



# Insecure Work Inquiry

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**Submission by Unions NSW  
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## Contents

Introduction .....	3
The rise of insecure work .....	3
Casualisation .....	5
Labour Hire .....	7
Contracting out .....	9
Fixed-term employment .....	10
Incidence of insecure work .....	11
Permanent employment .....	13
Shorter term solutions .....	14
Portable long service leave .....	14
Restrictions on the use of casuals .....	17
Restrictions on the use of fixed-term employees .....	19
Restrictions on the use of labour hire .....	21
Restrictions on contracting out and sham contracting .....	22
Part-time conversion clauses .....	24
Proper usage of traineeships .....	25
Longer term solutions .....	25
50 Stories of Insecure Work .....	33

## **Introduction**

1. Unions NSW welcomes the opportunity to make a submission to the Insecure Work Inquiry.
2. Unions NSW is the peak body for trade unions and union members in NSW. It has over 75 affiliated unions and trades and labour councils representing over 550 000 workers across NSW.
3. Our union affiliates cover the spectrum of the workforce, stretching from workers in finance to footwear and construction to communications. Unions NSW is the largest member-based organisation for workers in NSW.
4. In preparing this submission, Unions NSW consulted with our affiliated unions, held “Secure work” roundtables in Sydney and the Central Coast and received over 50 emails from individuals telling their experiences of insecure work in relation to themselves or their children. A de-identified summary of each of these stories is attached to this submission and they have been referred to throughout the submission. Two video submissions recorded by Unions NSW have also been forwarded separately to the Inquiry on DVD.

## **The rise of insecure work**

5. For the vast majority of the twentieth century, the standard employment relationship involved a full-time permanent “employee” employed by an “employer”.
6. Over the course of the twentieth century the union movement fought successfully to improve the terms and conditions that attached to the permanent employment relationship.
  - 6.1. Wages steadily increased.

- 6.2. Working hours reduced to 44 in 1920, 40 in 1948 and then 38 in 1983. The introduction of maximum hours also saw the introduction of compensation for additional and unsociable hours (overtime and penalty rates).
- 6.3. Annual leave became a 4 week entitlement in 1973 (1 week was standard in 1941).
- 6.4. Long service leave became enjoyed by the majority of workers from the 1950s.
- 6.5. Sick leave became standard in the 1940s and increased over the years becoming personal/carer's leave in the 1990s.
- 6.6. Public holiday entitlements developed and were standardised in the 1990s.
- 6.7. Unpaid maternity leave became standard in 1979, extending to adoption in 1984 and partners in 1990.
- 6.8. Award employees received some protection from termination, change and redundancy following the test case in 1984. (Redundancy pay increasing in 2004 and extending to all employees in 2009.)
7. Improvements in terms and conditions of employment were also won for some non-permanent workers such as wage increases, casual conversion, and increases in casual loading and penalty rates.
8. Increasingly from the 1980s<sup>1</sup>, the nature of the employment relationship in Australia began to change.

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<sup>1</sup> Campbell I., (2010), *Precarious employment and union responses in Australia*, Globalisation and precarious forms of production and employment, Thornley, p.116

### **Casualisation**

9. There has been significant growth in the proportion of the workforce which is employed casually. This is to a large degree caused not by growth in casual work - that is, work which is intermittent, irregular and short-term in nature - but by the use by employers of casual employment provisions in awards to remunerate employees who are performing regular, ongoing work. That is, employers are, by the payment of a casual loading, simply opting out of the conditions of permanent employment which contain so many of the incidents of secure employment.
10. There is certainly a cost advantage to employers of employing casuals instead of permanents. When the Australian Manufacturing Workers Union (“**AMWU**”) made a bid to increase the casual loading in the Metals Award they calculated the casual loading should be between 41.87% and 44.67% based on the conditions of employment forgone by casuals. This calculation did not even compensate for the dis-amenities of casual work itself.
11. In addition to cost effectiveness, many employers seem to use casual employment in lieu of permanent employment for the following reasons:
  - 11.1. They see permanent employment as a privilege or higher grade of employment which must be earned during a prior and lengthy period of casual employment;
  - 11.2. They see casual employment as an indefinite form of probationary employment (see Story 34);
  - 11.3. To avoid the payment of leave benefits (see Story 42);
  - 11.4. To avoid the need to pay redundancy, should the position not be needed on an on-going basis;
  - 11.5. They see entitlements of permanency such as paid annual leave, sick leave, personal/carer’s leave, public holidays and the like as not

rights, but privileges to be bestowed at their grace upon deserving employees

12. This is an approach to casual employment which has never been approved of or authorised by employment tribunals or Government and it fundamentally undermines the notion that for employees, other than those performing short term, intermittent and irregular work, permanent employment, with all the normal entitlements appertaining thereto, is the standard and appropriate form of employment.
13. It is often suggested that casual employees prefer to be casual employees and remunerated by way of a casual loading rather than receiving the various benefits of permanent employment. It is certainly correct that some casual employees prefer casual employment: students, for example, make up a significant proportion of the casual workforce, and permanent employment is unlikely to be desirable to them while they remain students. Similarly, persons who are not the primary income earners in their households may often perceive casual employment as meeting their personal requirements.
14. Casual employees can sometimes enjoy flexibility so they can take school holidays off with the kids or time off to study or sit exams. But for the significant proportion of casuals this control is elusive and it effectively rests with their employers. And in any event, flexibility should be able to be accommodated with permanent employment.
15. Further, a significant proportion of casual employees would prefer to have permanent employment. A significant part of the growth in casual employment is driven by employer demand rather than employee preference.
16. The consequences of casualisation for employees includes:
  - 16.1. Reduced unfair dismissal rights (see Stories 5, 10, 11, 20 and 43);

- 16.2. Lack of predictable hours and incomes, which can impact on the ability to make ends meet and estimate wages for Centrelink purposes (see Stories 3, 13, 15, 18, 20 and 35);
  - 16.3. Needing to be constantly available for work impacting on work/life balance (see Stories 3, 14 and 39);
  - 16.4. No paid leave, often causing casuals to work when sick and never take breaks (see Stories 11, 14 and 26);
  - 16.5. Limited representation rights (see Stories 11 and 26);
  - 16.6. Lack of pay over long holiday periods (see Stories 1, 5, 11 and 13);
  - 16.7. Limited access to skills & career development (see Story 13);
  - 16.8. Diminished occupational health and safety (see Stories 3, 10 and 13);
  - 16.9. Difficulty accessing finance (see Story 13, 18, 26 and 39);
  - 16.10. Low morale (see Story 39); and
  - 16.11. Low pay (see Stories 14, 16, 20, 35 and 46).
17. These consequences of casualisation also have negative impacts for employers.

### ***Labour Hire***

18. Associated with the growth in casual employment, is the even more significant growth in the use of labour hire. This includes the use of labour hire employees, who are overwhelmingly casuals, not just to cover temporary work demands, but also as a substitute for direct, permanent employment. Just as there has been growth of the phenomenon of the “permanent casual”, so we are also seeing the emergence of the “permanent labour hire casual”.

19. This again represents a departure from the notion that direct permanent employment should be the normal and standard means by which employees are engaged to perform regular and ongoing work - a departure which operates to undermine general security of employment and detracts from the integrity of the system of industrial regulation.
20. Unions NSW does not seek to “outlaw” the use of labour hire businesses by employers. It is recognised that labour hire businesses serve a legitimate purpose, namely to supply staff to employers to perform work which cannot practicably be carried out by the employer’s existing workforce.
21. While some host employers require labour hire agencies to “mirror” basic terms and conditions of employment, employers can and do use labour staff to perform work on their sites, often alongside directly employed person performing identical work, and be paid basic wages and conditions inferior to those prescribed by the state industrial instrument applicable to the employer. This is inappropriate for the following reasons:
  - 21.1. It is simply inequitable;
  - 21.2. It is subversive of the proper operation of industrial instruments;  
and
  - 21.3. It gives employers cost incentives to move away from direct, permanent employment to the use of labour hire.
22. Use of labour hire also has the following negative effects:
  - 22.1. It deprives employees of an effective remedy for arbitrary or unfair dismissal. Labour hire employees can be terminated by the host employer at will. This may not be a problem for employees who are content to work for labour hire business simply to obtain short-term assignments from time to time. However, many labour hire employees have obtained long-term, ongoing and possibly full-time



employment through a labour hire business and depend upon that employment for their living. The labour hire model of engagement allows situations to occur whereby those employees may be deprived of the placement without notice and without reason and without being afforded procedural fairness (see Story 37). Such employees will have no effective recourse to the unfair dismissal jurisdiction as the actual employer, the labour hire agency, still has them on their books;

22.2. It results, in practical terms and despite the new national work health and safety system, in a division of responsibility for occupational health and safety at the workplace, with the consequences of gaps opening up in the management of occupational health and safety and a “buckpassing” of responsibilities; and

22.3. It permits the host employer to be relieved of the obligation to provide suitable alternative duties to employees injured at the workplace, in circumstances where the labour hire business will usually be limited in its ability to itself provide return to work opportunities.

23. Growth of labour hire employment is principally a demand-side phenomenon driven by changes in employers’ employment strategies, not a supply-side phenomenon driven by employee demand. However, Unions NSW does accept that there is a minority proportion of labour hire employees for whom that type of work suits their preference.

### ***Contracting out***

24. There is an increasing tendency of employers to contract out work previously performed by their own employees to other entities - “contract businesses” - in a way which often causes those employees to lose their jobs despite the fact that their work remains to be done.

25. Contracting out is again a means by which an employer can avoid the operation of industrial instruments which are intended to apply to employees at the employer's workplace, and may also, as with the use of labour hire, lead to adverse outcomes with respect to occupational health and safety and the rehabilitation of injured workers.
26. Sub-contractors may frequently only work for one employer, sometimes side by side with permanent employees. They are small businesses and pay their own tax, superannuation and workers compensation insurance.

