



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON EDUCATION, EMPLOYMENT  
AND YOUTH AFFAIRS**

(Reference: [Inquiry into the extent, nature and consequence of insecure work  
in the ACT](#))

**Members:**

**MR M PETTERSSON (Chair)**  
**MRS E KIKKERT (Deputy Chair)**  
**MR C STEEL**  
**MR A WALL**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**FRIDAY, 8 SEPTEMBER 2017**

**Secretary to the committee:**  
**Ms N Kosseck (Ph: 620 50435)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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## **Privilege statement**

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Witnesses must tell the truth: giving false or misleading evidence will be treated as a serious matter, and may be considered a contempt of the Assembly.

While the committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

*Amended 20 May 2013*

**The committee met at 9.33 am.**

**WHITE, MR ALEXANDER**, Secretary, UnionsACT

**THE CHAIR:** Welcome to this public hearing of the Standing Committee on Education, Employment and Youth Affairs. In proceedings today we will hear from a range of witnesses in relation to the committee's inquiry into the extent, nature and consequences of insecure work in the ACT. Please be aware that the proceedings today are being recorded and transcribed by Hansard and will be published. Proceedings are also being broadcast and webstreamed live. When taking a question on notice, it would be useful if witnesses use these words: "I will take that as a question taken on notice." This will help the committee and witnesses to confirm questions taken on notice from the transcript.

Witnesses are also asked to familiarise themselves with the privilege statement provided on the table. Could you confirm that you have read the privilege card presented before you and you understand the privilege implications of the statement?

**Mr White:** I have read it. I understand it.

**THE CHAIR:** Before we proceed to questions, would you like to make a short opening statement?

**Mr White:** Yes, I would. I would like to acknowledge that we meet on the land of the Ngunnawal people and pay my respects to their elders past, present and emerging.

UnionsACT is the peak council for working people and trade unions in the Canberra region. We represent over 33,000 members and their families, and we have about 20,000 community supporters, people who support the work that we do. We are the largest independent voice for working people in Canberra.

I will take the submission of UnionsACT as read and I will just highlight a few different things, a few areas to do with insecure work and the impact of it and also what we, UnionsACT, think the ACT government and the Assembly can do.

Firstly, as part of our submission, UnionsACT surveyed over 300 working people. We did that because we think that the lived experience of working people, many of whom experience insecure work, is important for the Assembly to understand the real human impact of insecure work and the unsafe working conditions, the financial stress, the health stress that that insecure work causes.

Of the over 300 workers, 51 per cent said that they had worked in unsafe conditions and 33 per cent said that they had not been paid correctly. This illustrates to us the widespread nature of lawless behaviour by employers and the very common experience of working people for noncompliance when it comes to ACT laws, that is, work health and safety laws, or federal laws when it comes to the Fair Work Act.

When it comes to the behaviour of businesses, 36 per cent of companies—this is from our survey—had not followed one of the workplace laws, that is, a health and safety

law or the Fair Work Act, which is slightly less than what the Fair Work Ombudsman found when it did a survey of small businesses in the ACT in about 2014, which was about 41 per cent of small and medium businesses that the Fair Work Ombudsman surveyed.

What that tells us and what we know from other inquiries, what we know from Fair Work Ombudsman inspections and reports, what we know from Senate reports, is that many businesses, both large and small, are increasingly integrating lawbreaking into their business model, noncompliance with the Fair Work Act or with the WHS act or other workplace laws, and there is no consequence or very few consequences for them when they do that.

We used to think that being a large company was a measure of protection, that being a large corporation meant that you were more likely to obey the law because you had better processes whether it came to safety or whether it came to complying with the Fair Work Act, but now we know that that is not the case and that large companies—whether they are large franchises or whether they are large corporations—routinely avoid or break the Fair Work Act or local WHS or other laws. And we know, for instance, through various exposes that have been done in the media and by the Fair Work Ombudsman that that lawbreaking has been built into the business model, into the franchise agreements. That has arisen, for example, with Pizza Hut, with Dominos, with 7-Eleven. The franchise agreements require the franchisees, the small business holder, to break the law in order to comply with the profit requirements for the franchisor.

In the ACT we know from ABS data and from other sources of information that there are over 33,000 workers who have insecure work. Insecure work is variously defined and in the ABS it is defined as people who have no leave entitlements. We know that is a base level of insecure work—there are other kinds of insecure work—for over 33,000 people in Canberra. That is from 2014. The ABS did not ask the same question in its most recent survey.

There are at least 8,200 labour hire workers who work in some form of contingent labour or body hire. That is a very large number of workers. We also know that there are about 20,000 to 30,000 young workers and students workers. These are people who are aged under 25 or are in some kind of study, whether full time or part time, at university. That includes college students, students who are in years 11 and 12, many of whom, about half of whom, have some form of paid employment. And there are about 15,000 or so international students, almost all of whom have some kind of paid employment, and then there are the domestic university and TAFE students.

All up, that pool of labour represents about 20 per cent of the ACT workforce, and we know, once again from ABS data and from other data, that young people are overwhelmingly employed in industries that have very high proportions of casualised or insecure work. Those are industries like fast food, where about 80 per cent are employed casually, or retail or similarly in hospitality and so on. We have information about all that in our submission.

The final thing that I would like to highlight and point out to the committee as part of our submission is that UnionsACT is of the view that the ACT regulators and also the

federal regulators are simply not up to the challenge anymore. The workplace laws that are supposed to protect working people, whether it is safety or whether it is their workplace rights, have not kept up with changes to how corporations operate. Corporations have structured themselves now to avoid in many instances their obligations under the law. And regulators are not up to it.

We know WorkSafe, for instance, have had a significant decline in the number of inspections and the number of enforcement activities that they have undertaken. Recently they have provided additional information, which is now hard to extract because of the merger of WorkSafe into Access Canberra. But we have seen quite a significant decline in the number of proactive and reactive inspections when you remove additional inspections that are to do with Mr Fluffy and other licensing inspections.

One of the things that we read with interest was the Work Safety Commissioner's evidence recently and also that of the head of Access Canberra about the number of inspections that have been held. When we have looked at that information that they have provided, they have included inspections undertaken by building licensing regulators, Mr Fluffy inspections. And when you take those out, because those previously were done not as part of WorkSafe but as part of the Office of Regulatory Services, then we actually have seen that the number of inspections, proactive and reactive, have declined. They have declined across the board.

