and TAFE SA Regional advertised only three positions as permanent or ongoing. Yet 24 temporary lecturers were converted to ongoing employees at TAFE North, 21 temporary lecturers converted to ongoing employment at TAFE South and 25 lecturers converted to ongoing employment at TAFE Regional.... In summary, 4 lecturer positions were advertised as permanent or ongoing in 2008, yet in the same year 70 lecturers were converted to ongoing employment.”*

Service as an Hourly Paid Instructor does not count towards the five year conversion policy; there is no dispute about that. Accordingly, it is perfectly possible, indeed likely, that an

employee will be in continuous TAFE employment for more years than five before qualifying under the policy for conversion. Indeed, TAFE's own consultants advised it that: "TAFE SA's HPIs are often engaged for extensive periods". That advice is borne out by the evidence.

Pam says that she has been employed as an Hourly Paid Instructor since 2005 apart from Term 3 of 2006. It is her evidence that she has consistently been offered between no less than 12 hours per week. In her affidavit Pam includes a table setting out her hourly paid instructor hours from Term 4 2005 to Term 1 2009. The personal impact of her insecure employment is explained in her affidavit. By way of example, concerning her capacity to plan she says:

*"From term to term I can't plan for the future. I can never assume that I will have sufficient hours per week to earn enough to sustain my lifestyle. If I get less than 12 hours per week then it is a real struggle to balance my budget. If I get more than 12 hours then I know I can put money aside, as I am trying to save to purchase a hearing aid."*

The evidence of Helen is that she has been employed as an Hourly Paid Instructor in TAFE since 2005 apart from a 12 month period between September 2007 and September 2008. In that period she was teaching overseas. The impact of her insecure status is explained in paragraphs 15 through to 19 of her affidavit, and is similar to what is reported by teachers and the School Support Officer witnesses.

John has been employed as an Hourly Paid Instructor in TAFE since Term 3 of 2006. He has never worked less than 10 hours per week but has more commonly been offered between 11 and 14. John says that he is in effect a part-time employee. This he explains succinctly as follows:

*"While my employment is based on a maximum of 15 paid hours per week I attend work for 4 days per week for at least eight hours per day. This means I am in fact working 32 hours in total made up of 15 hours in the classroom and 17 hours in preparation and administration. I regularly do about ½ hour preparation for every hour teaching including the preparation of assessment, but excluding the time spent marking up and administrative work. If I give a piece in writing to my students I am required to prepare the assignment, mark up the 22 pieces of work, tick off against criteria, make notes for students and then record the results."*

Despite being in effect a part-time employee, he is engaged term by term based on a process referred to as deployment. The deployment process he describes in his evidence vividly illustrates the personal effects of the insecurity engendered by ongoing engagements as an Hourly Paid Instructor.

Rita has been employed since Term 1 of 2002 as an Hourly Paid Instructor, apart from a short period on contract. She teaches in the Vocational Preparation Program. In addition to teaching, she has performed the responsibilities of a Coordinator whilst engaged and paid as an Hourly Paid Instructor. This work is normally performed by Lecturers in the Advanced Skills Lecturer 1 and 2 classifications. Indeed, it is not part of the DFEEST Employer's case that work of this kind would be performed by step 1 Lecturers; yet that is the equivalent Lecturer rate for Hourly Paid Instructor's, like Rita, paid at the class III hourly paid instructor rate. Rita says that she performed these duties in 2003, until her Educational Manager expressed discomfort. However, she has resumed them and in 2009 says she is teaching 7½ hours and a further seven hours undertaking coordination responsibilities. On any reasonable view, these practices are exploitative.

Pamela commenced employment in TAFE as an Hourly Paid Instructor with an expectation that she would grow the program by increasing the numbers of students. She says:

*“I was initially employed two days per week to replace the business administration lecturer at the Campus who, I was told, was not coping. I was asked to teach and coordinate the program, which offered Certificate II, and III in Business/Administration. I was engaged as an HPI. I did this for three years. Despite being paid by the hour, it was a regular part-time job. I made ends meet by picking up a part-time 0.5 contract position in October 1999 as a student counsellor at the Campus (I am a qualified counsellor). The two roles were never completely distinct. I often saw my students if they needed help with the course during times when I had my student counsellor hat on. It is a small campus, you respond to what people need from you.”*

Asbjorn was employed in TAFE from 2002 until 2005 as an Hourly Paid Instructor. In that time, he was teaching, developing and promoting a course in renewable energy. He says:

*“My first class as an HPI started in the second semester of 2002 and involved three and a half or four hours teaching per week. However, I estimate that I devoted another four hours a week to developing the course. I had to develop the course from scratch. I was provided with some text books and student “learning guides” sourced from the Distance Education Course offered by a Queensland TAFE Institute. However, they were unsuitable for classroom based teaching. Accordingly ahead of teaching a subject, I had to develop the lesson plans for each class, the practical exercises, the assignments as well as any other teaching materials I might need to teach the class. I prepared continuously, aiming to stay one to two weeks ahead of the classes in which I would have to teach the material. I prepared and redesigned lessons for the three years it took for the full course to be delivered.*