***Fixed-term employment***

27. Fixed-term employment has also increased markedly in recent years. Like increased casualisation, this growth is not caused by an increase in work which is for a fixed period but by employers using fixed-term employment in lieu of regular permanent employment.
28. Unlike labour hire or sub-contractors, fixed-term employees are paid in accordance with the relevant industrial instrument that applies at the workplace. However, persons in fixed-term employment have considerably insecurity, caused mainly by not knowing whether the position will continue (see Stories 2, 23, 26, 33 and 38).
29. The other negative effects of fixed-term employment include the following:
  - 29.1. Casuals being put on a fixed-term contract for short peak periods to avoid payment of the casual loading at this time (see Story 3);
  - 29.2. Fear about using leave entitlements in case this influenced renewal of the contract (see Stories 23, 24 and 26);
  - 29.3. Inability to accrue entitlements as they are paid out at the end of a fixed period (see Story 26);
  - 29.4. Concern about entering into financial commitments due to uncertainty about future employment (see Stories 23 and 26);

- 29.5. Being treated like second-class citizens at work (see Story 23);
  - 29.6. Concern about raising grievances in case this influences renewal of the contract (see Stories 23 and 26);
  - 29.7. Little personal time as feel compelled to accept all overtime to increase chances of contract being renewed (see Story 26); and
  - 29.8. Missing out on pay over long school holidays (see Story 33).
30. Fixed-term traineeships, sometimes through labour hire arrangements, are also increasingly being used to pay low wages for 1-2 years, provide little structured training and then no employment at the end of the traineeship (see Stories 19 and 44).
31. Unions NSW has also been alerted to the plight of workers on 457 and 417 visas. These workers are frequently employed on fixed-term contracts. Those on 457 visa holders have potential residential status and are therefore less likely to complain about improper employment practices.
32. The 417 visa is now being used to recruit cheap overseas labour with little regard to legal employment standards and no real ability to enforce rights.

***Incidence of insecure work***

33. Statistics vary on the prevalence of casual employment, labour hire and other forms of insecure work.
34. The following table<sup>2</sup> is from 2007 and shows full-time permanent employees are 48.6% of the workforce, with 18.8% casual, 12.3% permanent part-time, 8.9% self-employed contractors, 5.9% self-employed non-contractors and 5.3% fixed-term.

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<sup>2</sup> Van Wanrooy B., Oxenbridge S., Buchanan J., and Jakubauskas M., (2007), *Australia@Work, The Benchmark report*, Sydney: Workplace Research Centre, University of Sydney, p.20

Weekly hours	Employment relationship				
	Employees			Self-employed workers	
	Permanent	Casual	Fixed-term	Contractors	Non-contractors
Full-time	48.6	3.6	3.5		
Part-time	12.3	15.2	1.7		
Total	61.0	18.8	5.3	8.9	5.9

Table 1: Types of employment

35. No industry is immune from the rise of insecure employment. Even in the NSW public sector, insecure employment is prevalent. In 2010 of the 322,542 full-time equivalent positions in the NSW public sector, 12.16% were in temporary employment and 6.42% were casual. In 2009-2010 a total of \$385,246,021 was spent on agency staff alone. In the last six months of 2009, a total of 1,9990,225 hours were worked by temp agency staff.<sup>3</sup>

36. Unions NSW is not saying casual employment, labour hire, contracting out and fixed-term employment are evil phenomena which need to be prohibited or unnecessarily constricted. Each have their proper use in the labour market. Rather, some employers are using these modes of employment in a way which unfairly and needlessly undermines the security of employment of employees, and erodes the integrity of industrial instruments and standard conditions of employment.

<sup>3</sup> The NSW Public Sector Workforce: A 2010 Snapshot and Snapshot Tables, Public Sector Workforce, Department of Premier and Cabinet

**Permanent employment**

37. It should be noted that not all manifestations of insecure employment relate to the increased incidence of casual employment, fixed-term employment, labour hire and contracting out.

38. Even permanent employees can feel elements of insecurity such as:

- 38.1. constant restructuring, privatisation or contracting out causing uncertainty about employment future (see Stories 17, 22, 25, 27, 29, 30, 31, 32, 36, 40 and 45);
- 38.2. part-time employees wanting full-time hours (see Story 9) or discriminated against in relation to their career path (see Story 4);
- 38.3. large amounts of unpaid overtime that can't be refused (see Story 41);
- 38.4. age discrimination favouring younger and cheaper workers;
- 38.5. an inability to refuse work on public holidays;
- 38.6. bad rostering practices causing anxiety and stress (see Stories 6 and 8);
- 38.7. capricious management action causing employees to fear raising grievances (see Stories 37 and 49);
- 38.8. annualised hours causing varied working hours without compensation and disruption to family life (see Stories 21 and 50);
- 38.9. bullying and harassment (see Story 47);
- 38.10. a lack of unfair dismissal rights for high wage earners or those who work for small employers; or
- 38.11. no access to long service leave due to changing employers.

### **Shorter term solutions**

39. The standard full-time permanent employee, which was the predominant type of employment for the majority of the 20<sup>th</sup> century and the focus of continual improvements in terms and conditions of employment, is now less than 50% of the workforce and even those employees are feeling elements of insecurity. For those outside this category of employment, they are, to varying degrees, missing out on important rights that would improve their job security.
40. There is no single solution to correct this problem.
41. In the short-term some answers may lie in implementing on a broader scale some of the initiatives that have already seen some success. These include the following:
- 41.1. Portable long service leave (“LSL”) scheme;
  - 41.2. Restrictions on the use of casuals;
  - 41.3. Restrictions on the use of fixed-term contracts;
  - 41.4. Restrictions on the use of labour hire;
  - 41.5. Restrictions on contracting out and sham contracting;
  - 41.6. Part-time conversion clauses; and
  - 41.7. Proper usage of traineeships.
42. These possible short-term solutions are expanded on below.

### ***Portable long service leave***

43. The principles underpinning LSL have remained largely unchanged since its introduction for public servants nearly 150 years ago. LSL is generally an entitlement for permanent employees that have been employed by the

same employer for a qualifying period. It is a reward for continuity of service and it is meant to provide a respite from continuous employment.

44. The Australian workforce today is less likely to remain with the one employer, occupation or industry for enough time to be eligible for LSL.
45. LSL is already being enjoyed by some categories of non-standard workers such as:
  - 45.1. part-time employees who meet the qualifying period;
  - 45.2. casual employees if they are able to show continuous employment;
  - 45.3. outworkers in NSW, Victoria and Queensland;
  - 45.4. construction workers in all States via portable LSL schemes;
  - 45.5. mining workers in NSW;
  - 45.6. cleaners in NSW, Queensland and the ACT; and
  - 45.7. persons paid completely or partly by commission in the ACT.
46. In addition, there are also proposals to extend portable LSL to the community services sector in the ACT and Victoria.
47. The rationale for portable LSL schemes for construction workers was because the construction industry involves high labour turnover, sub-contracting and projects of a limited duration such that it would be rare for a construction industry worker to accrue LSL.
48. Under these schemes all workers – irrespective of whether they are employees or contractors, permanents or casuals – accrue LSL entitlements on the basis of hours worked in the industry. A levy is paid by the head contractor developer of a site into a trust fund managed by a tripartite board. The schemes have statutory underpinnings and are audited by State governments. On completion of 10 years service

construction workers can take their LSL, even though they may have worked for a variety of employers, in a variety of different roles, on a variety of sites.

49. This is a practical and effective solution to an otherwise difficult problem.
50. The lack of permanency portable LSL was designed to address in the construction industry, now extends across numerous industries.
51. The question is: should LSL be extended beyond the permanent employee (and the few exceptions noted above) to give all workers respite from the world of work?
52. Unions NSW submits it should and that a portable LSL scheme should be introduced for all workers.
53. Such a scheme would have a number of advantages.
  - 53.1. Portable LSL would remove some discrimination against those in less secure forms of employment.
  - 53.2. Portable LSL has been recognised as legitimate in some industries where the nature of production means that long-term employment continuity is not possible. Given the prevalence of less secure forms of employment across all industries, portable LSL should be extended to all workers. This would also address the fact that in small enterprises the opportunities for progression and job movement are constrained. This creates a LSL bias against part-time and women workers who are more heavily represented in small business and therefore have a higher level of labour mobility in order to progress.
  - 53.3. The need for respite is even greater in the modern world.
  - 53.4. Full-time employees are working longer hours on average with an increasing number of workers working very long hours, sometimes in



multiple jobs and with unpaid overtime. High costs of living and changed social roles mean there are more households where both partners work, increasing the pressure on daily lives. Unsociable working arrangements have also expanded and electronic advances have blurred the lines between work and home. In this context, LSL becomes increasingly relevant for its original purpose, as a form of respite leave. A portable LSL scheme would also prevent the practice of cashing out LSL, thereby preserving its rationale as respite leave.

53.5. The financial benefit of LSL should be available to all.

53.6. LSL is an important financial asset for those that are eligible. There are sound economic grounds to extend this benefit to as many workers as possible. A portable LSL scheme would ensure LSL entitlements are not lost when a business goes into liquidation, with the consequential financial burden on employees.

54. Unions NSW submits that a portable LSL scheme be introduced for all workers. There are a number of existing schemes that could be investigated as a model for such a scheme. A portable LSL scheme for all workers would have the added benefit of unifying the LSL entitlement across jurisdictions, with employers being able to retain better entitlements where they exist.

### ***Restrictions on the use of casuals***

55. Many awards and agreements include provisions that restrict the use of casuals. For example casual conversion clauses, strict definitions of casuals and limits on the use of casuals.

56. Casual conversion is not a new concept. A number of awards contain provisions which limit the period an employee may be engaged on a casual basis, so that if the employee continues to work beyond that

period, he or she automatically (or by election) becomes a permanent employee.

57. These clauses date to the 1990s. The significant Federal decision is that of the Full Bench of the Australian Industrial Relations Commission (“**AIRC**”) in *Re Metal, Engineering and Associated Industries Award 1998 – Part 1* (2002) 110 IR 247 (“**the Metals Case**”) and in New South Wales Unions NSW initiated the Secure Employment Test Case, which was handed down in 2006 (NSWIRComm 38).
58. In the Metals Case, unions were able to win a provision that granted a constrained right to individual casual employees with at least 6 months regular and systematic service to elect to become an ongoing employee. Employers could refuse but not unreasonably.
59. In the Secure Employment Test Case, Unions NSW won a provision by which casuals engaged on a regular and systematic basis over a period of six months may elect to convert to permanent employment.
60. Since the Metals Case and the Secure Employment Test Case, casual conversion clauses were introduced into a number of Federal and State Awards across a diverse range of industries. Generally the conversion takes place at the 6 or 12 month mark.
61. Criticisms have been made of these clauses as follows:
  - 61.1. The reliance on individual choice by the worker provides only a weak right that is unlikely to be effective in a context where casuals are vulnerable to employer actions and are reluctant to make demands of their employer.
  - 61.2. The right has, in practice, only been lightly used by casual workers (see Stories 13 and 28). Why this is the case should be the subject of further research.