Where they are conducting inspections, they are concentrating in one particular industry. We know that construction is characterised by very unsafe practices by corporations that have a callous disregard for the law in many instances, and where the risk of serious injury is very present and potentially catastrophic. The ACT has the least safe construction sector in Australia. But we also know that it is only the third or fourth most dangerous sector to work in in the ACT when it comes to serious injuries. By "serious injury" I do not mean a stubbed toe or a paper cut; I am talking about at least a week off work. Retail, community health and social services top the scale and yet are very low on the list. Health care and social assistance, for instance, had only 50 workplace visits in the most recent reporting period that we have, compared to over 2,600 in the construction sector. Once again, that includes the building licensing inspections. There is clearly something wrong with the priorities of WorkSafe ACT.

Federal resources in the ACT when it comes to workplace inspections are woeful. There are very few workplace inspectors from the Fair Work Ombudsman. I am told that there is only one full-time inspector, Fair Work Ombudsman inspector, in the ACT to cover about 140,000 workers, compared to four fair work building inspectors or ABCC, I believe it is now, for about 4,000 construction workers. That shows the priorities of the federal government.

Nonetheless, we have also seen that the regulators in the ACT are unwilling or unable to prosecute, effectively, serious breaches of workplace laws. We need only to look at, for instance, the bridge collapse and the lack of any prosecution there. There has been a failure to prosecute quite serious workplace injuries when it comes to occupational violence in our hospitals and in our schools where the ACT government is the employer. There are also the failed prosecutions of industrial manslaughter arising from the three deaths preceding the Canberra Hospital fatality.

If the committee is not aware of the Chief Magistrate's criticism of the DPP and WorkSafe in regard to one of the recent industrial manslaughter prosecutions I invite you to look at that. It was reported widely in the *Canberra Times* and other forums, if you do not read the *Canberra Times*. Not many people do.

What can the government do? There are a number of things that we think the government can do. Obviously the Fair Work Act covers the field when it comes to the principal areas of industrial relations but, nonetheless, the ACT government has a number of industrial powers and it has other acts and other powers that it can use to protect vulnerable workers who are being impacted by insecure work.

A good example and one that has taken the attention of the Assembly recently is the issue of procurement. Governments around the world, in particular around Australia, use procurement powers to require or to regulate the industrial and safety standards of the people or the companies with which it does business. We believe that the ACT government has all the necessary powers to require compliance with local and federal laws when it comes to workplace safety and industrial relations.

The ACT government has the Children and Young People Act. It is not well known and it is not enforced in any way but there are regulations that govern the conditions under which employers can engage young people aged under 18 in work and also there are even more stringent requirements when comes to children aged under 15. We believe that that is an avenue that the ACT government can use to improve standards and improve safety for young people. We included this in our submission.

We did a survey recently separate to our survey for the inquiry into safety for young people. We found that for workers who are aged under 18—that is, children—about half had experienced unsafe work. We did another survey about their industrial experiences, their workplace experiences, not related to safety. We found about a third had experienced wage theft. Just to be clear, that is adult employers stealing wages from children—a third of young workers aged under 18. We think that the Children and Young People Act is a tool and gives powers that the ACT government can use to regulate the employment of children and young people.

We believe that a very significant issue is exploitation of migrant workers, whether it is on a temporary skill shortage visa, backpackers visa or an international student visa. There are also issues to do with guest worker and diplomatic visas as well. But we believe that the ACT government—and we have legal advice—can become a visa sponsor of last resort in the event of a migrant worker having been unfairly dismissed or having had some kinds of unsafe working conditions and had their visa sponsorship revoked by their employer, the consequence of which is the worker has 60 days to find another job or they are deported. Employers use this to avoid prosecution and avoid any consequence when they do not comply with the law. We believe the ACT government can become a visa sponsor of last resort in order to ensure that procedural fairness and natural justice are afforded those workers.

We also believe in and we strongly encourage the ACT government and the Assembly to introduce a labour hire licensing scheme. We have seen just this week that the laws in Queensland have been passed through the parliament there. Both South Australia and

Victoria are moving ahead with licensing schemes. They are all slightly different, and we suggest that the ACT government follow, I guess, the best standard one, which at the moment appears to be Queensland, although we have to see the detail of the Victorian one.

We have got quite a detailed scheme design for labour hire in our submission. We know that labour hire is used by employers to avoid their obligations to their workers. We just need to look at a decision recently, this week, that a labour hire company for the federal government is no protection for the workers who are facing noncompliance with the law by their employer. Introducing a labour hire scheme is where much of the rest of the country is going. There is no desire by the federal government to have a national scheme but that should not stop the ACT government introducing a labour hire licensing scheme.

We also recommend that the ACT government create an office of industrial relations. We know that there are numerous industrial powers that the ACT government has in regard to agencies, whether it is the Long Service Leave Authority or a number of other little, micro industrial entities. We believe that our government should bring those together and have a single office of industrial relations and it should be the one-stop shop when it comes to regulating the ACT government's own industrial powers.

When we asked workers as part of our survey what they thought the government should do, time and again—and we also asked this question of young workers separately in our other surveys—they highlighted their lack of knowledge and that the ACT government should do more to educate young workers and workers generally and migrant workers about their rights at work. And that is also one of the findings and one of the recommendations that came out of the South Australian inquiry, which is that it is very difficult for a young worker or migrant worker to know that they are being ripped off or being put in an unsafe condition if they do not know what the minimum wage is or even that there is a minimum wage when it comes to migrant workers, or they do not know that they have got the right to say no, they are not required to work in unsafe working conditions.

We have visited many schools and we have talked to a lot of young people and we have surveyed them. Time and again they tell us that they are not taught this at school. They did not get taught it when they were at university. They were not told it by their employer. Education is clearly a role that the ACT government can play.

Finally we believe that the ACT government should be a model employer. And that is both ensuring that it emphasises secure work when it collectively bargains with its employers but also that it does not use forms of employment, forms of engagement of workers, that worsen secure work. Labour hire is a good example. The ACT government employs over 100 labour hire workers currently, many of them in front-facing roles to do with Access Canberra or in more dangerous occupations when it comes to maintenance and horticulture and those kinds of things. The ACT government should not be reducing the job security of people who work for it, whether it is through a triangular labour hire arrangement or directly as employees.

I will leave my comments there and I will be happy to take some questions.

**THE CHAIR:** Thank you, Mr White. I will lead off. You mentioned the relationship between insecure work and unsafe workplaces. Could you outline the mechanism or why that comes to be?

**Mr White:** There are a lot of reasons why insecure work goes hand in hand with unsafe working conditions, and there are a lot of different types of insecure work. One of the things that we know is that, if you are casual, if you are a labour hire, there is some implied threat to the employment of the worker if they speak out. That is either an implied threat on the part of the employer or it is understood by the employee that their job, future shifts or future placement with the host employer or by the labour hire agency, is at risk if they raise a complaint. The complaint does not need to be about safety; it could be about any issue. But when it comes to safety, the risks or the consequences for the health of that worker are potentially very real.

