

Submission to the Independent Inquiry into Insecure Work in Australia

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I appreciate the opportunity to make submission to the Independent Inquiry into Insecure Work in Australia. This submission draws on current doctoral research conducted with insecure workers in professional occupations¹. My submission will specifically focus on the emergence of highly skilled insecure work, that is, work that requires a tertiary qualification but provides none of the benefits and protections of a standard employment contract.

Insecure work, sometimes termed 'precarious' work, is said to be a feature of the Australian labour market irrespective of an individual's employment contract or hours of work. However, this submission will focus on casual work as one of the most obvious forms of insecure work because workers are exposed to what Campbell and Burgess call an 'officially sanctioned gap in protection'.²

That is, by definition casuals have:

- No paid sick leave³
- No paid holiday leave
- No long service leave
- No access to redundancy payments.

Casuals are employed on an hourly basis and can be dismissed with an hour's notice. They have no guarantee of minimum weekly hours and can experience substantial variations in their roster of hours. The unpredictability of hours and therefore income makes planning one's life on a casual income particularly precarious.

Casual work is also insecure because casuals lack a collective voice in the workplace. Casual workers are less likely to be represented by a union than permanent workers. Where unions

¹ My sample includes journalists, public servants, social workers, academics, IT professionals, and engineers, who were aged between 25 and 40.

² Campbell, I., and Burgess, J (2001) 'Casual Employment in Australia and Temporary Employment in Europe: Developing a Cross-National Comparison,' *Work, Employment and Society* 15(1) p177.

³ The lack of leave provisions have been defended on the assumption that casuals receive a loading on top of their hourly rate in lieu of paid leave. However, as Pocock et al (2004) have shown, not every casual receives a loading or knows what it is. Moreover, where the loading is applied it does not compensate for the unpredictability of hours, lack of access to redundancy for long-term casuals and for casuals in professional occupations the loading does not compensate for employer funded parental leave, or study leave provisions available to their permanent colleagues. The loading does not compensate for the maintenance of skills and expertise required of professionals. In addition, the loading is meant to provide employers with a disincentive to employing casuals when there is genuine and ongoing demand for their labour. The number of casuals with more than a year's tenure in their casual job indicates that the loading does not adequately compensate for the loss of employment conditions and a loading of closer to 40 per cent is required to serve as a disincentive. In professional occupations where pay rates are based on skill level rather than age as in the retail or hospitality awards, employers are also able to avoid paying the premium attached to casual employees by substantially underclassifying them. This allows employers to pay casual employees at a lower base rate on top of which a loading is calculated.

have made progress in recruiting casual members there remains substantial tensions between the interests of majority permanent staff (some of whom will be directly responsible for employing and supervising casual staff) and the interests of minority casual staff. Competition among casual staff over hours can also undermine collegial behaviour and impede the development of workplace solidarities. A legislated lack of employment rights, in combination with poor union representation contributes to a culture where discrimination and exploitation can flourish and where workplace solidarities are at risk.

Lastly, casual work is insecure because it exposes individuals and families to risks that social policy has so far been slow to recognise. Although 1 in 5 Australian workers is a casual, these workers are typically unable to access unemployment benefits, because these (meagre) benefits are structured to those for whom unemployment is an unanticipated gap between permanent positions, rather than the systemic unemployment and under employment that is typical of casual work.

The extent of insecure work in Australia

The ABS provides a measure of 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”. On this measure, casuals make up almost 20 per cent of the Australian workforce.⁴ In 2010, close to one quarter of working women were employed as casuals and in some states, such as South Australia, almost 30 per cent of women are employed without standard employment benefits.⁵

‘Non-traditional’ insecure workers

Traditionally, casual work is associated with youth or transitional labour markets, or with women’s tenuous labour market attachment, and it is overwhelmingly associated with so-called low skilled and low paid work. Education has historically acted as a buffer against employment risk and largely this still holds. Individuals who work in jobs classified as low-skilled are much more likely to be employed as casuals. For example, ABS data for 2005 shows that at the bottom two skill levels, casuals make up 30.9 and 42.9 per cent of workers respectively.⁶ However, casualisation also affects workers at the top end of the skills spectrum. The number of casuals in the top skilled occupations increased by 25.8 per cent between 1996 and 2005. During the same period, the number of casuals in the second highest skill group increased by 77.6 per cent. These skill groups make up the professional workforce. More than 10 per cent of workers in professional occupations have no access to standard employment benefits despite holding a Bachelor degree or higher⁷.