- 61.3. Many casuals become dependent on the casual loading, frequently because of low prevailing rates in their industry, and therefore can be reluctant to choose to become permanent.
- 61.4. When a permanent position is shift work and supply of labour is short, casual shifts can (with some employers) offer an employee more control over what shifts they work (see Story 6).
62. Despite these criticisms, Unions NSW believes such clauses have merit as long as the clause is appropriately worded including the onus being placed on the employer to notify the employee of their eligibility and automatic conversion once the employee elects, with continuity of employment and no further probation period. Unions NSW submits such clauses should be included in legislation as well as in awards and agreements.
63. In relation to strict definitions of casuals and limits on the use of casuals, a number of awards and agreements have a history of such provisions.
64. For example, the State Transit Authority Division of the Government Service Bus Operations Enterprise (State) Award 2009 (“**the State Transit Award**”) has a number of well worded provisions that place restrictions on the employment of those on an other than full-time basis.
65. Unions NSW submits a clause that defines casual employment to only be able to be used to carry out work that is intermittent, irregular and short-term in nature should be included in legislation as well as in awards and agreements.

***Restrictions on the use of fixed-term employees***

66. Restrictions on the use of fixed-term employees, while not as common in awards and enterprise agreements as restrictions on the use of casuals, have considerable merit.

67. Provisions include the right of a fixed-term employee to be appointed to a permanent position that has been filled by the employee for a certain number of years.
68. In the NSW Teachers Catholic Diocesan metropolitan and country enterprise agreements (and previously awards) the definition of “temporary” is detailed at some length such that a prospective employee can be offered temporary appointments in a finite list of circumstances according to the definition.
69. These circumstances include replacing someone on leave; appointments where enrolments are dropping; where advertisements haven’t produced a suitable candidate and the successful candidate is told it is for this reason that the position will be temporary; the position is funded and funding is not guaranteed to continue; where the position became vacant during the year and it is the practice to fill with a temporary appointment for the duration of the year.
70. It is also stipulated in the enterprise agreement that where it is known that the position is to be temporary it should be advertised as such and described as temporary in the letter of appointment. The letter of appointment must also state the reason for the temporary nature of the position which must be taken from those listed in the definitions clause. Overall this works well for all parties.
71. In comparison, in other enterprise agreements for teachers and support staff there is a less detailed definition of “temporary teacher ” or temporary employee as someone employed for a specific period of not less than four weeks and not more than a year. While it may also be in the enterprise agreement that appointments shall not be temporary for the purpose of probation, the NSW/ACT Independent Education Union (“**IEU**”) informs Unions NSW that some employers make temporary appointments of one year in what are ongoing or permanent positions thereby allowing them to lay staff off after a year if they haven’t worked out.

72. The IEU has encountered this problem with teacher's aides being appointed in positions that are funded by yearly government grants for students with special needs or in positions supporting larger classes where class sizes may fluctuate (see also Story 2). Many teachers' aides positions legitimately had temporary status but the positions continued for many years. Members wanted greater financial security. The IEU raised the members' concerns with the Catholic Diocesan employers.
73. Ultimately a solution was reached and included in the appropriate award (now enterprise agreement) for support staff employed in NSW Catholic Diocesan schools.
74. Core permanent hours are provided to employees employed on specific programmes under an unbroken series of fixed-term contracts for more than four years. The employer calculates the average number of weeks the employee has worked over the preceding four years. The employee is then deemed to be a permanent employee for 65% of the average hours of the previous four years. Where an employee works in excess of the permanent hours that have been calculated these additional hours will be on a temporary basis.
75. The IEU reports that members who were on temporary contracts for many years were very pleased with this outcome and other members look forward to reaching their four year anniversary and having the financial security of core permanent hours.
76. Unions NSW submits that clauses such as those described above should be included in legislation as well as in awards and agreements.

***Restrictions on the use of labour hire***

77. Many awards and agreements have a history of including provisions that restrict the use of labour hire.
78. Restrictions include preferences for permanent employment, limitations on the usage of labour hire employees, engagement of labour hire in

accordance with the prevailing site rates and the ability of labour hire employees to elect to convert to permanent employment with the client after 6 months' service at a particular site.

79. Examples of agreements that have site rates clauses include the Airport Fuel Services Australia Enterprise Agreement as well as three agreements struck with the major transport companies Toll, Linfox and TNT. The transport agreements also included a clause that the union must be notified if the company brings in any labour hire.
80. Unions NSW submits that such clauses should be included in legislation as well as in awards and agreements.

***Restrictions on contracting out and sham contracting***

81. The Termination, Change and Redundancy Case<sup>4</sup> established standard provisions in relation to consultation on major change and pending redundancies.
82. Such clauses exist widely in awards and agreements and, if operating properly, would require there to be consultation with respect to any contracting out proposal at an early stage so that alternatives to contracting out, or measures to minimise job losses, can be discussed. Unfortunately, the consultation procedures adopted by many employers are inadequate and do not operate to effectively explore ways in which job losses can be minimised.
83. Unions NSW submits the original intent should be given to these clauses by legislative amendment.
84. Further, the Fair Work Act already contains some protections against sham contracting. Section 357 prohibits an employer from misrepresenting that a contract of employment is a contract for services. Section 358 states an employer must not dismiss an employee in order to

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<sup>4</sup> (1984) 8 IR 34, Print F6230

engage them as an independent contract performing substantially the same work. Section 357 prohibits an employer from making a false statement to a person who has performed work for them to persuade them to enter into a contract for services to perform substantially the same work. A recent example of the use of these provisions is the 16 January 2012 decision of the Federal Court that a director of the Diamond Island Resort was liable for shifting workers onto sham contracts.

85. There is also the capacity for sham contracting arrangements to be exposed by making a claim for payment of employee entitlements before the relevant Court. The recent Federal Court decision of *ACE Insurance Ltd v Trifunovski* [2011] FCA 1204 (25 October 2011) held that sales representatives that had been hired as independent contractors were in fact employees and therefore entitled to paid accrued leave under the relevant award. They worked only for one company, represented it to the public, were trained by the company and were assigned to teams by the company.
86. These provisions should be extended to prevent contracting out motivated by seeking to avoid industrial and occupational health and safety obligations arising under legislation, industrial instruments, or contracts of employment. Contracting out should be prohibited in relation to work currently performed by employees on any of these illegitimate grounds.
87. The NSW *Industrial Relations Act 1996* (“**the NSW Act**”) also contains some provisions that should be considered.
- 87.1. The NSW Act provides that certain persons are taken to be employees for the purposes of the NSW Act regardless of the position at common law as provided for in section 5(3) and Schedule 1 of the NSW Act. These provisions are intended to prevent the use of certain types of contractual arrangements to take categories of work beyond the scope of relevant awards.

87.2. Section 106 of the NSW Act confers a discretion on the Commission to vary or declare void contracts or arrangements which are designed to or do avoid the provisions of an industrial instrument. The purpose of section 106 is, at least in part, to cover transactions which are in intention or effect subversive of the scheme or purposes of industrial legislation and to protect the arbitration system.

87.3. There is a history in the NSW industrial jurisdiction of award provisions being made, albeit by consent, requiring an employer to ensure that its contractors pay the award rates and conditions applying to the employer's own employees. Such provisions are also relatively common in "project awards" for construction projects in the NSW system. The capacity to make project awards under the Fair Work Act is minimal.

#### ***Part-time conversion clauses***

88. Many awards and agreements include provisions that restrict the use of part-timers. For example the State Transit Award gives full-time workers the right to overtime before part-timers. See also Story 45.
89. It is now common for part-time workers to only receive overtime pay once they have exceeded full-time hours. Given workers must be available for reasonable overtime, this is a real disincentive to employ full-timers.
90. If however part-timers are paid overtime when they work outside their normal spread or hours, less hours will be allocated to part-timers, who are frequently seeking full-time hours.
91. At Qantas, there are part-time conversion clauses to allow part-timers who are working full-time hours over the previous year to convert to full-time (see Story 45).
92. Unions NSW submits that such clauses should be included in legislation as well as in awards and agreements.



### **Proper usage of traineeships**

93. When confronted with the problem of abuse of traineeships to provide low wage, fixed-term jobs, the Australasian Meat Industry Employees' Union (“**AMIEU**”) simply inserted a clause into its agreements that trainees must be paid the same prevailing rates as regular employees. This stopped the problem.
94. Where traineeships do result in lower wages, there must be sufficient regulation coupled with enforcement action to ensure the trainee is genuinely undergoing a structured process of skill acquisition and unfair dismissal proceedings must be available to assess whether refusal to offer employment is due to economic factors alone.

### **Longer term solutions**

95. In the medium-term, the solutions require a more comprehensive discussion about the nature of our society.
96. Unions NSW does not believe it is achievable, or correct, to hark back to an era where all workers were full-time permanent employees. These employees are sometimes called “Harvester Men” in reference to the 1907 Harvester Judgement that set the minimum wage based on what a worker needed to keep his wife and children healthy and comfortable.
97. While “Harvester Men” as the main form of employment is a thing of the past, the Harvester Judgement does provide a framework of sorts for the discussion about the nature of society.
98. The Harvester Judgement arose in response to an application by an employer under the Excise Tariff 1906 for a declaration that the wages being paid were fair and reasonable. Justice Higgins’ decision therefore reflects what he felt was fair and reasonable.
99. In contemplating what fair and reasonable wages might entail he makes some interesting observations.

100. He said:

*“The provision for fair and reasonable remuneration is obviously designed for the benefit of the employees in the industry; and it must be meant to secure to them something which they cannot get by the ordinary system of individual bargaining with employers.... The remuneration could safely have been left to the usual, but unequal, contest, the “higgling of the market” for labour, with the pressure for bread on one side, and the pressure for profits on the other. The standard of “fair and reasonable” must, therefore be something else; and I cannot think of any other standard appropriate than the normal needs of the average employee, regarded as a human being living in a civilised community.”*

101. The objects of the Fair Work Act are set out at section 3 of the Act as follows:

*“The object of this Act is to provide a balanced framework for cooperative and productive workplace relations that promotes national economic prosperity and social inclusion for all Australians by:*

- (a) providing workplace relations laws that are fair to working Australians, are flexible for businesses, promote productivity and economic growth for Australia's future economic prosperity and take into account Australia's international labour obligations; and*
- (b) ensuring a guaranteed safety net of fair, relevant and enforceable minimum terms and conditions through the National Employment Standards, modern awards and national minimum wage orders; and*
- (c) ensuring that the guaranteed safety net of fair, relevant and enforceable minimum wages and conditions can no longer be undermined by the making of statutory individual employment agreements of any kind given that such agreements can never be part of a fair workplace relations system; and*

*(d) assisting employees to balance their work and family responsibilities by providing for flexible working arrangements; and*

*(e) enabling fairness and representation at work and the prevention of discrimination by recognising the right to freedom of association and the right to be represented, protecting against unfair treatment and discrimination, providing accessible and effective procedures to resolve grievances and disputes and providing effective compliance mechanisms; and*

*(f) achieving productivity and fairness through an emphasis on enterprise-level collective bargaining underpinned by simple good faith bargaining obligations and clear rules governing industrial action; and*

*(g) acknowledging the special circumstances of small and medium-sized businesses.”*

102. While the words “fair” or “fairness” feature in sub-sections 3 (b), 3(c), 3(e) and 3(f), the objects cover a lot more than Justice Higgins was contemplating in the Harvester Judgement.
103. Unions NSW submits that the objects of the Fair Work Act, when considering the words of Justice Higgins on the concepts of what is “fair and reasonable” may be in internal conflict.
104. Taking the object in sub-section 3(a) alone - Can workplace relations law be both fair to working Australian and flexible for Australian business? Can workplace relations law be both fair to working Australian and promote productivity and economic growth?
105. The Fair Work Act implies a balance can be achieved between these competing notions. Yet, Unions NSW submits, the evidence shows that this is not the case. Further, Unions NSW submits, a choice must be made between these competing priorities and the decision can only be a workplace relations system that delivers fairness to workers.