We asked about that; that is in our survey. I will find the quote. This is from a worker who is aged 24:

When I had my first job at 14—

so this person was a child and should have been covered by the very stringent requirements for working under 15 by the Children and Young People Act—

... I worked a lot in the back docks of the retail store. I often cut my hand on rusty nails, old staples, and metal trolleys, and would fall and hurt myself occasionally due to lots of rubbish on the ground.

The question that needs to be asked is why the employer allowed that to happen. They have very strict requirements and obligations under the law to ensure that there are safe working conditions for workers. Clearly, the employer did not feel any strong obligation or any fear of consequence that a work safety inspector or some other person would come along and find that.

The reason that lots of young people give as to why they are treated this way—that there are no safe working conditions for them—is that employers consider them to be disposable. Time and again, when we ask young workers in particular why they were not paid properly or why they were put in unsafe conditions, they said it is because the employers treated them as disposable. So if there was an injury or there was some issue, they would get rid of that worker and they would replace them with another young person.

More broadly, though, in terms of unsafe working conditions, many employers consider safe working conditions and safe work practices to be costly. There is no doubt that in many industries doing the right thing when it comes to safety—having harnesses or putting up scaffolding properly—takes more time. It is more costly to put all three bars on scaffolding rather than just two, for instance. That is costly and the cost of the injury or the cost of being caught is far less than the business or financial cost of the unsafe practice or the risk of injury.

**THE CHAIR:** Picking up on your point about the disposability and the replaceability of often younger workers, I often hear that young people prefer working in those

insecure roles—casual and for labour hire companies. In your experience, would you say that is accurate or is it not accurate?

**Mr White:** When we ask young people, it is mixed. Many young people study, and they want working arrangements that are flexible, so that they are able to work around their study. But they do not necessarily want the other things that come with casualised or insecure work. It is very often not a choice for them about the conditions, the shifts or the other parts that come along with the work.

Although casual work is casual for the employer and the employee, young people very often find that, although they have just a couple of shifts in between classes, they are then told by their employer that they have to come in during times that are not convenient for them. So all the flexibility goes one way and the employers will often say, “If you don’t come in for this shift, you won’t get any more shifts.” So the student, or the young worker who is a student, has to make the choice between paid work, and future paid work, and their studies.

We also know that, when it comes to labour hire, labour hire is not the form of employment that most people working in labour hire want. In our own surveys and in surveys conducted by the ACTU and other unions, we know that working in contingent employment arrangements is a condition that is a financial requirement. They have to take a job, and the only job that is available is one that is precarious; it is a labour hire job. They would prefer more permanent, secure employment, notwithstanding the concerns about flexibility. I should say that you can have flexibility in your working arrangements while still having a permanent either part-time or full-time job. Unions, for instance, have campaigned for a long time to give employees the right to request flexibility when it comes to caring responsibilities, when it comes to looking after kids or having other responsibilities to do with their family.

**MRS KIKKERT:** Thank you, Mr White, for coming in today. In regard to the children who are working, how many of those children are actually talking to their employers and speaking to them about safe work?

**Mr White:** Very few. A lot of young workers are not aware of their rights. They are not aware of their safety rights, in order to talk about it. They are not aware that they can ask for protective equipment—

**MRS KIKKERT:** If they slip over, it is very likely they will not say anything?

**Mr White:** That is right.

**THE CHAIR:** Thank you, Mr White, for your submission. It was very informative. I have a question in relation to your recommendation around a labour hire licensing scheme. It is a system that has been introduced in other jurisdictions. Do you have a sense of how those schemes have operated and what the outcomes have been from those schemes? The second prong to the question is: have they included a requirement for enterprise bargaining in any other jurisdiction?

**Mr White:** The only licensing scheme that exists that I am aware of is in Queensland. It came into existence this week. There are no other schemes currently. They are all in

the process of being designed or legislated, so we do not know the answer to that. I cannot answer the second question about whether there is a requirement to collectively bargain. There are requirements under the Fair Work Act for good faith bargaining. We know that there are very easy ways for employers to not collectively bargain or to have a bogus negotiation through a greenfields process, as we saw with, for example, the CUB dispute, or at other times when a collective agreement has been magicked up by negotiating with two casual employees in a different jurisdiction to the one that the business operates in. That is a fair work question as opposed to a licensing question. We know that the law is not sufficient to protect workers when it comes to collective bargaining.

**THE CHAIR:** What are the key components for a successful labour hire licensing scheme?

**Mr White:** That is a good question. We have a number of dot points regarding a successful labour hire scheme. In Victoria, the labour hire licensing scheme will cover only some parts of the economy, not the entire economy in the first instance, and it will be gradually phased out. The ACT is small enough that any labour hire licensing scheme should cover all forms of labour hire licensing, not just particular areas. Once again, in larger jurisdictions, such as Victoria, they are focusing on horticulture. We know that there are some particularly severe cases of exploitation when it comes to labour hire in horticulture. The ACT has a very small horticultural industry and we know that the forms of exploitation in labour hire in the ACT are in other areas. In every industry that involves labour hire, we see attempts by employers to use that to avoid their obligations.

One of the things that we are very keen on is ensuring that there are multiple avenues for enforcement. It would not be sufficient to have a labour hire licensing scheme that was then not enforced or that there was not sufficient risk to the operation of the business so that they could just ignore the conditions of the licence. Whatever system comes up or is developed in the ACT needs to have the resources given to an enforcement agency or a regulator that has both the powers to enforce it, with real costs to the business for not complying, and resources for prosecutions, penalties, suspension of licences and so on. There needs to be a genuine regulatory environment, not just a licence like we had until recently with charity licences where it was, literally, “If you want a licence, here it is. Pay 50 bucks.” At the moment there is a registration system in the ACT for labour hire, and that is what it amounts to: just being on a register, paying an amount of money and there is no other form of regulation.

**MR WALL:** Mr White, with the recommendation that your submission makes about the territory becoming a sponsor of last resort for migrant workers, how do you envisage that working? I note in your submission that it would only be available for a migrant worker who was resident in the ACT and who was launching formal proceedings against their employer, and the territory would step in as essentially their sponsor-employer. Do you envisage that being in an employment capacity or that there would be some form of payment made by the territory to the individual whilst those proceedings were being litigated?