⁴ See ABS cat no. 4102.0 Australian Social Trends, Table 1 Work, National Survey, 1999-2011

⁵ See ABS cat no. 4102.0 Australian Social Trends, Table 1 Work, National Survey, 1999-2011

⁶ Employees without paid leave entitlements (excluding owner managers)

<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Previousproducts/6105.0Feature%20Article3Jul%202006?opendocument&tabname=Summary&prodno=6105.0&issue=Jul%202006&num=&view=>

⁷ Employees without paid leave entitlements (excluding owner managers)

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Disaggregated statistics are not always possible to find or compare but there appears to be substantial variation in the numbers of casuals in different professions. For example, the Nursing DOHRS Report (2001) found that the use of casual nurses increased by 20 per cent between 1998 and 2001 in NSW⁸. The Media, Entertainment and Arts Alliance reports casualisation amongst journalists⁹. The AEU estimates for 1996 showed that in NSW 70 to 78 per cent of TAFE and VET teachers were casual.¹⁰ Although academics are required to spend the longest time in training for entry to their profession, new data from researcher, Robyn May, estimates that 60 per cent of the academic workforce could be employed without standard employment entitlements.¹¹

While still in the minority, researchers such as Iain Campbell point to a shift in the dynamic of insecure employment where the greatest increases in casual work are now among workers in highly skilled occupations and amongst men working full-time hours – a non-traditional casual cohort.

Wellbeing and health of workers outside the workplace, including impact on family and other relationships

Many of the damaging experiences of insecure work among professionals has been made public in recent critical research. McKeown surveyed 240 Australian professional workers in contracting arrangements, showing that the 'professional contractor provides evidence of being just as precarious as any other non-standard arrangement'.¹² Alonzo and Simon highlighted insecure work amongst contingent health care providers in the US.¹³ Ekinsmyth investigated 'flexible' employment contracts amongst professional magazine workers in the UK.¹⁴ Dick and Hyde¹⁵ point out the marginalisation of part-time professional workers in the UK and Conley

⁸ New South Wales Nursing DOHRS Annual Report 2001. Office of the Chief Nursing Officer- NSW Department of Health, North Sydney, pp 1-13.

⁹ Media, Entertainment and Arts Alliance submission to Senate Employment, Workplace Relations Committee (2005) Available online: http://www.aph.gov.au/Senate/committee/eet_ctte/completed_inquiries/2004-07/wr_workchoices05/submissions/sub105.pdf

¹⁰ Australian Education Union, 'Precarious Employment and Casualisation: Organising, activism and recruitment in TAFE. Discussion Paper. 2005. Available online: <http://www.aeufederal.org.au/Tafe/PrecEmp.pdf>. Also Forwars, P 'Casualisation of the TAFE Teaching Workforce'. Available online: <http://www.aeuvic.asn.au/casualisation.html>

¹¹ Robyn May cited in Bexley, E., James R., and Arkoudis, S. (2011) 'The Australian Academic Profession in Transition', Commissioned report prepared for the Department of Education, Employment and Workplace Relations, available online: http://www.cshe.unimelb.edu.au/people/bexley_docs/The_Academic_Profession_in_Transition_Sept2011.pdf

¹² McKeown, T. (2005). 'Non-standard employment: When even the elite are precarious.' *The Journal of Industrial Relations* 47(3).

¹³ Alonzo, A and Simon, A. (2008). 'Have stethoscope, will travel: contingent employment among physician health care providers in the United States.' *Work, Employment & Society* 22(4).

¹⁴ Ekinsmyth, C. (1999). 'Professional workers in a risk society.' *Transactions of the Institute of British Geographers* 24(3): 353-366.

¹⁵ Dick, P. and R. Hyde (2006). 'Consent as resistance, resistance as consent: re-reading part-time professionals' acceptance of their marginal positions.' *Gender, Work and Organization* 13(6).

points to the rise of short-term and temporary contracts in the UK public service.¹⁶ Given the extent of casualisation in Australian universities, it is not surprising that much of the Australian literature has come from research with casual academics. Brown, Goodman & Yasukawa exposed the disrespect, misrecognition and underpayment of work done by casuals working in 'city' university.¹⁷¹⁸ Hobson, Gar & Jones have also revealed the exploitation in the ongoing battle for intellectual property rights for casual research staff. Key reports such as the RED Report¹⁹ and the Bexley Report²⁰ have demonstrated that universities are increasingly dependent on cheap academic labour to deliver core university functions.

My doctoral research with casuals in professional occupations found that the insecurity of their working lives has a substantial negative impact on their health and wellbeing outside of the workplace. Some of the problems these workers face stem directly from their invisibility as insecure workers amongst their more privileged colleagues. Michael's story in particular highlights the extreme disparities in the everyday lives of those who perform professional work on permanent contracts and those who work on casual contracts. He related a conversation with a permanent colleague about an evening class they both taught. His colleague mentioned she liked teaching in the night course, "it's handy because if I want a little something done around the house, I have a bit of extra pocket money". Michael cringed as he told me, "she had no concept that this pocket money is what I live on".