106. In 1907, Justice Higgins said that meant “*a wage sufficient to insure the workman food, shelter, clothing, frugal comfort, provision for evil days, &c., as well as reward for the special skill of an artisan if he is one*”.
107. Such a notion needs updating to reflect new test case and community standards.
108. A good starting point would be the the National Employment Standards (NES) set out in Fair Work Act, which apply to the employment of employees. These are:
- 108.1. **Maximum weekly hours of work** - 38 hours per week, plus reasonable additional hours.
  - 108.2. **Requests for flexible working arrangements** - allows parents or carers of a child under school age or of a child under 18 with a disability, to request a change in working arrangements to assist with the child’s care.
  - 108.3. **Parental leave and related entitlements** - up to 12 months unpaid leave for every employee, plus a right to request an additional 12 months unpaid leave, and other forms of maternity, paternity and adoption related leave.
  - 108.4. **Annual leave** - 4 weeks paid leave per year, plus an additional week for certain shift workers.
  - 108.5. **Personal / carer’s leave and compassionate leave** - 10 days paid personal / carer’s leave, two days unpaid carer’s leave as required, and two days compassionate leave (unpaid for casuals) as required.
  - 108.6. **Community service leave** - unpaid leave for voluntary emergency activities and leave for jury service, with an entitlement to be paid for up to 10 days for jury service.

- 108.7. **Long service leave** - a transitional entitlement for employees who had certain LSL entitlements before 1/1/10 pending the development of a uniform national long service leave standard.
- 108.8. **Public holidays** - a paid day off on a public holiday, except where reasonably requested to work.
- 108.9. **Notice of termination and redundancy pay** - up to 4 weeks notice of termination (5 weeks if the employee is over 45 and has at least 2 years of continuous service) and up to 16 weeks redundancy pay, both based on length of service.
- 108.10. **Provision of a Fair Work Information Statement** - employers must provide this statement to all new employees. It contains information about the NES, modern awards, agreement-making, the right to freedom of association, termination of employment, individual flexibility arrangements, right of entry, transfer of business, and the respective roles of Fair Work Australia and the Fair Work Ombudsman.
109. However, Unions NSW submits that there are other minimums that are appropriate for all workers such as:
- 109.1. The right to be paid in accordance with an enterprise agreement or modern award, which contains proper wages;
- 109.2. Increased rights (greater than the NES right to request in limited circumstances) to move between different forms of employment or change working hours. This could be modelled on the Netherlands legislation that gives employees (in firms with more than 10 employees) the right to reduce or increase their working hours, with employers able to deny employee requests for such changes only on the grounds of specific conflicting business interests. Such a system needs to protect employees against

- employer demands for undesirable variations and also enhance worker choices for more variation to suit their needs;
- 109.3. A reasonable degree of regularity and predictability as to weekly income and hours of work;
- 109.4. Access to a career path and opportunities for skills development;
- 109.5. The right to be consulted about workplace changes that have the potential to cause people to lose their jobs. The ILO has published considerable useful guidance on what proper consultation should entail;
- 109.6. Restrictions on fixed-term employment and defined differences in the treatment of temporary and continuing employees. The rules should be model on the European approach and cover requirement of reason, duration, renewal, conversion to permanency, and compensation at the end of the fixed-term;
- 109.7. Restrictions on use of casual employment and labour hire. In relation to labour hire the Agency Workers Regulations in the United Kingdom, which came into effect late last year, is a good model. It gives agency workers after 12 weeks of placement the entitlement to the same basic employment and working conditions as if they had been recruited directly. Some other rights flow on engagement;
- 109.8. The right to raise genuine grievances or problems at work and have them resolved fairly without putting future work at risk;
- 109.9. Initiatives designed to specifically protect migrant workers such as translation of awards and contracts, increased unfair

dismissal timeframes, active enforcement activities and education;<sup>5</sup>

109.10. The encouragement of permanent employment;

109.11. Quality work; and

109.12. The right to an absence of discrimination because of your mode of engagement.

110. The above notions, together with the NES, should be the normal and standard incidents of work, to be departed from only in certain confined circumstances.

111. The more fundamental problem with the NES is two-fold:

111.1. The NES only applies to employees; and

111.2. The NES sits within the contradictory framework of the objects of the Fair Work Act that incorrectly put as much emphasis on the needs of business as the needs of workers.

112. The objects of the Fair Work Act need to be amended to give primacy to the needs of workers in relation to certain minimum standards and to extend the reach of those minimum standards to be extended to all “workers”. The new Work Health and Safety legislation provides a precedent for such an approach.

113. Further, the objects of the Fair Work Act already countenance a broader application beyond the notion of an employee-employer relationship. The

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<sup>5</sup> See the paper *Women Raising our Voices: Voices of Migrant and Refugee Women in Precarious Employment* produced by the Migrant Women Workers Action Group in November 2010, which is a powerful document that shows how the current industrial relations system fails migrant workers. Unions NSW commends the paper to the Inquiry

object in sub-section 3(a) refers to “working Australians” and therefore does not restrict itself to any particular mode of employment.

114. While no doubt employers will rail about the alleged injustice of such an approach, it simply reflects a need to modernise the industrial relations system to reflect the changes that have taken place over recent decades. Put another way, it reflects a bringing of the Harvester Judgement into the 21st century.



# 50 STORIES OF INSECURE WORK TOLD TO UNIONS NSW<sup>6</sup>

## **Story 1: 40 year old, working as a casual teacher to overseas students for five years**

I teach English to overseas students. I have been in this position for five years. I have been employed as a casual the whole time although the work has been constant. In my school, all English Language Intensive Courses for Overseas Students (ELICOS) teaching positions are casual.

During the time that my workplace closes over Christmas I will have no income. Of course there is no sick pay or holiday pay so I only take time off for illness if I can't get out of bed and I can't afford to take time off.

If I leave in an effort to get something better in this industry, I will at least at first, be looking at another casual position which may or may not turn out to provide an ongoing income. I earn more than half my family's income so I'm risking a lot to change jobs. I have a disability which really limits my options in regard to finding another job in this or another industry.

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## **Story 2: Teachers' Aide Special, employed at one school since 1999**

I am a Teachers' Aide Special and have been until recently in the one school since 1999. During that time, it was a guessing game whether I work next week, month or year, all depending on funding.

Just over two years ago the school lost one of our major students (one with a significant amount of funding) and I lost my job.

I had to seek work out of the field I had grown to love. After finding another job, I later discovered there was enough funding but another Aide was employed. It is difficult for the students when they have inconsistency with their aides.

This is an occupation that doesn't have too many permanent positions. I believe permanency should be extended to aides who have worked a particular consistent number of years. I would love to have a secure position and to get back into this work again. Students with needs will always be in mainstream schools and aides will always be required but we are treated poorly for such an important role in any school.

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## **Story 3: Fixed-term contract avoids casual loading over Christmas peak**

I am in my late twenties and have a young family. I have been working as a casual through a labour hire agency, working for a distribution company in their warehouse. I have been

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<sup>6</sup> Stories have been edited for legibility, length and to remove identifying details. Stories were collated either in response to an email from Unions NSW or following a 1:1 conversation.

doing this for a few years. I am always worried about whether or not I will be allocated enough work to pay my bills. I normally get about 3-4 shifts per week, which really isn't enough. My hours vary week to week.

If I don't answer my phone for a Monday shift because I am in the shower, by the time I call back, the shift has been filled and then I won't be given a Tuesday shift as "punishment". At my house I have poor mobile phone reception and I always worry I'm going to miss a call from work. Sometimes I might only get 30 minutes notice for a shift. I always get less than 16 hours notice.

I have been thinking about getting a second job to make ends meet. It's really hard to make ends meet in the weeks I only work 1-2 shifts. I never turn down a shift when it is offered. That means some weeks I may work 6-7 days. Then I am not around to help my wife with our children.

I don't have a social life because you can't plan anything when you've always got to be available to work. I also can't drink as that would make me unable to work then next morning.

I had a car accident and even though I was not injured, I felt it would be safer to not work for a few days as I felt uneasy about the crash. I wasn't allocated a shift for a further 2 days after that. It felt like I was being punished for being unavailable to work.

The permanent workers look down on us casuals. You also have to tread very lightly in terms of reporting safety matters or bullying.

There is an incentive system that means you get paid extra if you work fast. I work as fast as I can but worry about the risk to my safety and others by everyone trying to rush all the time. I have seen lots of near misses.

A few months before Christmas, the company advertised for people to fill a 5 week full-time contract. Lots of casuals applied. I was successful. This has guaranteed me 5 days a week work for 5 weeks. I don't get paid my casual loading of course, but at least I get a guaranteed pay packet. The rest of the casuals unfortunately get a lot less work. I think they are only getting about 2 shifts a week, if they are lucky.

I think there needs to be the right balance between the number of casuals and permanents employed so you maximise your employment of permanents but have casuals available to meet peaks in demand. The company should also be required to convert casuals to permanent if they work full-time hours.

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#### **Story 4: Part-time worker, missing out on career opportunities**

I feel that my job is insecure because I have had recently 2 children and now work part-time. I used to work full time and since having children I have found discrimination in the workplace in relation to higher duties and job promotions. These positions have gone to males and usually to those with less experience than me.

