

Fighting back against job cuts

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Can workers resist job cuts?

Introduction

Mass sackings are devastating for higher education workers across Australia. Thousands of casuals and sessionals have lost work, and face losing even more next semester. Ongoing staff are being threatened with redundancy.

The 300+ redundancies of professional staff at Deakin, [flagged](#) in mid April and now in the process of being announced, are the most prominent recent example. The process described on the Deakin NTEU’s [facebook page](#) is a “spill and fill” operation. First existing jobs are abolished, then a reduced number of new job roles created, and finally staff have to engage in a sickening version of musical chairs to try and get one of the jobs that are left. This process is similar to the notorious “Business Improvement Plan”, which cut more than 500 jobs at Melbourne Uni a few years ago. Many casual and sessional staff at Deakin have already been told there is little or no work available at Deakin for the next trimester.

Similar attacks are underway or expected across the sector. In some cases, we’re being told that these job cuts will be even more brutal unless we agree to significant cuts in pay and conditions.

This document isn’t intended as a detailed guide for fighting against job cuts, but it is a step in that direction. In the first half of this document, we detail successes and failures in efforts to combat job cuts at

Australian universities in recent years, as well as some of the more everyday, workplace level organising happening right now in response to the crisis. We argue for an organising strategy to resist job cuts and build union power. In the second half of the document we outline the various claims made for the “National Jobs Protection Framework”, and point out the pretty obvious holes in each one.

Job cuts are not easy to fight. Existing enterprise agreements offer barely any legal protection to casual or sessional staff, and even the protections for ongoing staff tend to be clauses which can slow the process down and offer a payout, rather than stopping job cuts altogether. Options for industrial action are often not straightforward. Australia’s anti-worker laws make industrial action challenging and in order to resist job cuts effectively workers need to muster a lot of industrial power right at the point when the boss is telling workers their job doesn’t need to be done.

However it *is* possible to contest and resist job cuts at a local and university level. As we discuss below, these efforts can be, and often have been, successful in stopping or limiting job cuts. Digging in our heels and resisting every job cut doesn’t guarantee success – but there are no guarantees of saving jobs from accepting pay cuts either. At least the path of organising workers to make a public contest over job cuts instead of going quietly builds union strength. This strength is crucial to winning job security in the longer term in a way that following the path of least resistance can never do.

Resisting job cuts through campus organising

Probably the best known and most successful example of the NTEU campaigning to save jobs in recent years has been at Sydney University. In 2012, management at Sydney University [announced](#) that 190 general staff and 100 academics would be made redundant, with another 64 teaching staff being moved to teaching only roles.

This sparked a massive student and staff campaign, as Alma Torlakovic who chaired the campaign committee [wrote](#) at the time:

The momentum of the campaign surprised all of us... From a place that’s often been respectable and quiet, we’ve seen a serious and defiant campaign emerge within a few short weeks. Union membership grew as the campaign spread and new layers of members were involved in activity.

A Fair Work process slowed the attacks down, while the public campaign involving student and staff rallies of up to 1,500 people put pressure on the Vice Chancellor. The campaign could have been stronger if it had merged into the bargaining round that followed, opening up the prospect of legally protected industrial action. Nevertheless, a lot of jobs were saved. The general staff restructures were carried out piecemeal rather than a dramatic 200-gone-overnight scenario, and this effective slowing down of the process meant that many of those who wanted to stay were able to.

The “no job cuts” campaign of 2012 also played a big role in creating the union activist culture that the NTEU USyd branch is known for today. Activists from the campaign helped lead seven days of effective industrial action in the 2013 EA dispute, and re-established a culture of fighting against restructures and job cuts rather than going quietly. Union activists have continued to make a public issue of [restructures](#)

and [job losses](#) with some success, for instance in 2018 over a restructure in IT and other departments. As Alma [says](#), “every injustice is an organising opportunity” - this applies to the big attacks as well as the smaller ones.

Staff also mobilised against job cuts in 2014-15 against 350 jobs being cut at La Trobe in the “Future Ready” [restructure](#), and more than 500 general staff jobs being slashed at Melbourne in a “spill and fill” process known as the Business Improvement Plan. These were [less successful](#) than the Sydney University campaign of a couple of years earlier in part because the local branches of the NTEU never really threw themselves into the mobilisations. At Melbourne University the officials refused to even lodge a formal dispute.