Among professionals, the divide between those who have access to basic employment entitlements and those who do not is immediately apparent at the workplace level. However, this divide continues once everyone has logged off in the evening and flows over to create very different life experiences for people who must negotiate precarious working lives. While casuals buffer managers against the risk of unstable income streams, this risk is transferred directly into the everyday lives of these workers.

For instance, one of the major risks casual staff face is that although they are skilled workers, they may regularly experience bouts of unemployment and underemployment. Yet casual workers are typically unable to access employment benefits, because these (meagre) benefits are structured to those for whom unemployment is an unanticipated gap between permanent positions, rather than a standard feature of casual professional work. Many of my interviewees

¹⁶ Conley, H. (2002). 'A state of insecurity: temporary work in the public services.' *Work, Employment and Society* 16(4).

¹⁷ Brown, T., Goodman, J., and Yasukawa, K. (2006). 'Getting the best of you for nothing: Casual voices in the Australian academy.' National Tertiary Education Union.

¹⁸ Brown, T., Goodman, J., and Yasukawa, K. (2010). 'Academic Casualization: Class Divisions in the University.' *Journal of Industrial Relations*, 52.

¹⁹ Percy, A. et al, (2008) The RED Report - Recognition, Enhancement, Development - The contribution of sessional teachers to higher education, University of NSW, available online: <http://www.altc.edu.au/resource-red-report-sessional-teachers-unsw-2008>

²⁰ Bexley, E., James R., and Arkoudis, S. (2011) 'The Australian Academic Profession in Transition', Commissioned report prepared for the Department of Education, Employment and Workplace Relations, available online: http://www.cshe.unimelb.edu.au/people/bexley_docs/The_Academic_Profession_in_Transition_Sept2011.pdf

spent many weeks and sometimes months throughout the year with no income. In some workplaces there was a culture of late payments for casual employees at the start of each 'contract'. One month without pay could easily turn into two while casuals waited for their time sheet to enter the pay cycle. To survive one period without paid work and knowing she might not see a pay cheque until she had been back at work for a month, one of my interviewees Therese, resorted to rationing out pasta spirals and looking under the couch for change.

Workers demonstrated other strategies for coping with insecure work which risks their health, wellbeing and their family lives. Workers mediated the risks of precarious work by adapting their life ways – for example they negotiate insecure housing, live with no access to credit, subsist on low consumption life styles, and adopt 'bulimic' work patterns²¹ and to delay family formation for as long as possible. Although casual work is often defended as a means by which women can remain within the workforce while they raise young children, for these professional workers, their casual jobs are not part of an imperfect strategy to balance work and family life; rather, **casual work is a major barrier to having a family at all.**

In 1907, the Harvester Judgement enshrined in Australian labour history the principle that employers should pay workers a living wage. At that time, the idea was that a man's income should be enough to support a wife and a few children, which of course was then used to justify the lower wages of women workers. The underlying idea though - that work should provide a living wage – has been fundamental to the Australian concept of what just pay requires, and is now severely undermined by casualisation. So while women still earn on average less than men, and while women are still more likely than men to take time out of work to care for very young children, the movement of insecure work into non-traditional groups means that traditional breadwinners are now also experiencing insecure work. This is a new attack on the Harvester principle; as one of my interviewees, Greg commented - 'you can't raise a kid on a casual income'.

While employers gain flexibility through casual labour, it is individuals who bear the risk. For the professional men in my study, insecure work undermined their ability to perform the role of breadwinners in their families. For some men such as James below, this came at a substantial cost

As far as family goes, I did have a family and that ended a couple of years ago. And one of the contributing factors, if not the contributing factor was the fact that I couldn't get any stability in terms of work. The price has been paid so to speak.

There were other men who wanted to have children but were delaying family formation while they wait for their educational investment to pay off. For them, the risk of employment insecurity was too great to consider having children and for some this was clearly a tension in their relationship. This meant that men in their late thirties and early forties were actively putting off their child rearing until they had secure work. When asked about his intentions to have children, Rowan makes his situation clear

I think that has got to be my wife's decision because it really is a decision about when she is going to take her time, about her career and her future and what she wants to do

²¹ 'Bulimic' work patterns refers to the ways in which insecure workers are often forced into periods of extreme over work in order to guard against the work drying up in the future.

but I don't think she is willing to make that decision until I have full-time work – she has actually said that... Yeah, I think having some permanence for me, for some period of time is going to be the key factor. Because we will need to rely on that income... *So yeah, it can't be casual, it has to be something that pays fairly.*