I am worried I may be targeted for redundancy because I work 3 days per week. My employer says it is committed to providing work/life balance but if you take up these opportunities there are also opportunities to be discriminated against in other areas.

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**Story 5: Part-time/casual TAFE teacher with no job after 15 years' service**

TAFE has a small full time teaching staff and relies heavily on part time/casual teachers for the majority of teaching and their ability to bring current industry experience to the programs. Over 2/3rds of TAFE teachers are part-time or casual.

Part time/casuals are paid a good hourly rate (around \$65 an hour) but this has to also take into consideration class/lesson preparation, computer admin for classes and marking done at home.

Super is paid on top of this hourly rate.

TAFE pays in arrears and when you work during a week, the payment is not made to you for a minimum of 2 weeks after that work week.

I taught as a part time/casual in the TAFE system for 15 years under these arrangements. There was never any written letter or contract put together for me. Each year, I had to advise TAFE of my availability for the next teaching year and then wait until enrollments were finalised in the January of each year to be advised if I was teaching and what dates etc.

There was no payment made to me during semester breaks or during the long end of year break.

For 15 years, I was kept regularly engaged as a part time/casual teacher and then in early 2010, after a new agreement was negotiated which required full time teachers to provide more teaching hours and casual hours were cut, I was simply told that there would no longer be any hours for me and "as I was only a casual" I could and was being laid off with no notice and was asked to hand back my classroom and office keys.

I was placed on a 3 year eligibility list for future part time/casual teaching positions that may become available but no contact has ever been made with me. Luckily TAFE was not my main employer during most of my time with them. I had other full time employment, but TAFE relies heavily on part time/casual teachers to keep up currency and real workplace experience for their courses. There were a couple of times when I was retrenched or between jobs, when TAFE was my principal source of income.

I think part time/casual staff should be paid at the end of each week, as most private employers do. Part time/casuals should also be able to accrue some sort of leave on a pro-rata basis on the hours they work. Maybe even lower the hourly rate and allow part time/casuals to spread their pay over the year so they receive some payment during semester breaks.

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### **Story 6: Nurse chooses to go casual**

I was working as a permanent nurse in a Sydney public hospital. I would get allocated all sorts of different shifts at all different times of the day. I was really difficult to cope with and I was not happy. I was told as a permanent I could not get a regular shift pattern during the day-time. I therefore quit and went casual. I can pick and choose the shifts I want and I am much happier. I plan to have a family soon and think being a casual will suit me better with children as well.

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### **Story 7: Outsourcing leads to insecurity**

I am lucky that my job is secure. Unlike some of my colleagues whose jobs have just been outsourced to cut costs. Or others who work in an area that is over budget, so they have to cut jobs by 10% regardless of increased stress and workload on the workers that remain.

Job insecurity is bad for contractors, temporary and part time workers, but it hits full time, permanent employees too. Most of us have children.

What happens to their long term prospects with increased casualisation of the work force? If they save enough to buy a house, people with insecure income streams find it harder to get loans from banks and building societies, forcing them to seek loans from other lenders which charge higher mortgage rates.

Insecurity hurts Australian families.

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### **Story 8: Bad rostering causes insecurity**

I work for an NGO as a full-time permanent worker.

Our rosters are prepared based on whether the person doing the rostering likes you or not. No consideration is taken for the health of workers, the numbers of nights already worked, seniority, ability to do the job etc. Your preferred shifts are not taken into account if you are not liked. That means some people always get good shifts, leaving everyone else to only be able to do bad shifts.

Due to health problems, which were due to the stress of the rostering, I asked to reduce my hours and was refused.

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### **Story 9: Part-time TAFE teachers get fewer hours**

My friends are both part-time long-term TAFE NSW teachers who were given fewer hours of work this year. Next year, their hours will be reduced even further.

With only two weeks' notice, one was told to finish his class off early, even before the students had completed their last project which was assessable. The students and teacher

were devastated. My teacher friend also lost his expected income, critical when the long vacation weeks are without pay.

These are good, experienced and loyal teachers. They deserve secure employment and holiday pay.

With the abrupt move of permanent TAFE teachers to the Fair Work Australia minimum conditions next year, this attitude will spread to the essential core of full-time teachers, who keep the system going. We expect to be exploited by this vulnerability. We demand security of conditions and a change of attitude to valuing education and teachers' role in the overall development of this country.

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#### **Story 10: 6 years service with supermarket counts for nothing**

I have been working at a supermarket for 6 years. Last week they told me they need younger faces on the shift I do and it seems a coincidence I am about to turn 21. I now need to ring to see if there is work but am told I am too expensive.

I feel demoralised and upset, especially at the way the new boss spoke to me to tell me the news with one week notice. I was told I can now ring for shifts but as you may be aware all the Christmas jobs are filled so I am now just sitting at home. Had they given enough notice I could have looked elsewhere. I have been working for the local store for 6 years and been reliable and told I am a very good worker.

I guess I am lucky in that I am currently studying at university and don't plan to remain in retail but it is very frustrating for young people to experience this sort of humiliation.

There are also significant frustrations with the workplace conditions, eg meal breaks, no pay if staying back, fire escapes filled with boxes. However there is a fear of challenging this or notifying Workcover.

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#### **Story 11: Casual TAFE teacher and part-time school teacher would love permanency**

My husband is a teacher and is on casual pay for 2 days per week in school term times. He only gets paid for face to face hours and in his contract it says that if they are dissatisfied with his work that he can be dismissed at the end of the working day with that much notice.

I am a full time mum and we have a large family so this is something that I am concerned about.

Another reason that it is a worry is that it means my husband doesn't get a break - his other 3 days of employment are in a school so he should have school holidays and for his health should have at least some break but he can't rest in the holidays at all because he has to work (as a tradesman) to try to cover our budget for those casual days until work starts again in 2012.

TAFE are paying him at a fair rate but even though he gets paid for 8 hours a day face to face work they say that each day covers prep and marking as well as holidays and sickness. This really is incredibly hard to manage.

Being casual too means he is less prepared to raise any issues if he feels there is a problem at work. Once he was only paid half his normal wage but chose not to query it too hard in case he would be sacked. There have been instances when he has felt unwell and attended work when he really should have rested. In doing so he may have risked infecting others. He tries to work through the casual days when he is sick, and then take a sick day if he is still unwell on one of his permanent part-time days. That way, his pay won't be reduced.

I'd much rather a lower rate per week and continual pay throughout the year rather than a higher rate and then nothing in holiday times (when you tend to need money more - e.g Christmas and other celebrations, holiday breaks, special events). I'd also like to see it be compulsory for people to be made permanent part time after a certain period of satisfactory work at a workplace.

The whole situation causes stress in the whole family as the kids and I would love my husband to be around more in the holidays and I would love not to have to stress about the budget.

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**Story 12: Older casual teacher passed over for youth**

I am 64 and have been doing casual work in schools since I retired. The teaching helped me to survive financially and I enjoy teaching student. Recently a Principal told me that they want young teachers as casuals not experienced staff as casuals. The reason is that it is cheaper to have young teachers not older ones.

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**Story 13: Secondary teacher, single parent, seeks permanency**

I am a secondary teacher and have been employed for 6 years on only temporary contacts or a casual basis. I have usually had full time work in this capacity. I have worked in primary schools, high schools and special education.

I have said yes to anything that comes my way often out of fear that I would no longer be offered work. In saying yes I have agreed to work more hours than my peers, do more marking than my peers, I have often been out of my depth without adequate support or training. I have missed out on professional development as I am not permanent and have had to fight to be put on contracts when employed full-time as a casual for more than a term.

I am a single parent who has never been able to earn the equivalent of a first year teacher. I have fretted that if I should say no to work I would no longer get work. I feel that they use this anxiety and insecurity to get a pound of flesh out of you that you would never get out of permanent staff who have tenure and security.

Picking up permanent work (in a lot of cases) involves locating to an area where permanent work is available. This is often difficult for women and families with children and caring responsibilities, as they are not able to up-root their lives.

The teaching award has a conversion from casual to short-term contract. This never occurs automatically and I have to chase it up. Many other teachers do not know that this entitlement exists. Once converted to a short-term contract teachers are entitled to sick leave and holiday pay during school holidays. Whether teachers do receive payments on school holidays, is how ever contingent on when they were signed over to the short-term contract. There is also no formalized link between a short term contract and a permanent role. I know a teacher who has been employed casual for 7 years.

I fear if I push too hard for the casual conversion, it will lead them to call someone else.

Short term contracts are also difficult in terms of planning and not knowing if you are going to get re-employed.

I have difficulty in getting loans. I don't believe I will own a house. I get stressed and feel frustrated that I do not have control over my employment. I feel used by my professional peers and I am not surprised that many teachers leave the profession out of sheer frustration. I know I am not unique in my experience as most of my friends and peers who I work with are not permanent staff.

I struggle financially over holiday periods. I save my tax return cheque for the Christmas holiday period and use it as a form of holiday pay.

There are also significant problems with the interaction between welfare/Centrelink payments and income for casual work. The Family Tax Benefit and child care rebates require an estimation of yearly income. This is very hard for me to determine, and often leads to underpayment or overpayment of Centrelink payments.

My daughter has not had a permanent teacher teach her for four years.

The issue has created tension in workplaces where permanent staff and casual staff aren't entitled to the same. The casuals spend a lot of time complaining about permanent staff.

You don't feel comfortable reporting safety issues in the school – as not to be seen as a trouble maker. Why would the school invite a trouble maker back?

I have difficulty accessing training and development. This is because training and development is generally delivered at the school level, particular in staff development days which only permanent or contract staff are invited to. There is a need for teachers to keep up with training to maintain their accreditation. This is extended from 5 to 7 years for casual teachers, but it doesn't make it any easier to access the appropriate training.

As a casual teacher you receive a call at 6.30am if there is a casual teaching position available for the day. This places stress on getting your child up and ready for school before you can go to work and putting them in before-school care. If a call for work doesn't come until 7.30 or after than I'm not able to accept as this isn't enough time to get my daughter to

care and myself ready for work. But there is also the feeling of needing to say yes to shifts in fear that they won't be offered again.

A lot of school principals are already deciding who they employ by not filling permanent positions.

I am a good worker who is keen, enthusiastic and flexible however my resume shows someone who has not been able to hold a secure job. I don't know what the solution is for me. I am considering re-training.

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#### **Story 14: 3 year casual employee, mushroom picking**

Until recently I worked casually as a mushroom picker for 3 years. There were approximately forty employees at my company and most complained of the inconsistency of work. Most of the employees were seeking permanent employment but this was not offered to anyone. Some weeks the employees worked six days a week for three hours a day. The following week they might work six days a week and up to seven hours a day for less than \$500 gross salary.