*On top of the teaching and preparation, was the time I spent in promoting the course. I cannot now recall how much time I spent in 2003. It ranged from a few hours on my way home dropping in a brochure to a solar energy business to 10 hours on a weekend sitting on a stall at the Uraidla Fair and the Eco Living Expo at the showgrounds. It was an expectation ... of me that I would get the course up and running. I was also enthusiastic and wanted the course to succeed. If I hadn't been successful, I would have been out of a job.”*

Pam reports a similar experience once she became a contract Lecturer. In her case, the experience demonstrates the heights of artifice the TAFE policy reaches in its rigid application, explaining how she had to attend an interview to continue doing her job despite being the only candidate. She also characterizes it as a five year probation period. She says:

*“When my first contract expired, I had to reapply. The next contract was to be for 12 months. I was the only applicant. I was still required to attend an interview, which meant driving four hours to and from Port Augusta to attend this interview. I was successful and offered a further contract to do the same work as I had been doing when it was a six month contract, and when I was employed as an HPI. In applying for the 12 month contract, I relied upon how I had taught the program over the previous 3½ years, my previous experience in industry, and on my experience both coordinating the program and counselling the students within that program.*

*Once I won the 12 month contract it was thereafter rolled over for three years, before I was offered a five year contract. After a total of five years on contract I applied to become permanent. I didn't apply for permanency prior to this as I knew the rules. It is common knowledge that to become permanent, a lecturer must serve their time on contract. That is what I did. It is five years of probation. I found this situation to be very unusual. In my 20 years in the private sector before TAFE, unless casually*

*employed, jobs were permanent and probation would be for a period of perhaps three months at the most."*

Philip confirms the experiences of Pam and Asbjorn. He too commenced employment in TAFE as an Hourly Paid Instructor, engaged on an "as required basis" but in respect of classes that "would run to the end of the year". After his first year of employment as an Hourly Paid Instructor he asked his manager whether there would be work available in the following year. He was told "not to worry, there would be classes next year and that I would be needed in 2006". Philip went through the Christmas/New Year break without pay and started again in February 2006 with 20 hours of teaching per week. One month later he was offered a six month contract with the same number of teaching hours.

Philip was offered a further contract to the same work for a year after being required to attend an interview. The contract was for the same number of teaching hours. He then says:

*"At the end of 2007 my contract was rolled over automatically for another three years. It finishes in December 2010. By then I will have worked in TAFE for more than five years. However, because my service as an hourly paid instructor doesn't count I won't qualify for a permanent position until March 2011 which means to acquire sufficient service to make up the five years I must first be offered another contract.*

*As a contract lecturer, I feel like I have to go out of my way to keep the coordinator and manager happy so that I will get another contract. For example I was asked in 2008 by my work group coordinator, who is an Advanced Skills Lecturer to do the curriculum development materials preparation for the new 2009 training package. I knew it would be a lot of work. I agreed to do as I was asked because it was important to me to keep my contract. I feel that I need to be a cooperative employee as due to a work related injury I suffered before I started teaching in TAFE I can never return to work in my trade. I don't want to nor do I wish to be seen to 'buck the system'."*

Philip refers to the need to keep the coordinator happy to promote his chances of retaining his job. This observation is also made by teachers and School Support Officers. Pam makes the same point in her reply affidavit. A TAFE Educational Manager explains that one of the impacts is that insecure employees may be more willing to assume unsustainable workloads.

The path to permanent employment chartered by Anne was the same as that of Philip, Asbjorn and Pam. She too started as an hourly paid instructor in a new program which she was required to develop. Thereafter she progressed towards permanency by a series of contracts. In her case, like Asbjorn, Philip and Pam, her employment was consistent and continuous in every year after she commenced as an hourly paid instructor in TAFE.

As Professor Pocock concludes, the evidence demonstrates that insecure forms of employment are having a significant effect on the employees concerned creating high levels of conflict between their work and family responsibilities. For ease of reference, we have set out the relevant aspects of her evidence in full:

*I have seen the affidavit of Rebecca, filed in these proceedings. Her account of managing her life around the insecurity of her work placement, and the disruption and additional work this has entailed, is a not uncommon story for professional workers in insecure employment. Such insecurity has obvious negative consequences for the reconciliation of work and family for employees like Rebecca.*



*I have seen the affidavit of Mark filed in these proceedings. His statement also confirms some of the negative consequences of ongoing casual or fixed term employment in terms of access to finance, retention of experienced staff and the shallow career paths available to casual or short term contract workers. Given the level of certainty of his engagement as reflected in the letter from the Department of Education and Children's Services, annexed to his affidavit, it is hard to understand why the negative consequences of casual or fixed term employment cannot be alleviated for Mark and his colleagues.*