**Mr White:** That is a good question. There are two ways that the ACT government could go down this path. Firstly, the ACT government, under the current federal immigration

laws, to become a sponsor would need to become a genuine employer, with all the obligations: a need to pay, a need to have a real job that the person could do in order to fulfil the requirements under the federal act. That said, there is nothing that would prevent the ACT government from entering into an MOU or another agreement with the department of immigration and border force to create a special category or an understanding to allow a sponsorship to take place that was not a bona fide business sponsorship but was a sponsorship for a purpose, that is, to allow procedural fairness.

Without the cooperation of the commonwealth, the ACT government would need to become a genuine employer in order to become a visa sponsor. But with the cooperation of the federal government, there is no reason—given the Allan Fels inquiry into migrant exploitation and the various work that border force is doing with the Fair Work Ombudsman and with other jurisdictions’ work safety authorities—that border force would not enter into that kind of arrangement.

**THE CHAIR:** I would like to thank you for coming in, Mr White.

**Mr White:** Thank you.

**BALL, MR VINCENT**, Executive Director, ACT Regional Building and Construction Industry Training Council Inc

**THE CHAIR:** I now call the representative of the ACT Regional Building and Construction Industry Training Council. Good morning, Mr Ball. Witnesses are asked to familiarise themselves with the privilege statement that is on the table in front of them. Can I confirm that you have read the privilege card that is before you and that was sent to you by the secretary?

**Mr Ball:** Yes.

**THE CHAIR:** Do you understand the implications?

**Mr Ball:** Yes.

**THE CHAIR:** Do you have an opening statement, Mr Ball?

**Mr Ball:** I have a short opening statement. I would like to thank you for the opportunity to meet with this committee this morning. I would like to inform the committee that the construction industry training council is a not-for-profit tripartite industry organisation with charity status. We receive no government funding and we maintain our financial viability by way of my undertaking of consultancy and contracting work on behalf of the council.

Our primary role is to ensure the quality of training and professional development for the construction industry and to provide advice to Access Canberra through WorkSafe and other construction licensing agencies on the relevance of the industry's qualifications and individual units of competency for licensing outcomes.

Our submission was targeted at three particular areas—it is not a big submission—that are major concerns for our industry, particularly when it comes to our apprentices and others. I would invite the committee to ask any questions. I am more than happy to answer questions.

**THE CHAIR:** Thank you, Mr Ball. I will lead off. Your submission notes some concerns regarding labour hire companies, particularly the lack of oversight on how they engage and hire out apprentices to employers. Are you aware of any examples locally of how they might have been misused?

**Mr Ball:** Yes. I put that in because I was engaged to do an audit on some training for a Queensland training organisation for a worker on a site in Belconnen. So part of our process is that we go to a site and actually look at the training facilities et cetera. I questioned the RTO on the apprentice and who was the employer, and he told me it was a hire company. I was concerned about how it worked, so I went down the principles of how it worked. They hired that to a subcontractor on hire arrangements. Of course, there was no compliance the same as GTOs, or group training organisations. As I say, there was no regulatory framework in place. From that we went through a whole series of exercises. The RTO in Queensland declined to undertake the training and I reported it to Skills Canberra. So that is an example which is a grave concern.

Labour hire companies in our industry, as members would be well aware, are well used. A lot of our council members actually use those people. I am not here to say whether it is good, bad or indifferent; our concern as an industry, particularly with apprentices, is the lack of any legal framework for those apprentices to work under. So that is why I put it in the submission. Hopefully it does not transpire to anything like that in the future, but that is an example of labour hire companies when it comes to apprentices.

**THE CHAIR:** You said that the company was from Queensland but they were working in Belconnen?

**Mr Ball:** No, the registered training organisation was delivering the training from Queensland. It was a Queensland-registered training organisation with scope to deliver nationally.

**THE CHAIR:** How old was this individual?

**Mr Ball:** About 18.

**THE CHAIR:** Do you think they were aware of their workplace rights, what they were entitled to?

**Mr Ball:** No. It does not work that way. They were placed with a subcontractor. You would presume that the subcontractor would have an understanding, particularly in the ACT, of its roles and obligations to an apprentice. In our industry we take a lot of pride in ensuring that that happens for our apprentices.

**THE CHAIR:** Are you aware of this happening on a wider scale?

**Mr Ball:** No.

**THE CHAIR:** So it was just one individual that you dealt with?

**Mr Ball:** That is a tangible example of my experience and how we dealt with that incident. I think that that was rectified. I would presume that Skills Canberra took some follow-up action in some capacity to address the issue.

**MR WALL:** What was the specific issue in that example? Was it the fact that the apprentice was being let out under a labour hire company and did not actually have a qualified tradesperson supervising their training and development? Where did the specific issue lie in that?

**Mr Ball:** The issue is that he was employed by the labour hire company and the labour hire company was just hiring him out rather than meeting obligations. If it was a group trading organisation there are areas of contracts of trading and specific obligations to meet national standards.

**MR WALL:** So essentially they employed him as an apprentice to—

**Mr Ball:** He is cheaper.

**MR WALL:** Cheaper labour as opposed to a qualified tradesperson or a labourer in the traditional sense?

**Mr Ball:** Correct. So it was certainly outside of the role of the training of an apprentice. I would agree with your comments; it was basically cheap labour without any due diligence on the progression of that training.

**MR WALL:** You would suggest that that is an exception rather than the rule in the construction industry?

**Mr Ball:** I think it is an exception, particularly in the ACT. But if it is not raised to the attention particularly of the Assembly and the government, we do not know how many more are out there in that capacity. I would say very little.

**MRS KIKKERT:** Thank you, Mr Ball, for coming in. A really simple question: how many professional workshops do you run per year?

**Mr Ball:** We run professional workshops particularly for our regulators where required. But more than professional workshops our role is engaging industry to input in the development of professional training and development for the industry. We get a tripartite industry perspective on the quality of the training that needs to be delivered for the industry. We also have industry consultation processes, particularly with a regulatory outcome and the training that goes with that, that leads to a licence. There is a lot of rigour around that and that really is driven by industry. An example is that industry drove and we wrote the original asbestos awareness course. That was fully engaged by industry. So effectively industry wrote the content and the outcomes of that course.

**MR STEEL:** Mr Ball, a few organisations have made recommendations to us around establishing a labour hire licensing scheme, which has recently been introduced in Queensland as we have heard in today's hearings. Is that a recommendation that you would support here in the ACT?

**Mr Ball:** I am sure that our membership would support something like that. One of the things that is often misunderstood is that everyone from our industry keeps saying it is more red tape. I have a 23-member council, and a lot of those councillors are directors of the construction companies, and it is not red tape. It is usually driven by industry and compliance to ensure that everyone is on a level playing field. So it is not an issue for industry of more red tape; I think it is a perception of more red tape for government. They fully support any regulatory measures, whether it is work health and safety or employment, that mean everyone is working on the same level.