There was never enough money to survive. Planning any personal activities was also not possible because you did not know what shifts you would have. You were always told by the company that they would have work but very rarely knew how long the shifts would be until the day before or on the day.

My biggest concern was the inconsistency in the hours.

While I worked at the company I had no personal life and found it extremely difficult to plan for anything as I never knew how much income I would be receiving that week.

I left the job because of the lack of security to pursue other employment. In my new position in administration, I am employed for 50 hours per fortnight. While I am still employed as a casual, I know what my hours will be and I work four days a week either 9-5 or 9-6. My concern is that I still have no access to entitlements such as sick leave or superannuation but feel that I am now in a better position to ask for those entitlements in the future.

I recently completed a three month trial and while my hourly rate is lower, I earn more money than I did previously in the mushroom picking position.

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#### **Story 15: Casual trainer loses 4-6 weeks pay**

I have always been fully employed until 2010 when I commenced study full time. I applied for some casual training work and wound up being employed under a casual contract.

I was given the training manuals and had to deliver the units approximately 1-2 weeks later (not enough time to prepare the course adequately and with no guidance at all).



Pressure was placed on me to deliver the workshops within a restrictive time frame as the organisation would not be paid until units were passed. Pressure was placed on me to encourage me to basically deliver the units as quick as possible and turn a blind eye to student demonstrated competence.

I had no assistance and little support. There was definitely not enough computer access time available to successfully deliver the unit. When I was sick, no replacement teacher was arranged and the manuals were handed out to the students, giving them no incentive to attend class.

Due to all of this poor management, the students stopped showing up and the workshops were cancelled, leaving me approximately 4-6 weeks out of pay.

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**Story 16: 20 year casuals – living like uni students and approaching middle age**

I work as a manager for a large council.

All my staff are casuals. Some have been casual for 20 years. These staff members do not have mortgages, do not have credit cards, they live in share households like students (they are 40 years old), mostly not married, mostly no kids.

They suffer untold stress and are ridiculously poor as they have limited work. They don't take sick days because they can't pay rent, they don't take time off to care for aging parents because they can't pay rent, they don't take time off to mend a broken heart because they can't pay rent nor do they ever get a proper holiday.

You can only imagine the quality of work I get out of these otherwise capable intelligent workers. They suffer from non -organic mental illness from a sense of feeling worthless. I am the boss and I can see how very very unfair it is to have some people secure and some not, doing the same job.

There is also a plethora of people doing a full time workload in 25 hrs a week in this organisation.

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**Story 17: Privatisation worries**

I've been with Sydney Ferries for almost many decades. It has been a great place to work.

In the last 15 years, I have witnessed a steady decline of the company. Now we are being transferred to a new private company, I am still very unsettled about the future. My thoughts are now in finishing my house in preparation for putting the house on the market.

Sydney Ferries isn't interested in long term employees anymore. They want fresh young blood & all casual. I don't believe I have much of a future left with the Ferries. This has been my main job since leaving school & I am very worried about my future.

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**Story 18: Casual list for 4 years**

My daughter is a trained Teacher and has been on the casual list for the past 4 years. The only positions, other than casual days here and there, that are offered are only temporary and in isolated places. The fact that the position on offer is only temporary and in an isolated situation disadvantages her as she would have to relocate or pay double rent to retain her existing accommodation while doing the temporary work, plus give up other jobs that she may have that help to supplement her irregular income. The longer this continues the more separated she becomes from the profession.

Currently she is in a relationship and they are trying to buy a house but without a regular income it is difficult to get finance.

My daughter has taken on other jobs but finds that this prevents her from accepting the casual teaching jobs that are only available on short notice so it becomes a no win situation - either she gives up the teaching that she loves so that she can earn a regular income or she risks earning no income while she sits at home waiting for a call re casual teaching.

Eventually if she does not obtain enough casual work, she will have to consider other career options on a permanent basis. This appears to be a waste of a trained professional. During her period at university it was promised that there would be work available due to the "Baby Boomers" retiring but this has proven to be false.

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**Story 19: No job offer after traineeship**

I have a personal insecure work story you might be interested in.

In 2004 I started work on a 2 year traineeship. Blessed with a good education and good organisational, campaigning and people skills, after 16 months on the job I was elected as a Union Delegate.

At that time my colleagues and I were faced with great problems of workplace violence. We waged several successful campaigns to secure our safety and were making good progress when suddenly and unexpectedly, out of the blue, after 6 months in office, I was sacked.

My employer told me they had decided not to provide me with a permanent position at the end of my 24 month traineeship. This only ever occurs very rarely and I had a very good employment record and there was a skill shortage.

The message of my sacking was clear - you have no security of employment and therefore have no effective ability to speak up in the workplace for rights or against workplace injustice.

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**Story 20: Casual jobs impact on disabled worker**

I am offering a couple of examples of things that have happened to my son.

My son has a disability but he is one of the lucky few who have been able to secure employment albeit casual employment.

In September last year, after going through all the necessary medical and drug tests he was offered a position with a company to work in the mines in WA on a fly in fly out basis. A written offer of employment was sent to him and this was signed and returned and he was given a start date to fly to Karratha.

On this understanding he terminated the position he had been working in on a casual basis for over 15 months so he could start work in Western Australia.

The airline tickets that were supposed to be attached to an email were not actually attached.

After many desperate calls to the company on a Saturday, at a time when the company was closed, he was assured the tickets would be forwarded on the following Monday and that he would just start a couple of days after everyone else.

When the tickets did not arrive again he was told that as he had not made it onto the plane with the crew on the start date his services were no longer required.

He approached his previous employer to see if he could return to work there and although this did eventually happen he was left unemployed for a couple of months until a position became available for him again.

I cannot put into words the impact that this experience had on him but he was so depressed we were concerned for his well being.

I have since heard that this happens to people all the time.

I appreciate that this was a casual position and that on this basis a position can be terminated at any given time. However, one would still think that there should be recourse for people who are given written contracts that such contracts are worth more than the paper that they are written on.

His current situation is that he is working with a Civil Engineering company on a casual basis. He has now worked for this company for the last 5 months approx and this will continue until March/April 2012 when the project they are working on will be finished. At this point in time they have offered him work commencing elsewhere when the current project is finished.

My son loves his job and he loves working for this company. The problem is that when it rains they are not able to work so there have been some weeks where his take home pay is very low and only slightly more than Centrelink benefits. Consequently, it is very hard to get ahead financially.

The idea of being able to save a deposit to buy his own home is something that is therefore simply not feasible while he remains as a casual employee.

I believe that the increased casualisation of the workforce will have an ever increasing impact on the Australian economy as a whole. People working in casual jobs find it very difficult to secure mortgages from banks to purchase their own home as banks do not issue casual mortgages. I purchased my first unit when I was 19 and my first home at age 21 but more and more young people are staying at home with their parents until they are in their late 20s or even early 30s. This must be having an impact on the construction and allied industries and there must be a flow on effect to the whole economy.

Australia needs to look after its young workers better as it is through them that the economy of this country will grow.

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### **Story 21: Annualised hours turns erodes hard-won working conditions**

I believe “annualised hours” in any award or EBA effectively turns full time workers into casual employees.

Annualised hours is spreading like an “industrial melanoma” through our awards and EBAs seemingly unnoticed and unchallenged by unions.

I am sure that the concept of annualised hours is intended to undermine a great number of basic working conditions gained by the hard work and diligence of unionists before us. We must not let them down by letting this slip by us.

Eight hour day and 40 hour week, gone! No overtime pay!

Annualised hours allows the employer to order an employee to work any number of hours per day or per week with no recompense for the long hours or disruption to family life.

An employer can force a full time employee to work long, extended hours at busy times and then instruct the full time employee to work say 4 hours a day when there is little work on. Then repeat the exercise when they get busy again, no plan just as needs arise. At the end of the year the hours are tallied, if in excess of the “annual quantum” of hours required the employee is paid the excess as overtime. The employee has to wait until the end of the year to be paid any overtime owing. If the tally is no more than the annual quantum then there is no overtime and the employee is not rewarded in any way for the long hours and disruption to family experienced earlier in the year. In other words ‘no pay for overtime’, no ‘eight hour day’ and no ‘forty hour week’. All of this is in favour of the employer who is able to treat full time employees as if they are casuals.

If the employee has worked regular long hours the employer can just tell them to stay home or have them work a couple of hours per day so the employee does not exceed the annual quantum of hours, so as to avoid having to pay any overtime.

As there is no way of knowing for sure the hours they will work at any point, the employee can’t know if they will be paid any overtime.

Of course the employer may want the employee to work anytime for the needs of the company but the employee would expect some extra money for the long, extended hours worked. There is no guarantee of recompense for the long hours. In fact the employee can't say no to the long, extended hours as it is within the "annualised hours" award.

It is good to see Unions NSW moving to try to achieve secure work for all. This effort must include the abolition of "Annualised Hours" from all awards and EBAs.

We must fix this or all employees will become effectively casual and a casual workforce is at the whim of the employer and is scared to take action.

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### **Story 22: Restructuring impacts on security**

I have worked in a Government Department now for over nine years and I feel very insecure in my work. I have been moved through three other Departments, before my current placement. There is so much uncertainty and outsourcing.

Everyone in the whole of the department feel insecure except the people at the top.

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### **Story 23: No permanent employment until her 50s**

I am now in a highly paid, permanent job, but this only happened 11 years ago, when I was 54 years old. Until then I struggled to get permanent employment.

I work for a government department. I have worked there for 15 years but have only had a permanent job for the last 11 years.

Prior to working at the department I worked at a university on research projects. The work was offered on short or long term contracts varying from 3 months to 3 years. Although there were entitlements for paid leave, the non-permanency of the work caused significant financial stress. I never felt confident enough to purchase a mobile phone or to get a credit card. I found this situation highly stressful.

Work at the university was offered on a short term contract basis because it was funded by government grants, and the length and permanency of the work was based purely on the money supplied by these grants – even though I was always working on behalf of the University.

Although there was an entitlement to leave, I always felt nervous about taking any extended sick or personal leave because of the impression that it would give to my employer. I felt that I was constantly on a performance review and that if I was not perceived as reliable, then it would limit my chances of having my contract renewed, or picking up another contract.

I left her work at the University to join the public sector. This resulted in a pay and position cut, however it was appealing to me as there was the prospect of more secure and permanent work.

I am not the only person who has left working in research at universities to join the public sector. The funding model and the way that researchers are engaged on a non-permanent basis has led to the loss of many talented researchers. These researchers, particularly scientists, move to the public sector into more junior jobs that do not necessarily utilise their skills or experience.