*I have read the affidavit of Susan filed in these proceedings. Her situation illustrates the uncertainty that flows from repetitive short term contracts, and the negative impact this has on financial security for households as well as personal anxiety for workers who are affected. Such insecurity also negatively affects the exercise of workplace citizenship and voice: as described by Susan, she hesitates to express her opinion within the school community, despite her commitment to quality outcomes in the school and her work on weekends and in the evenings. The school is thus denied her voice around improvements in the school environment. I have also seen the affidavit of Leanne filed in these proceedings. It also illustrates the negative consequences of insecure, repetitive contracts upon financial security, personal planning and individual well-being.*

*The costs of insecurity are also evident in the commentary provided by Brian, whose affidavit filed in these proceedings I have read. Brian points out how low job security encourages staff on short term contracts to work unsustainable work hours in excess of the stipulations in industrial agreements. A high proportion of insecure employees is likely to contribute to widespread overload and hours in excess of the stipulations of industrial agreements or awards.*

*I have read the affidavit of Pamela filed in these proceedings. Her account of her many years of 'probation' in the TAFE system suggests that highly successful teachers, who grow their course sizes with positive outcomes, can spend many years navigating their way to secure employment, with negative consequences for financial planning and family life.*

*Rita's affidavit filed in these proceedings also sets out the effects and of ongoing insecure employment in TAFE, a form of employment that impedes her ability to undertake professional development, or be a part of the professional group in her workplace.*

*I have read Helen's affidavit filed in these proceedings. Her testimony illustrates the difficulty of financial planning arising from ongoing casual or fixed term employment, the difficulties of navigating the social security system alongside her employment, and the costs of long breaks without a wage.*

*I have read the affidavit of Pam filed in these proceedings which describes the personal costs of precarious employment as an hourly paid TAFE teacher. Pam also described the lack of support around the allocation of teaching hours, and how the demands of teaching preparation encroach upon unpaid time and affect her personal well-being.*

*I have read the affidavit of Sally filed in these proceedings. Her experience is illustrative of the pervasive insecurity that characterises the voice of long term limited term contract or casual workers. She must work hard to 'keep in the good books'. Workers like this hesitate to bring forward uncomfortable problems, health and safety*

*issues, or to seek changes in their employment arrangements such as particular hours or days of work. The research evidence in Australia, and the Centre for Work + Life's 2008 survey of work life outcomes shows that casual or limited term contract workers often have less work-related flexibility than ongoing workers, probably partly because of the weakness of their voice in requesting appropriate work arrangements or fear of job loss, as described by Sally. In addition, Sally has refrained from seeking appropriate reclassification, and her financial situation has been affected by late payment. These arrangements are unfair consequences arising from the organisation of ongoing employment by means of repetitive short term contracts which are having negative work and family consequences.*

*Similarly, the affidavit of Philip filed in these proceedings sets out along a pipeline of precarious employment that precede even a short term contract for him. He describes how it is essential for him to be seen not to 'buck the system' in order to have a good chance of winning his next contract. He describes how he feels vulnerable and does not refuse work even when he is not keen to do it, because of the insecurity of his employment. The consequences of this are reduced voice at work and a weak capacity to exercise voice around working time arrangements so that he can fit his work with his larger life and family commitments. This is a good example of how precarious employment interferes with the reconciliation of work and family responsibilities, given how it restricts the capacity of workers to speak up for the hours and working conditions that better accommodate their family responsibilities. Our research at the Centre for Work + Life shows that workers who cannot get a good fit between the hours that they want to work, and those they have to work, have relatively poor work and family outcomes. In addition, fluctuating pay with extended periods without pay, have created financial stress for Philip's family, and affected his capacity to meet the essential medical costs of his children. The unpredictable nature of Philip's hours, the demands of his work, and his inability to say no to requests to take on more work - all of which he attributes to the vulnerability arising from his insecure employment - affect his sleep, eventually exhausting him and driving him 'close to breaking point'. Phillip describes an unacceptable conflict between work and family responsibilities.*

## **Conclusion**

Despite the best efforts of the SA Branch of the AEU in enterprise bargaining, arbitration and policy consultations with employer departments, there remains an unacceptable level of precarious and insecure employment in SA preschools, schools and TAFE.

Employees in insecure employment lack confidence to speak on their own behalf in the workplace, take on extra workloads to try and ensure the re-winning of contracts, suffer economic embarrassment between contracts, and are discriminated against by financial institutions.

It is shameful that government departments, as employing authorities, continue to demand levels of insecure employment of employees that cannot be justified by any reasonable interpretation of genuine operational need.

Further information can be provided by contacting the AEU (SA Branch), 163 Greenhill Road, Parkside SA 5063 or via telephone (08) 8272 1399.

10 January 2012