**MR STEEL:** Are there any enhancements or improvements that you think could be made to the regulation and compliance of group training organisations, acknowledging that they have national standards?

**Mr Ball:** The group training organisations certainly have field officers. They certainly support their apprentices a lot of more than the other 80 per cent part: they get none. There is a lot of protection for group scheme apprentices, particularly with their field officers. It is a conduit for the apprentice and their employer to work through if there

are any issues. Our industry cannot survive without group training organisations. Nearly 20 per cent of our apprentices are employed by group training organisations, and that is just the way the industry works.

**MR WALL:** What do employers in the construction industry see as the benefit of going through a group training organisation for apprentices rather than direct employment, in your experience?

**Mr Ball:** I am trying to phrase it so it comes across in the right way because everyone is different in the way that they utilise group training organisation apprentices. One is apprentices are usually signed up for three to four years. A lot of employers cannot guarantee employment across the field for that period of time; it is nearly impossible to do. They utilise group scheme apprentices for six months, 12 months. Some group training organisations engage the apprentice full time with one employer. That is what they want to do. Therefore, the employer does not have all the administrative arrangements under the contracts of training with the apprentice. That is their option, and it is a very viable option, and they are very committed to that process. So one is to do with administration and they see it as cost effectiveness, and that is very popular with a lot.

The others that engage apprentices in their own right under a contract of training with themselves have the longevity of work. They can see that, and they are usually experienced in that field. They have and prefer that relationship with the apprentice. It is quite surprising but a lot of them feel, "I was an apprentice. I need to return that back to the industry and give someone else an opportunity to gain a trade." So there is a lot of that in there.

**MR WALL:** From my experience in the construction industry, a lot of businesses become very specialised in the type of work they do. Do you think one of the attractions of group training for an apprentice is that they are potentially exposed to a wider variety of types of work in the industry and a wider variety of host employers?

**Mr Ball:** The industry in a number of fields is certainly specialising. I do not think our qualification systems are keeping pace with that change, particularly in specialisation. Group schemes can accommodate that better than a sole trader or an individual or small employer. So that is certainly a benefit and it is going down that path more and more and engaging in that capacity as well. It really depends what trade you are actually looking at and it depends whether you are working in a commercial or a small residential field. Small residential apprentices are usually in the houses. When you go to commercial, unit development is really commercial work with more bathrooms and toilets. So the engineering of unit development is really around that capacity. They are the two fields they work on.

A lot of the trades are significantly different between a commercial and small residential in the skills that they learn. Group schemes certainly can accommodate that, but so can a lot of the individual employers. A lot of individual employers certainly work closely with the other employers so if they run out of work or they are specialising too much, they will actually cancel and then rejoin someone else. It does work pretty well. We are really pleased with the training of our apprentices in the ACT.

**THE CHAIR:** Can you tell me more about the construction industry apprentice field officers that you would like to see created.

**Mr Ball:** Skills Canberra have a number of field officers, but they do not suit our needs. We have specifically put a lot of work and investigation into looking at resolving issues for small subcontractors who have apprentices and they really do not have anywhere to go, which is 80 per cent of all our apprentices. We put in a submission for the ACT government to either fund a position specifically for construction—that might be with Skills Canberra and we were asked by our members that that sit under our umbrella because we are tripartite so there is no particular issue in that, and it did happen many years ago—or engage someone with a construction background to carry out that work. It is more of a mentor, someone to talk to if there is an issue on site, particularly around work health and safety. A lot of the small employers do not understand their legal obligations under work health and safety. Some of the apprentices are not going to go to their employer, so they really need an opportunity to talk to someone.

Basically the role we look at is the previous apprentice supervisors of many years ago that had the all-encompassing role of mentoring, looking after, going to site, sharing. Someone would ring up. It could be the employer's partner that can ring up this person and have a chat, but that person would direct them to the right area. It is not an advocacy role; we have employer and employee associations to do that. So it was not that role; it was specifically to look after the interests of apprentices. We are not getting too far with that position, but we note that Skills Canberra have a number of those inspectors, but they are not from a construction background.

**THE CHAIR:** Why do you need them to be particularly focused on construction? You said that this position somewhat already exists in a broader sense. Why just for construction?

**Mr Ball:** The construction industry, with the experience they have, particularly on site and particularly with work health and safety issues, can guide. An apprentice is not going to their employer if they have a work health and safety issue because their apprenticeship will probably be cancelled. They need someone to talk to with an industry background that can work their way around resolving the issue or help to resolve the issue and point them in the right direction. They do not have anyone, they really do not. And we see it as an essential part of what we need within the construction industry. As I say, it could be directly with us through someone from Skills Canberra seconded to us, but that person really needs to have that background and experience, and it is usually an older person. They are not there to manage their contract of training or their legal obligations under their contract; they are there to manage the day-to-day issues that surface for an apprentice and give someone to talk to.

**THE CHAIR:** Mr Ball, thank you for coming in. It has been an absolute pleasure.

**Mr Ball:** Thank you very much.

**HELYAR, MS SUSAN**, Director, ACT Council of Social Service

**BUCHANAN, MR GEOFF**, Research Manager, ACT Council of Social Service

**THE CHAIR:** Good morning. Witnesses are asked to familiarise themselves with the privilege statement in front of you on the table. Could I confirm that you have read the privilege card in front of you that and you understand the implications of it?

**Ms Helyar:** Yes, thank you.

**THE CHAIR:** Do you have an opening statement?

**Ms Helyar:** I do. The ACT Council of Social Service is the peak body for community organisations and people experiencing disadvantage in the ACT. We welcome the opportunity to come and speak at this inquiry. Insecure work for people experiencing disadvantage and the community organisations that support them is a significant concern to ACTCOSS. Across different sections of our community and across different industries, insecure work has a range of impacts and people experience various barriers to gaining secure work that provides a living wage and basic entitlements.

Our consultation with members and our review of the research identified those people most impacted by insecure work. These include Aboriginal and/or Torres Strait Islander peoples; carers; people from culturally and linguistically diverse backgrounds, including migrant workers, refugees and humanitarian entrants; people with disability; women and young people.

Understanding intersectionality is particularly important for these groups as people most at risk of insecure employment are likely to identify with one or more of these risk categories and so experience multiple forms of disadvantage as a result of that.

Some industries stand out in the data and literature in terms of the prevalence of insecure work, but they stand out for different reasons. High rates of casualisation are a key concern in relation to hospitality and retail, which are often the entry level work and create real vulnerabilities for people early in their careers trying to establish themselves as financially independent households.