Nevertheless, these efforts produced some results. A [legal win](#) for the union at La Trobe against management moving straight to compulsory redundancies is probably one reason why Dewar has offered voluntary packages this time around. The rallies and other backlash over BIP at Melbourne Uni seems to have dampened management’s appetite for university-wide restructures, with management preferring to fight their battles in individual departments and work units rather than stir a hornet’s nest right across the University.

Using local disputes to save jobs

As well as mobilising in high profile, university-wide campaigns, it is possible to organise to resist job cuts at a local level. In early May, NTEU Fightback posted a report from a union meeting in the RMIT School of Arts which had passed a Vote No motion and also noted:

Like many of your schools, our workforce is made up of 70% casuals. Our school would grind to a halt without them. Our focus for semester 2 is to make sure permanent staff have a balanced workload that does not involve using their research time for extra teaching. This will ensure that the work remains in place for our casuals.

On 20 May Katie Wood told an NTEU Fightback [forum](#) about a recent dispute over redundancy in her workplace at Melbourne University library.

The manager came in and said to 2 of our workmates that they had been made redundant... We said this constitutes a major change and if you want a major change then you have to go through the consultation process. ... We managed to drag the thing out for 9 months, possibly even longer.

Those people kept their jobs the entire time while that was going on. Eventually they took the redundancy payout, got better jobs elsewhere, so in a sense we didn’t win because we didn’t save their jobs. But what we got out of the process [was] organising workplace meetings, talking to all of our workmates whether they were in the union or not, about what was happening, about how we had these rights under the EA to actually have a say or at least some sort of consultation over what happens in our own workplace.

My area now is 90% unionised and everyone in that area knows what their rights are around redundancies and around major change and they know what to do if management comes to them with something that

they don't think is right and they don't want to happen, to get the union in – and the union means them and their workmates.

Liam Ward told the same forum:

One of the things we've been doing in our local workplace meetings has been passing motions where full-time continuing and fixed-term staff have been essentially passing motions saying 'we pledge not to accept any increase to our workloads or any additional work in a time when casuals are being laid off'. That's one of the best things that we can do to show solidarity with casuals...

In my own department, a member who is a full-timer came to me and said 'my programme manager has told me I need to consolidate tutorials' because the course she was co-ordinating has two or three sessionals who were teaching into them. The school wants to consolidate them because they're small and put all of those students in one class and get rid of two sessionals that way...

Because we are a well unionised school and we know our agreement and we have a bit ofchutzpah we went in there and we fought that and we saved those jobs. Those sessionals are still teaching today because we're organised and we know how to resist on the ground.

There are plenty of examples of this approach having an impact. Confronted with the possibility of significant cuts in the Faculty of Arts and Social Sciences at Sydney University next semester, activists used a range of straightforward but effective tools to generate discussion, organise workers, and apply pressure to management. These included an open letter and a video petition. Management responded by reducing the size of the cut being proposed, a clear concession to pressure.

A strategy of industry wide resistance to job cuts and job insecurity

It should be the job of the branch, state, and national leaderships of our union to encourage these local fights over jobs and workloads. They should be resourced with material, organising knowledge and legal backup. They should be amplified through organising and media work to create political and practical problems for the Vice Chancellors and politicians who are trying to get workers to carry the burden of the crisis.

A strategy like this should point squarely towards building industrial power for the next bargaining round which kicks off in the middle of 2021. The Covid-19 crisis has cast a harsh light on the scandal of insecure work which powers the Australian university system. The real solution to this lies in a drastic revision of the enterprise agreements which govern our wages and conditions.

Workers in other industries have taken industrial action to win hard, enforceable casual conversion clauses for insecure workers. Some workplaces have hard ratios or significant numbers of how many permanent jobs have to be created from casual positions. There is no reason why higher education workers can't win the same through industrial disputes. This will take a radical change in orientation of our

union's national and divisional leadership whose current strategy is to give away pay cuts in return for a place at the table, rather than using every attack as an opportunity to organise and resist.

Of course, winning secure jobs depends on more than first rate industrial agreements, though this is crucial. We also need to win significantly higher government funding – both Labor and Liberal have skimmed on this over years, instead deregulating the sector and encouraging university managements to pursue options such as overseas student fees.

We have previously discussed the internationally famous example of the Chicago Teachers Union, which rebuilt from a pattern of defeat and retreat through rank and file organising. In 2012 the CTU waged a pathbreaking strike which not only scored some important defensive wins – it helped to reset the whole discussion on public school education in the US, which has been under serious attack for decades.