The insecurity of research based work in universities threatens the quality of research that is conducted by driving talented researchers out of research in the search for more stable employment.

When I moved to the public sector I was still not offered a permanent position. Instead I was employed on three monthly contracts where I needed to reapply for my job every three months. While there was not the fear of 'lack of funding' that there was at the university, it was stressful for me as I did not have guaranteed ongoing work.

In the public sector I was unable to get permanent work, as there was a staffing freeze, and if I was employed on 'rolling' three monthly contracts I was not considered to be technically employed.

I was a temporary employee in the public sector for 4 years. Again I had access to paid leave, however in many ways temporary workers were treated like 'second class citizens' within the office. Temporary workers were not permitted to apply for jobs that were internally advertised. This was frustrating for me as it gave me no opportunity to pro-actively seek permanent or better employment within the public sector. Within the office there was also tension between permanent and non-permanent staff members with many permanent staff members not seeing them as 'real' employees, and 'turning their noses up' at non-permanent staff.

I felt that my history of 'non-permanent' work also put a black mark against my name when I was applying for other jobs, with prospective employers wanting to know why I was not able to get a permanent job. I believe that my non-permanent work history gave the impression that I was unreliable.

After four years I was able to find permanent work within the public sector, however there are still a number of employees in the public sector who are employed on short term contracts that are continually renewed.

I would describe my experiences of working on short term contracts as living in a 'hand to mouth existence'

I have two children. When I worked at both the university and in the public sector I was their primary carer. This interacted with the insecurity of my work

Because of my caring responsibilities, I sought part-time employment. It was very difficult to find permanent part-time work, with most part-time work being offered was on short term

contracts. I believe that I was employed in insecure employment for such a long period of time because I was seeking part-time work.

Insecure employment also interfered with my caring responsibilities by limiting the amount of time I was able to spend caring for my children. One of my children had a severe medical condition which required numerous hospital and specialist visits as well as time off from school. While I had access to leave to care for my child, I felt I was unable to take this leave, as it may have given the impression that I was unreliable, and threaten my chances of having my short-term contract renewed.

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#### **Story 24: Grant funded position not renewed due to “excessive” leave**

I worked part time as a specialist teacher for four years in a non-government school on programs funded each year by grants. I was happy with the arrangement because of family commitments and had a reasonable expectation that I would continue in 2012 as the funding is still available and my skills are needed. However, late in 2011 I was told that I would not be renewed because I had taken "excessive leave" in 2011 to care for an ill child.

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#### **Story 25: Budget cuts cause feelings of insecurity**

I have worked with NSW police (unsworn) since 1986. I love my job and have become institutionalised in regards to my qualifications.

We have had several restructures and always the talk (now more than ever) is to cut public service staff numbers because of budgetary restraints.

I am 50 years old and know that I am not competitive with outsiders if I was to lose my job and have to find another. I cannot afford not to work.

This is a constant worry to me and my co-workers. The feeling of job insecurity never goes away as do the rumours of "what's next" to affect our jobs.

I find this fear (ongoing threat) has a negative effect on morale and the work environment in general.

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#### **Story 26: Several years spent filling-in for another worker**

I have been employed with a Local Health District for more than 10 years.

In this time, I have been loyal, on time, efficient, honest and progressive.

Also in this time I have been on contracts or just hired as a casual within the service.

When I was a casual I knew I could refuse work if I wanted to, however I tried to accept as many shifts as I could. I was worried as I didn't know when work would "dry up". I didn't accrue any Annual or Long Service leave or RDOs or sick days. I felt like I was constantly

scrounging for work. I was always looking out for any potential competition going for the same work. I felt like “one of them” from the other employees.

For the past several years I have worked in the same position full-time, but on rolling fixed-term contracts (one to three months). The person who owns this position is constantly on secondment. This makes for an insecure position.

With these short term contracts I collect entitlements. However, it is always a worry when these contracts come to a close, because if they do not overlap ALL entitlements are paid out and lost forever. This means I lose any annual leave accrued or RDOs. These are paid out in my pay hence I lose a fair bit in tax. This has happened to me several times. I am constantly aware of the fact I can lose my entitlements so easily.

Holidays are always an issue as no manager wants to foot the bill, so I am hesitant to request holidays. I usually have one week off a year so as to not disgruntle managers and to ensure I get the time off. I was fortunate this year and almost got two weeks off.

It is frustrating, in the fact that I have no job security. That I constantly have to be aware of other work that may come available. That I have to control and restrict my actions & responses, (cannot say what needs to be said), so as to not infuriate any other staff (as I am not permanent therefore don't need to be hired if seen as a problem employee)

I am hesitant to go into debt as my position is at times quite precarious and therefore unnerving about the future and how to pay back any loans.

I accept nearly all overtime so as to be seen as a “good” employee and therefore reliable and to be called on in a moment's notice. This has interfered with my home life numerous times.

I am hesitant to make too many waves about my situation as this has provided me with employment for such a long period.

A permanent position or part time permanent position would go a long way in alleviating the lack of job security. This would give me the safety of having all annual, long service leave, sick days and RDOs.

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### **Story 27: Nearly 60 and worried about her future**

I am a leading hand in the public sector. I have been told that due to a reform process there will not be any more leading hands.

I am a nearly 60 year old woman. Where will I get a new job?

I am good leading hand. I don't take time off. I am never late. I never leave early.

Soon I will be the only bread winner in my house.

This is real worry.

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**Story 28: Casual conversion to permanent positions**

My daughter works at a Hospital where many of the employees are casual. My wife has been working at the same hospital for over 2 years as a casual.

Under the Health Award the Health Department is obliged to offer permanent work after employees have worked more than 13 weeks. This is clearly stated in one of the sections of the Award but it isn't happening.

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**Story 29: Shrinking office numbers cause concern in the regions**

My colleagues and I work at a shrinking Government Department site in regional NSW. Presently there are 6 of us here but the numbers are about to reduce to 5. Not so long ago we had over 15 but as people leave they are not replaced.

We are being told that there are no certainties about our futures here even though we are permanent commonwealth public servants. We are also being told that office closures in country towns like ours have happened before (which they have) and could happen again.

The problem is that there are no other work opportunities for us in towns like this and if we want to stay with our families we must accept redundancies from the public service. As an example, the Howard government in 1998 caused over 400 people to lose their jobs in the Commonwealth employment and education department across western NSW, primarily due to outsourcing the work of the CES and other program initiatives.

There is no shortage of work that we could do electronically and/or nationally but there is a lack of will to share the work around when it doesn't align with the empire building plans of senior bureaucrats in capital cities.

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**Story 30: Restructuring worries**

My public sector area has been undergoing a restructure for the last 2 years. While it has been said that no one will lose their jobs, there is no guarantee of what people will be doing or where they will be placed.

I myself was notified about a year ago that I would not be remaining in the team I currently am, but would be moved back to another area. While I understand the policy intent, for the last year, through budget review, staff cuts etc, I have felt as though I have no job security and even if placed in another team I could be relocated.

This is dramatically affecting my family.

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**Story 31: Council amalgamations threaten jobs**

I work for a Council that had to fight off an amalgamation with neighbouring councils over a period of 2 years. It was only with the support of the majority of the Community, a solid

Council, members and staff, and a well compiled argument that we were able to beat off the proposal.

What does this have to do with your campaign? Well amalgamations are promoted on the basis of efficiencies and reduced workforces, even though the legislation requires no redundancies for 3 years.

I have been part of the amalgamations in the past so I know what the real cost of amalgamations is to a community.

This widely accepted notion that bigger is better and more efficient does not stand up to close scrutiny.

My Council continues to provide its community with a level of service that it has always done and also in certain cases expanding on that level of service, whereas there are examples of larger local authorities reducing services or increasing costs to their communities above acceptable levels (and some cases both).

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### **Story 32: Lack of Qantas job security**

I used to work for Qantas Engineering.

When I started in 1966 my building held 1200 staff. This rose to a peak of 1800 when the company rebuilt all major provider engines. Qantas produced its last engine officially in December 2009. Qantas now has all full engine maintenance conducted by a consortium in Hong Kong. The same facility Qantas used when the in-house facility was over capacity. The products produced were rubbish quality then and still are.

My old building now is a ghost town with only 40 support staff that work under duress not being able to keep up with module swaps to keep some aircraft in the air while the consortium has not the capability to keep up with demand. 3rd and 4th year apprentices were seconded from hangar locations to try and assist with staff shortages.

As the Engine Maintenance Facility changed, my position was abolished and I was asked to take voluntary redundancy in July 2009. After 43.5 years of dedicated service, I am now one of the thousands of Engineering Staff to be set aside. Allan Joyce has effectively destroyed what Sir Wilmot Hudson Fysh had founded 91 years ago. I do not see a future for the icon and think it may not last till its 100th Birthday.

Does Qantas still own anything as an asset? Yes one item only. Staff that are not under contract and they are getting fewer and fewer by the day. Qantas owns no aircraft, engines, components, and most facilities including their campus in Building ABCDE 203 Coward Street Mascot NSW 2020 and Stanford Hotel are all rented.

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**Story 33: Rolling contracts at TAFE**

I have worked at TAFE since January 2008. I was temporarily employed originally for 1 term, 17.5 hours/week. I then gained a 35 hour/week temp job at a different campus, this job was for 12 months. After that, I was put on contracts of 1 term at a time, then a few weeks at a time, always ending before the school holidays. This kept going until June this year, where I was sent to a different location on a casual pay with permanent hours but long travel - each block ending before the holidays started.

It took years to gain a home loan, but now we have one.

I am afraid of the Christmas holidays as they are more than a 2 week break without pay. How will we survive 6 weeks with one low income? I have kept my retail job and work Sundays when I can. I will also be trying to work during the holidays. I need a break too. I have worked very hard to get this job and don't want to lose it.

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**Story 34: Casual work used as probation**

This is no longer the case but whilst employed as a casual at University of Technology, Sydney, my financial and work future was insecure. The practice with casuals was to call on them for shifts throughout the academic year - March to November, with no work guaranteed between November and March the following year.

The process was that the opportunity to prove yourself was there and then when permanent jobs were advertised the casuals would more likely (without guarantee) be in a good position for selection to permanent status.

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**Story 35: No income security for driving instructors**

I work as a Driving Instructor for a contractor to the Road and Traffic Authority. My work is strictly on a needs per course basis. There has been no pay rise in our industry for at least 5 years and we work for \$22 per hour. This may not sound bad however we pay to put ourselves through the RTA approved course to become an instructor. This amounts to some \$1500.00.