Although casual work is portrayed as an imperfect way in which women can balance work and family, my research found that casual women in their prime child rearing years were also negotiating the risks of insecure work by delaying family formation. Apart from the general lack of employment security, this decision was also a private consequence of institutional decision making which distributes other 'goods' of employment such as employer-funded parental leave, sick pay, carers leave and right to return to permanent employees but not to their casual colleagues. All workers, regardless of their skill level need access to better family friendly provisions. But there are some features of this that affect professional employees in particular ways because they are generally already much older by the time they gain their qualifications and get established in the workforce. The provision of maternity leave was partly in recognition that extended periods of study and training required by professional women left them only just gaining entry into the profession at a time which also coincided with the prime years of family formation. In order to retain women in the sector, some unions negotiated generous employer-funded maternity leave provisions. But for long term casuals of both genders, long periods of insecure work are added to this equation leaving a very small window in which workers can begin to establish a family should they desire. This strategy exposes them to greater and greater risks as biological clocks become dominated by the pressures of insecure work. If we add to this that casuals cannot access credit in the same way permanent employees can, and that many fear discrimination in the rental housing market, we see that households and individuals are absorbing the costs of insecure work.

Measures that can be taken by unions

Casual workers are less likely to be represented by a union than permanent workers. Analysis of the *Australia at Work* longitudinal data showed that only 12 per cent of casuals surveyed were union members; however, there was a further 12.7 per cent who would like to be.²² Moreover, when employees were not union members when they were casual, they were less likely to become union members when they got permanent work. Over two-thirds of workers who had experience of union membership as casuals remained members as they made the transition into permanent work.²³ This suggests that strategies to engage people as members even when they are casuals may be an important part of union renewal.

Some unions have made substantial progress in supporting a greater casual voice through the establishment of casual committees, publications directed at casual workers and support for job security clauses in agreements. Others have introduced flat fee structures. The ACTU has provided a forum for which these strategies can be shared and future opportunities to build cross-union networks around casualisation are critical.

Unions should consider barriers to casual membership, develop, and invest in organising structures that are able to accommodate non-traditional work patterns and the particular

²² Chan, S. (2011) 'Transitions around casual work' *Australia at Work Factsheet*, No. 22. The Australia at Work study is being conducted by the Workplace Research Centre at the University of Sydney Business School.

²³ Chan, S. (2011) 'Transitions around casual work' *Australia at Work Factsheet*, No. 22. The Australia at Work study is being conducted by the Workplace Research Centre at the University of Sydney Business School.

vulnerabilities of casuals in the workplace. Allowing free membership for casuals during periods of unemployment would also ensure a constant relationship with the union regardless of work transitions.

Unions could also play a greater role in the provision of training for casuals in professional work as a way to introduce casuals into the union and provide opportunities for casuals to meet face to face and organise collectively.

In addition, unions will need to acknowledge and address the tensions within their membership that arise from representing casuals alongside traditional members, some of who will be directly responsible for appointing and supervising casuals. Building of trust, the provision of resources, training and support for casuals to engage in some level of autonomous organising may empower casuals to take a greater role in the union.

Measures that can be taken by Government

The number of casuals in Australia means that a substantial proportion of Australian workers are employed without legislated employment protections. Moreover, the experience of casual work is not a short-term one for many workers. This indicates that Australian employers are using casual contracts as a means of evading the responsibilities of the standard employment relationship.

Currently, the loading attached to casual hourly rates does not provide an adequate disincentive for employers to provide their professional employees with standard employment protections. Employers who use casual labour in professional occupations make additional cost savings by privatising the cost of infrastructure (offices, phones, internet, printing), by privatising the cost of training and development as casuals are forced to maintain their skills and expertise outside of paid employment, and they make substantial savings from the unpaid labour of professional workers who have limited workplace power.

I would therefore encourage Government to consider the regulation of casual employment. Limiting the use of casuals to reflect a lay understanding of the term, that is restricting the legal definition of casuals to workers who genuinely fulfill an unexpected demand or contingency. Casuals who work regular hours for substantial periods of time should attract full employment benefits. To this end, the Government will be required to maintain better and more freely accessible data on the use of casual contracts.

The Government itself is a major employer (either directly or indirectly) of employees on casual contracts and therefore has a substantial influence over the level of insecurity these workers face. Governments at all levels should limit the use of casual contracts for all their employees to those performing genuinely contingent work. All Government suppliers and public institutions such as universities (including their private subsidiaries), TAFE and VET colleges should also be held to this standard.

The Government also needs to play a more active role in redistributing the risks and benefits of casual employment. Currently, the individual casual worker and his or her family absorb the risk of unemployment and underemployment while the employer maintains the advantage of flexibility. Employers who wish to avail themselves of this advantage should pay for this

through a loading that more adequately reflects the costs to the worker. Alternatively, a levy could be applied to employers based on the number of casuals they employ in contribution towards a basic income for workers.

In addition, because insecure work contributes to insecurity in all aspects of life, casual workers would also need affordable housing initiatives and better tenant protections, more accessible and more flexible childcare options and a welfare system that is in step with the realities of contemporary forms of work.