The prevalence of labour hire and contracting is a key concern in construction and cleaning. Both those industries have significant issues around work health and safety. Those kinds of labour hire arrangements create some work health and safety risks as well as risks around insecure work.

We are also concerned about the community sector, but the issues there are more about the inadequacy and uncertainty of government funding, which creates barriers to long-term roles being established in the sector. As noted in other submissions to this inquiry, insecure work is increasingly being experienced in other major sectors in the ACT, including the public sector and the education sector.

In identifying the consequences or impacts of insecure work, we have drawn largely on the work of our colleagues in Victoria at the Council of Social Service and their submission to the Victorian inquiry into the labour hire industry and insecure work,

which was conducted in 2015.

These impacts are often interrelated and include low or inadequate incomes, unemployment and underemployment, irregular and uncertain income, financial stress, housing stress and housing insecurity, lack of job pathways, limited access to training and development, and negative impacts on physical and mental health and wellbeing. Other impacts identified in submissions to this inquiry include unsafe working conditions, stresses on personal life and relationships, social exclusion, lack of flexibility in work-life balance, discrimination and the lack of a sense of autonomy.

As noted the submission to this inquiry by St Vincent de Paul Society of Canberra and Goulburn, the impacts of insecure work have the potential to create or entrench significant long-term barriers to finding stable employment. That was certainly what we found in our 2014 research that we published in Anti-Poverty Week with the Women's Centre for Health Matters.

In our submission we identified some of the barriers people faced to gaining secure work, including the lack of workplace flexibility around permanent work. Some of our mental health and disability colleagues talk about the need for permanent not-full-time work but enough hours to have a living wage, but not to have to have a full-time job to achieve permanency.

That is particularly the case for women and carers. There are barriers to educational attainment or work experience. We acknowledge the work that is being done on equity in education that is being primarily driven by the need to improve education attainment for people who are not reaching benchmarks in the ACT school system. That is welcome, but we still need to think about that in terms of lifelong education as well.

There is also a persistence of barriers for people with disability and carers under the NDIS. In their submission to this inquiry, Carers ACT have sought to raise awareness of the need for better support for carers to remain in or re-enter the workforce. There is particular risk for young carers. They also note that the introduction of the NDIS in the ACT has not delivered the projected increase in workforce participation by carers.

We have a bunch of recommendations that we put in our submission and we would welcome the opportunity to answer any questions or issues raised in relation to those.

**THE CHAIR:** Thank you. I will lead off with the questioning. Your submission notes the emergence of a two-track labour market in Australia. What do you think the cause of this is?

**Ms Helyar:** Certainly what we know from the community services industry is that the lack of funding certainty and the lack of funding adequacy actually incentivises employers to mitigate their risks by passing risk on to their workers. I think that is also the case in many other industries. Employers are looking to mitigate their risks of uncertain income streams, changes in the market or changes in operating conditions. So what has happened is that all the risks for that have been taken off the books of the employers and put into individual workers' lives.

**THE CHAIR:** In respect of that risk being passed on to workers, you have mentioned

in your submission the different groups within our community, for example, people with a disability and visa holders. Does this insecurity, this uncertainty, affect them differently based on what—

**Ms Helyar:** That is what we mean by “intersectionality”. People experience discrimination. So in an environment in which employers are looking to mitigate their risk exposure, if you are someone who experiences discrimination for another reason, that is just another barrier to actually get through into the permanent work stream rather than the temporary.

**MR STEEL:** I have a question in relation to recommendation 6, which is recommending that the ACT government take action to reduce the prevalence of insecure work within the community services sector as part of procurement reform. Is there anything specific that you think you can expand on?

**Ms Helyar:** Yes, what we have talked to officials about is that what defines value for money is defined as value for money for the purchaser, not for the community that is receiving the service. One of the things that has emerged out of that is that employers that are able to reduce their financial costs associated with employment can offer a cheaper option. That might work well for the purchaser and might work well for the employer, but it does not work well for the community where we have a constant flow of people in and out of the workforce trying to find a secure role.

A good example has been in the housing sector where for five years there was only single-year funding through the commonwealth-state housing agreement. Staff who wanted to be more confident about their long-term employment prospects would move out of those roles, even though they might be highly skilled housing support workers, because they just needed to make sure they had a secure job to keep paying their costs of living and hopefully to qualify for a mortgage at some point, which you cannot qualify for if your job only goes for a year. No bank is going to give you a mortgage, even if it is a reasonably paid job in an industry which you would expect to continue to need to have work. That is one issue.

The other issue is that people who access services do not like having to change their workers all the time. That is certainly happening in some disability and aged-care services where you are seeing people coming in and out of roles because they are trying to navigate a career path that works for them. So it compromises continuity of care. What we have argued is that in the procurement reforms, continuity of care and stability of employment need to be valued, not only the costs for provision.

**MR STEEL:** I know there are specific difficulties in the community sector around people moving between different community sector organisations and difficulties that come with short-term contracts. Is one of the procurement reforms that you are suggesting longer-term contracts?

**Ms Helyar:** Absolutely. We have talked about that. Certainly, the Productivity Commission said back in 2011 that one of the problems with community service provision was short-term contracts for long-term objectives. They had talked about five to 10-year contracts being more suitable. What we mostly have is two to three years. There are some ACT government contracts, as they are renewing program funding

arrangements, that are going to five years. That is certainly welcome, but there is an enormous amount of money at the moment that is rolled out through government procurement through ACT government that is less than two years.

**MR WALL:** Ms Helyar, in the example that you just gave you rightly identified that it is difficult for an organisation in the community space to give a contract beyond their funding envelope.

**Ms Helyar:** It is kind of illegal. They would be trading insolvent.

**MR WALL:** Yes, I get that. Your solution to that issue is that the government give longer funding windows or larger funding envelopes to increase that time period of service delivery. You started in your opening remarks talking about retail and hospitality sectors where, again, I guess the requirements of business often fluctuate by time of the week, time of year and the like. How then do you see further security being given to employees in those sectors that then also manage the legislative requirements of businesses to make sure that they are liquid?

**Ms Helyar:** Yes. We are not experts on labour market or industrial arrangements; so we would defer to other experts for an answer to that question. But what we would say is that employers in our sector do value continuity of staff, but struggle with how to make it work financially. I recognise that that is the case in other industries as well. Certainly, in those industries where there are relatively low wage positions and the management of those low wage positions has been to deliberately keep people under levels of hours that would get them into the industrial instruments that require a payment of entitlements, this is a problem.