Upon being assessed as being able to work "solo" we are then required to work on the range. We work in all weather conditions. We work weekends and public holidays for no penalty rates. We work late shifts ie: after 4pm starts. No penalty rates. When we seek a pay rise from the employer it is simply put in the too hard basket.

If we have a private tuition (where a customer wants one-on-one training) and they fail to show, we receive nothing. Bad luck for us is the attitude. We simply have to turn around and go home.

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**Story 36: 'Local schools – local decisions'**

As a teacher I'm already seeing the results of the 'local schools-local decisions'. New teachers on contracts always feel compelled to work extra hours or take on extra duties to secure their employment. It's all... "of course it's your decision but...". I've also seen a couple of good teachers get the chop because the new independent budget doesn't allow their employment.

I'm looking at the future and I see scared people looking over their shoulders.

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**Story 37: Victimisation of precarious employees**

I would like to make a testimony of issues that I have experienced, and currently am experiencing in the workplace. We have seen a rise in unnecessary victimisation of employees in the workplace, at local Government level.

We recently had a young female university graduate, working for Council, in the capacity of administration worker. The female was also used as a Graphic Designer, outside her job description. She was employed by a local labour hire agency. Our council likes to use as many people as possible from labour hire agencies. This female had been on contract for over two years with Council, performing more duties than she was originally hired for. When a full time position came up in her department, not only did she not get an interview for the position, they got rid of her. The position was given to a female who was friends with management and had less skills than the admin worker. She was victimised when she complained.

The labour hire agency would not discuss the issue with council about her allegations, for fear of not getting any more contracts with Council.

I tried to provide support to the contract worker and as a result I lost some casual shifts I was working.

Another matter with Council is a Supervisor offered a grade 14 position, and was then paid as a grade 11 for the next 4 years. When he raised a grievance, they tried to get rid of him.

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**Story 38: Temporary appointment for 4 years**

I was, until recently, working temporarily in a higher grade as a public servant. This 'temporary appointment' was held for 4 years in succession without a break. With somebody returning to that position full time I have now returned to my substantive position at a lower grade.

While this is not a situation which has caused financial hardship in my case, I raise this as some people may have become dependent on the higher wage or need security of a permanent appointment to secure a loan or make decisions about the future.

The main reasons I bring this up is that I had successfully gained the position in two

interview processes, with a temporary appointment of 12 months from one of the interviews. This temporary appointment was 'for a period of 12 months with the possibility of permanency'. At the end of 12 months there was no discussion of my role but also no change in duties, simply a return to having to claim higher duties allowance. This type of thing is very disruptive & also causes unnecessary work & therefore loss of productivity for the organisation in continually having new interview processes for temporary appointments rather than actually appointing somebody.

The other issue was that there has been a general understanding that if a person acts in a position continually for 2 years then permanency should be offered. I am not the only person who is acting long term in positions without any likelihood of permanency being offered under this arrangement, and this office seems to have no regard for this arrangement.

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### **Story 39: Stress and fatigue of being a casual youth officer**

I have been employed as a casual youth officer for a period of 12 months. I have always accepted shifts even at short notice and always expressed a willingness for full time work. I need full-time work for family reasons.

It causes stress and fatigue because you have to accept shifts when they are offered. Sometimes you get called in then you have to back it up to do a night shift with only 8 hours break.

I can't plan anything with my family or children because you live by the phone. It is stressful for my wife as I cannot make family commitments.

My wife is pregnant and I need full time work for a home loan. The bank won't look at me because I'm only employed as a casual. Even though I've passed all studies and expressed a keenness for full time work I feel very insecure.

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### **Story 40: Redundancy much tougher in the public sector now**

My position in the public sector was made redundant in 2000. After the shock, I looked upon it as a positive, relishing the chance to gain new skills and to move on. It took me 15 months of genuinely hard work trying to be redeployed in a new job. Most interviewers regard redeployed people as somewhat dubious, and often they have really good people who may have been acting in the job. It was a time of uncertainty and some fear.

Eleven years later, the situation is much much worse for anyone whose job is made redundant. If you want redeployment, you have to get a job very quickly - and it is almost impossible to do so, for the reasons I gave.

I thought to myself at the time of my redundancy, that one thing that is to be kept at all costs is the right to be redeployed without haste and fear. That has not happened and there must be people out there suffering.

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**Story 41: Excessive working hours**

For the past 1.5 years I have worked 60 plus hours a week consistently without overtime compensation, low pay rates, been forced to endure hazardous work situations with dangerous OH&S, endured mental, psychological and sexual harassment and abuse, witnessed and was forced to comply with unethical and illegal business practices, witnessed and experienced working conditions violating human rights and that is just the surface problems. I am now on sick leave, not being paid and don't know what my future holds.

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**Story 42: Bosses try to avoid paying super**

I was a bus driver for 16 years. I used to be permanent. Now I work 2-3 jobs as a casual to make ends meet. I can't get more hours as employers want to keep hours low so they don't have to pay superannuation. You also tend to lose your job once you hit nine years so the employer doesn't have to pay long service leave. I want to work for another 20 years but I'm worried.

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**Story 43: No permanent job in sight**

I have been so close to securing a permanent job, but haven't got there yet. I was being inducted into a permanent road paving job when the roller I was working on mal-functioned. I got blamed and lost the job. I'm now working casually on a construction site. When it rains I don't get paid.

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**Story 44: Casual lost job when he was injured**

My son was a casual trainee. He was injured at work and was surprised not to be paid when he was off work. He then lost his job. Young people need to know their rights.

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**Story 45: Part-timers wanting full-time work**

I work at Qantas. A few years ago, Qantas agreed to get rid of casuals and give any overflow work to labour hire companies. They said this would save them money and lead to more permanent jobs. But this hasn't happened. Instead the number of full-time positions has reduced and the number of part-time positions has increased. There are so many part-timers who want to be full-time.

Last year, thanks to the enterprise agreement clause, 12 part-timers were made full-time because they had done full-time hours in the previous year. Qantas want to get rid of this clause.

Qantas also want to make it easier to pay part-timers single rates for overtime. Right now, if a part-timer works more than 25 hours in a week, they get overtime for the extra hours. This is to encourage the employment of full-time workers. But Qantas only want to pay overtime

to a part-timer if they work more than 38 hours a week. Even if they are a part-time employee only engaged to work 24 hours a week.

Currently if you don't get 48 hours notice of a change in your shift, you get overtime. Qantas want to get rid of this too. But if they do, they will be changing shifts all the time with little notice and that will make it really hard to plan ahead.

Qantas are also always making workers redundant and restructuring their operations. It makes for very insecure work. The morale at Qantas is so low.

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#### **Story 46: Volunteer, sees workers needing to access support services**

From 2002 to 20010 I volunteered at a Day Centre in regional New South Wales where our primary role was to prepare and serve lunch for the homeless.

During this time I observed an ever growing need for the service, with the numbers of people needing lunch swelling with the increase of people who were unemployed. Then later, I observed another growth in numbers due to the large number of people who were working but could not afford to feed themselves and their families.

What was heartbreaking was the endless stream of people experiencing the cycle of: Unemployment; to no money; to homelessness; to poor health; to poor dental health; to poor mental health; to unemployment; to no money; to homelessness ...

Another issue was the lack of living skills across the Day Centre community. It occurred to me that a simple programme delivering the basic living skills to the people in this community could enable the people who were seeking more secure employment to improve their job hunting skills, enabling them to apply for jobs, prepare for interviews, sit interviews, start a secure job, and keep the job. This would in turn provide the opportunity for the person to restore their physical and mental health. Additionally, in the long term, it would be very cost effective for local, state and federal governments.

When I was unemployed in 2005 to 2006, I found the non-government agency allocated to me by Centrelink to provide me with a job skills programme was poorly run, ineffective and demoralising. I would not recommend this scheme to anyone who is looking to improve their employment security.

When I retire I am planning to set up a programme in my community to assist people who are seeking a secure job. I only hope there will be secure jobs in the future.

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#### **Story 47: Bullying impact on security**

The bullying culture at my workplace has profoundly affected my well being along with other colleagues. It has caused harm in so many ways including psychological damage i.e. fear, humiliation, stress, anxiety, weight loss and insomnia.

These bullies continue to flourish and these bullies are our executive managers so one and all feel powerless to complain.

The bullies recruit and promote staff who will perform similar behaviour on their behalf which further entrenches the bullying and eventually (in particular over the last two years) this becomes the norm management style.

Staff work ethic, loyalty and a want to do their best for patients is being eroded. The bullying culture markedly affects patient care in the long run.

Staff have retired early, resigned or simply put up to avoid the bullying and harassment.

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#### **Story 48: Workers compensation injury effects ability to get secure work**

I have been had no secured job since 2006 after I injured my left shoulder at work. Since then I have had to resign from my part-time job at Kmart. I have applied for other jobs and didn't get them due to the workers compensation injury.

I have been under bankruptcy and now the insurance company has stopped the treatment.

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#### **Story 49: Too scared to complain about workplace smoke**

One of my big concerns for years has been that the insecurity of people working in pub & club smoking areas, high roller gambling rooms and alfresco dining areas means they shut up and cop being poisoned by tobacco smoke in their workplaces rather than complaining for fear of losing jobs/shifts.

Why these workplaces are not smoke-free is a disgrace.

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#### **Story 50 - Annualised hours cause insecurity**

I am a TAFE teacher, employed on a permanent basis but workings annualised hours. I have been working in TAFE for 15 years. For the last year, I have been working annualised hours.

With annualised hours I am given a set number of hours that I will work over the year. I receive the same wage each week but my hours vary depending on demand.

Under annualised hours I am guaranteed a weekly base wage; however it is uncertain when overtime is paid. The concern among staff is that any extra hours that they work (above their normal hours) are still paid at the base rate. Overtime is not paid until the teacher has worked all of their set hours for the year.

There is also concern that if you complete all your 'annual hours', and then need to take sick leave you will not be entitled to the overtime rates that you have been working towards for the whole year. This has not happened to me, though I am concerned that this may happen.



I also tend to avoid taking annual leave towards the end of the year, as overtime rates will not be paid if I have exceeded my annual hours.

I am also concerned over the effect that annualised hours could have on work/life balance. Under the system of annualised hours, I am not allowed to turn down extra hours that are offered to me, as this action is considered to be industrial action. I am concerned the effect that this may have on my personal commitments.

My greatest concern is that annualised hours effectively turn full time workers into casual workers. Although I have a guaranteed set wage each week, I have no control over the hours that I work each week. I also fear that the concept of annualised hours will expand and lead me to working on weekends and after normal working hours.