Brief reflections on the CTU and links to further reading can be found in our document “Vote No and then what?” on the NTEU Fightback website. Developing the industrial strength of the NTEU should chart a course similar to this: developing the industrial strength of higher education workers through organising and resisting the attacks we are facing, in order to use that industrial strength to win job security in the sector and reset the whole public discussion about funding.

Are concessionary enterprise agreement variations a better solution to job cuts?

The short answer is a resounding “No”. Let's approach the problem from a few different angles.

Cutting wages definitely saves management money – but there are no guarantees they will spend that money on jobs

The NTEU's modelling of the number of jobs that might be saved by the “National Jobs Protection Framework” is deeply flawed (available [here](#)). The modelling assumes that every single dollar saved from cutting pay will go to saving jobs. However there is simply no legal mechanism which can achieve this.

The most recent draft [clauses](#) of the enterprise agreement variations (EAVs) based on the Framework state that it is the job of the National Expert Panel to ensure that savings measures are considered before job cuts. Management seeking to implement pay cuts must submit a statement to the Panel to “indicate the number of jobs preserved”. However, like all legal documents, including enterprise agreements, it's important to pay attention to the exact wording here.

There is no requirement on the National Expert Panel to *ensure* that all money from cost savings such as pay cuts will be devoted to preserving jobs. Nor does the draft EAV give the Panel the capacity to check whether a specific number of jobs are saved after the pay cuts are implemented, or to force managements to comply with their estimate of the "jobs preserved".

This interpretation is supported by senior officials of the NTEU. Victorian State Secretary Mel Slee wrote “The Framework in no way requires universities to delegate any power of any sort to the National Panel”, in relation to Melbourne University’s decision not to participate in the Framework.

If management were devoted to the cause of saving jobs, they would insist on clauses in their proposed EAVs which would bind them to that. Yet this is simply not the case. The most recent available draft [clauses](#) for EAVs based on the National Framework show protections around redundancy are no better than most EAs. Management is explicitly allowed to implement redundancy “due to the permanent abolition of a substantial work function (such as the abolition of a discipline) or closure of a campus”, as well as “insufficiency of work in a particular work unit or function” (clause 31.3).

There are some protections around stand downs, but that’s because already existing legal restrictions around stand downs mean there have very much limited management’s use of stand downs in publicly funded universities so far. The supposed “protections” around casual and sessional work are even more threadbare, see below.

The crisis is giving VCs an excuse to continue their years-long program of cutting jobs

If the university management were genuinely committed to preserving jobs why have they got such a long track record of attacking jobs even in the “good” times?

I no longer have a job as a tutor. I taught a class last semester and received excellent student evaluations. This semester, due to the cuts, I no longer have work.

This [quote](#) from an unemployed tutor is not from 2020 – it’s from 2018, when Monash VC Margaret Gardner oversaw dramatic cuts to sessional budgets which led to innovations in Arts classes such as “lectorials” of up to 70 students as a substitute for tutorials. There are plenty of similar examples from other universities. Gardner is one of the VCs personally involved in negotiating the National Framework, and no doubt sees nothing in there to prevent her from repeating or extending the dramatic cuts of 2018.

The Vice Chancellors are using simple blackmail: threatening job cuts to win concessions on pay – but they will have a free hand to cut jobs anyway, and have a long track record of doing so.

“Never let a good crisis go to waste” is the old saying. VCs are using this crisis to push through even more restructuring and job losses. Giving concessions on pay and conditions won’t stop this process from happening, in fact the contrary.

Another obvious point is that, to the extent that job losses are due to a fall in demand (for instance from fewer international students), cutting wages simply can’t address this because it doesn’t solve that demand-side problem. It just means lower wages *as well as* fewer jobs.

Agreeing to concessionary EAs actually make it harder to fight

One feature of the enterprise agreement variations (EAVs) being pushed at La Trobe, Monash and Melbourne is that they effectively gut the change consultation processes in existing enterprise agreements.

These clauses are far from perfect. But in each of the cases discussed in the first half of this document, they allowed a window of time to mobilise against the restructures and job losses, and enabled access to Fair Work or the courts to drag the process out and win concessions. Most importantly, as we argue above, the local battles that make use of this window are crucial to building union power – which in the medium to long term is the only way to actually win job security.

So gutting these provisions and substituting a fast tracked process, as in the EAVs being proposed, makes it much harder to resist job cuts, not easier.