**THE CHAIR:** You mentioned procurement policy numerous times throughout your submission, whether to increase employment opportunities for people with disability or just to improve general workplace arrangements. Why do you keep going back to procurement policy of the government as your solution, as the way to achieve these things?

**Ms Helyar:** Because, for community service organisations, that is the primary market that they are operating in: a government-funded service market. Even with the NDIS, where it has moved to an individual funding arrangement, there are still ways that we can think about how we run organisations to ensure that there is continuity of offer to people.

**THE CHAIR:** Would you agree that procurement policy has an ability to influence not just those who are directly tendering for government work but also the wider sector as well as a flow-through effect?

**Ms Helyar:** Sorry, as a what?

**THE CHAIR:** As a flow-through effect?

**Ms Helyar:** I think it creates some norms and potentially some incentives for people to stay in certain industries and not to move to other industries; so it may lift industry practice across different sectors if there were more parts of the economy where you

could have a guarantee of access to secure work.

**MR STEEL:** You have talked about the ACT government doing some more work in terms of research on the prevalence of insecure work in the ACT. Do you want to expand on that?

**Ms Helyar:** Yes, I think what we are particularly interested in is understanding the unintended consequences and the impacts more broadly. I think it goes to your comment, Mr Wall, about industry managing their own risk and their own business operations but actually as a whole community it creates risk and vulnerability that we have to pick up in other systems.

An example of that is in housing. We did work with ACT Shelter, the Youth Coalition and the Women's Centre for Health Matters a couple of years ago. We tried to look at what the impact is of people's labour market position on their access to housing, the security of their housing and the affordability of their housing. That just highlights a whole lot of risks that actually then come back to government because there are more people looking for public housing because they cannot get housing in the private sector when they have insecure work.

They cannot get into the purchase market because no institution is going to lend money to someone who has three jobs, each of them with maybe 10 to 12 hours a week of income and none of those is a permanent job, which is the case for increasing numbers of people under the age of 25.

The research would need to be about what is the prevalence of insecure work, what are the trends and where are the costs being borne? Some of them are borne in the lives of workers but some of them are borne in our government-funded systems and some of them are borne in other things like health care.

**THE CHAIR:** I want to go back to the different groups that you think are affected by insecure work. Generally speaking, insecure work can affect anyone but, in your experience, who do you think is most prone to be working through an insecure work situation?

**Mr Buchanan:** When we were going through the literature and talking with our members, who are largely providers of community services in the ACT, there were definitely certain groups that stood out in terms of having vulnerability to being in insecure work. Those include Aboriginal and/or Torres Strait Islander people in the community; people with caring responsibilities and people who are returning to work after having a long period of being a carer; people from culturally and linguistically diverse backgrounds, for various kinds of reasons, whether it is an English language barrier or other barriers to employment, and also the issue of discrimination, which also affects other groups, as mentioned; people with disability; women; and young people. They were the groups that really stood out. But low-skilled workers, not necessarily as a socio-demographic group but as a skill category of workers, are quite vulnerable to being in insecure work situations.

**THE CHAIR:** And this could have quite a lengthy answer, potentially. Going through that list that you went through, can you go through some of the different ways that it

might affect them differently?

**Mr Buchanan:** Sure. Particularly for culturally and linguistically diverse and for Aboriginal and/or Torres Strait Islander workers, and also for women, there are issues around discrimination that have come out. In recent research about young people's experience of harassment and discrimination in the workplace, particularly the experience of young women in hospitality and retail, we identified that that to a certain extent creates insecure work but also has other elements around it in terms of the other causes of stress that might not necessarily be just part of insecure work but actually contribute to a more complex picture of people's experience in the workplace generally.

Aboriginal and/or Torres Strait Islander people and people from culturally and linguistically diverse backgrounds are lacking a culturally aware workplace to enter. There was some research that we referred to for Aboriginal and/or Torres Strait Islander workers in terms of feeling more comfortable working within Indigenous owned, operated and managed organisations. It tends to suggest that there is more of a sense of belonging in those organisations. I think reconciliation action plans and things like that are definitely changing that environment in a positive way.

Discrimination can also impact on people with disability in different ways, but there are also questions around access to workplaces and things like that, which I think we have addressed in more detail in our submission to the inquiry into the employment of people with disability in the ACT recently.

For young people and in some of those other categories as well, there are issues around people's awareness of their rights in the workplace, familiarity with work practice and things like that. There are definitely issues around educating younger workers or people who are newly arrived in Australia or in the ACT on what they should be able to expect in terms of accessing employment, their rights at work and those kinds of issues. That is not quite as long as it probably could have been, but that is the briefer version.

**MR STEEL:** This is a question about the community sector again, and whether you have done any research into insecure work within community service organisations in the ACT. Do you know whether there is any difference in the security of work in larger community organisations that might have multiple streams of income, multiple grants and potentially own-source income compared to smaller players, which we inevitably have here in the ACT simply because of our size. We have a lot of small players, who might be nimble and stable. Do you see any difference?

**Ms Helyar:** The work that we did—which we funded using our member contributions, not government funding—last year, which is the state of the community service sector in the ACT 2016, which we did with the Social Policy Research Centre at the University of New South Wales, found that the security of work was more to do with the type of organisation rather than the size of organisation. So, for example, organisations that do research and advocacy have more secure employment because they have less instability in their funding flows.

Services that were working and transitioning in providing services through the national disability insurance scheme had increasing insecurity of work even in quite large organisations. That was to do with the instability in the operating environment and the

limited certainty about the future of the service demand that they would be looking to meet. The other thing that we found in that research, which I commend to the secretariat to include in their analysis for this inquiry, was that community services find it difficult to recruit people because our wages are low but that, once people are in, they like to stay and they stay because they value learning and development and career progression opportunities.

So in terms of thinking through how to keep people in the industry and how to create more secure work in the industry, they are also things that are important to make sure we have capacity to invest in: people having the opportunity to continue to develop professionally and to pursue formal learning opportunities in their workplaces, and people being able to have some career progression within the industry.

We know that there is also some interesting information in the long service leave data related to work. We know that some people are holding down four jobs at a time because they have four employers paying into the long service leave scheme. I think about that in terms of work health and safety. How do you know your policies and procedures of four different places? That is a lot to have in your head. I wonder about what that means in terms of people's capacity to work well. They are the outliers but there are actually a lot of people that have two jobs.

The other thing you see from the long service leave data is that people might be changing jobs regularly but they are staying in the sector. So how we reduce the amount of churn is the issue, I think. Mr Buchanan may have some more detail on that.