“Protections” for casual jobs in EAVs based on the Framework are useless

You know you're in trouble when the glossy [fact sheet](#) from the people selling the deal is much longer than the actual clauses in the agreement.

The clauses around casuals in the so called “National Jobs Protection Framework” have glaring loopholes. This is reflected in the latest [draft clauses](#) available, which are meant to be the basis for enterprise agreement variations at Monash, La Trobe, and possibly other universities.

At first sight, clause 4.3 looks pretty good for casuals:

Where there is work required to be performed and that work was usually performed by a casual employee who had been regularly employed by the University and had a reasonable expectation that they would continue to be employed by the University, the casual employee will continue to be engaged...

However there are all sorts of problems here. Most obviously, this clause does nothing to guarantee the reinstatement of the many casuals who have already been laid off with this crisis.

Even more significantly, ongoing work for a casual relies on a “reasonable expectation that they would continue to be employed”. The “reasonable expectation” phrase has been used by the NTEU in previous disputes to try to win permanency for casuals who often work in an ongoing capacity for years. Arguing around this phrase has failed because it’s notoriously difficult to prove what constitutes a “reasonable expectation” of work. Anyone who has worked as a casual knows this.

For example, in a previous EA at RMIT, we won a conversion clause for sessional academics that partly relied on this idea. It seems like a win, but in fact it proved practically impossible for anyone to establish they had a genuine reasonable expectation of work. In the life of that Agreement only one sessional was ever converted.

Casuals networks have reported that there has been a crackdown on casuals accessing the email systems of the university that employs them. This is significant because one of the ways you might be able to prove “reasonable expectation of work” or ongoing work is to be able to say, “yes I’m a casual and in those breaks between semesters I still keep my email address”.

We’ve heard lately that casuals are now being kicked off the email system and that they’re having their access shut down to all ICT access. This is a deliberate strategy from university management to try to wriggle out of any kind of commitment that might be lodged against them about giving people work because they have a “reasonable expectation” of it.

Management have a clear track record of riding roughshod over this idea of “reasonable expectation”. Any idea from the NTEU’s national leadership that casuals will be able to prove that, and therefore comply with clause 4.3, is a fantasy. The union leadership have once again demonstrated a total disconnection from what casuals themselves are actually experiencing and campaigning around on the ground.

And that is not even the biggest problem with clause 4.3! The biggest problem is actually the clause that precedes it. Clause 4.2 states that, if there is not enough work for an ongoing or fixed-term staff member, work can be taken off other staff members including casuals. This clause explicitly takes precedence over clause 4.3.

So if there’s a general shortage of work, which management will claim, literally everything in clause 4.3 is void and the substance and the effect of all of that is to say that the university can take work away from casuals and give it to the remaining staff – to hell with the casuals. This is the total opposite of the bonds of solidarity that we’ve been trying to forge between ongoing and casual staff.

Submitting to the blackmail over jobs and conditions lets management and government off the hook

Liam Ward responded to National General Secretary Matt McGowan in a Q and A session at RMIT a couple of weeks ago on the broader political issues.

The NTEU themselves recognised this estimate of a \$5 billion shortfall in revenue across the sector, and then (my understanding is) the vice chancellors went to the government and said will you bail out the \$5 billion and of course (surprise, surprise) the Morrison government said no. I think it’s appalling that our response to that has been to say to the government:

“That’s okay Scomo, you don’t have to fund this, we’ve got it. We’ll take it out of our own pay packets, we’ll take it out of our own living standards, we’ll take that woman on 65k and cut her income by \$375 a fortnight – we’ve got this.”...

The political problem here is that our union has always stood for fully-funded, accessible, public education. That means that we have to actually be able to look the Morrison government in the eye and say: here is the bill, this is what it costs. I think it’s appalling that we’re not doing that, that you’re asking us instead to

turn around and say: "That's alright, we'll take a cut, we'll wear it out of our own pockets. We'll get that woman on 65k to pay for it." So it's a political problem which I think is shameful.

It's also just strategically bankrupt that we would enter these negotiations with an open agenda of pay cuts before members were consulted.

Staunch unionists have never given up pay and crucial conditions without a fight. We might not control much in this crisis, but by voting No and continuing to organise we're at least preserving the wages and conditions that exist. In that process we are also building our strength for the industrial fight we so sorely need to win genuine job security and decent funding for the future of our universities.