**Mr Buchanan:** Actually, no.

**Ms Helyar:** That is fine. They are the big-picture messages we got out of that research. But it is quite rich, and it may be worth the secretariat having a look at that in terms of—

**MR STEEL:** We did explore the long service leave data in a previous inquiry.

**Mr Buchanan:** I have extra copies to provide to the committee if that is of interest.

**MR STEEL:** Do you have any recommendations around training? You have identified that as something that could support stability, remaining with a particular employer. And have you considered how that might be built into future grants as a key component? It is often the thing that is missed out. If you are only being paid to do a specific job, unless you have another source of income that can fund it, I am sure it would be missed.

**Ms Helyar:** That is a particular issue in the NDIS: that the current pricing settings, which are regulated at a national level, do not really allow for investment in worker development. Training largely is currently funded out of program funding. We have been working through the industry strategy work on increasing our access to the other funding sources so that, rather than it having to come out of face-to-face front-line work, it comes out of things like the skilled capital investment, and the community services industry gets more access to education resources than it does at the moment. We are, I think, the fourth largest employer in the city and we are the fastest growing employer, so thinking of us as this sort of marginal thing off to the side in terms of our role as part

of the labour market—actually bringing us into the centre of the development of the labour market in the ACT, recognising that as a value and investing in this industry in the same way we would invest in some other industries.

We know that investment has a twofold impact. Not only does it grow the capacity of the industry, the quality of work and the continuity of people's careers but also it builds human capital. Often we employ people who have had an experience of disadvantage in their life and we create entry level work for people who need a supportive environment to get into the labour market. So that human capital investment that comes with people coming into our industry, being comfortable with working in the industry, building a skill set and then moving into other industries and into other careers is actually one of the values of our industry and gives a kind of double benefit to investing in human capital.

**MR WALL:** Recommendation 11 in your submission recommends that the ACT government should establish employment targets for equity groups such as people with a disability in the ACT public service and encourage businesses and community organisations to adopt targets. I have been fairly critical, particularly last term, of the government's continued failure to meet the targets that it had set both for Aboriginal and Torres Strait Islander employment within the public service and, likewise, people with a disability. Setting the targets is not the problem; it is achieving them and, in doing so, achieving them without tokenism or further ingraining prejudice by saying, "Oh, that's just the Aboriginal position. They're only there to meet a target—

**Ms Helyar:** Yes, and not integrating it into the workforce generally.

**MR WALL:** You see a culture of the best person from a minority getting the job rather than the best person for the job, which might happen to be someone with some adversity in their life. How do you think the government should approach those things as best practice not just to increase the diversity of the employment base in the public service but also to do so without further ingraining tokenism or prejudice?

**Ms Helyar:** I have not got the detail in front of me, because it is from our disability employment inquiry submission, but we had some fairly detailed information in there about what we thought had caused the failure in meeting targets and what was needed in that space. Just off the top of my head, we argued that the targets are critical because they set an expectation but that they do not achieve anything on their own and, as you say, they can be tokenistic. One of the causes of tokenism is that there will be targets often at fairly junior levels in an organisation and there is not the deliberate investment to build capability so that people can progress. So people come in, they are in a one- or two-year trainee position and then there is never any pathway or intention for them to graduate from that into an established job that is not part of the traineeship or the target. That is one of the strategies that we have argued is needed: that there be a career progression process as well as just an entry-level process.

The other issue we see is that workplaces are not always very welcoming to people who have lived with adversity, come from other cultures or live with a disability. So how do you create an environment in which people feel comfortable to raise issues around addressing some of the barriers they might experience? Getting the job is always just the first step. Actually doing the job well and being able to fulfil the expectations of an

employer is a whole other thing. So how workplaces work to create environments in which that is possible is very important.

We have certainly had a long commitment to investing in growing the recruitment and retention of Aboriginal and Torres Strait Islander people in the community services sector. That is a constant work in progress around building cultural competence, building cultural awareness and creating environments in which there is flexibility to maintain your cultural obligations and responsibilities as well as fulfilling the requirements in a job. That needs constant work to make sure that that can be done well. What we have not seen in the public sector necessarily is that real focus on creating environments in which people can succeed.

**THE CHAIR:** It is time for a morning tea break. Thank you, Ms Helyar and Mr Buchanan, for coming in.

**The committee suspended at 10.57 until 11.17 am.**

**MITCHELL, MS LINDA**

**THE CHAIR:** Good morning, Ms Mitchell. I am assuming this is your first time coming along to something like this?

**Ms Mitchell:** Yes.

**THE CHAIR:** The way it is going to work is that we will each ask you a question and go down the line.

**Ms Mitchell:** Okay.

**THE CHAIR:** Before we start, though, witnesses are asked to familiarise themselves with the privilege statement, the pink card in front of you. Can you state that you have read the pink card and that you understand the privilege implications of that statement?

**Ms Mitchell:** Yes. I was sent a copy of it, and I read it before I came.

**THE CHAIR:** Excellent. Thank you, Ms Mitchell. Would you like to make an opening statement?

**Ms Mitchell:** Yes, please. Is it okay if I just read it?

**THE CHAIR:** Yes.

**Ms Mitchell:** Thanks. I currently work at a large supermarket as a bakery assistant. I have been in this job since the end of February. Before that, I was employed at a well-known department store as a retail associate, where I worked for over a year. I am a single mother of four, two of whom have left home.

At the department store, I was employed on a casual basis. At the time, I was studying full time at the University of Canberra and I received Austudy and family tax benefits from Centrelink. When I started work, my Centrelink pay was reduced proportionately according to my earnings at work. My Austudy ran out and I needed to be able to earn more money, so I applied for several positions within the same group, in the hope of securing full-time or even part-time work, and eventually succeeded in winning the position I am currently employed in. At a base rate of 23 hours per week, I am underemployed, but it is better than nothing.

The most obvious issue with casual or part-time work is financial. At the department store, I averaged 12 hours a week, but it varied from as low as three hours per week to as many as 32 hours per week in the lead-up to Christmas. I was lucky that I was trained to do every job in the store other than back dock or management, so if someone called in sick, I would be called in to replace them. This increased the amount I could earn, but there were still other challenges, which I shall address.

An irregular income makes it difficult to budget. When I was on Austudy, I knew I would never get less than a certain amount, which helped, but income was never more than modest. I always made sure the rent was paid and the utilities, plus we always had

some kind of food on the table. It was unexpected expenses that caused difficulty, such as the time my son lost his glasses and needed to get new ones. We also do not use heating in our house, which is not much fun in winter but it does prevent the massive electric bills that can come at this time.

Working part time, I do have a base income now, but after tax it is still only about \$30 per week more than I got from Centrelink. My hours and income still vary, as I get penalty rates on Sundays, and I am often asked to stay late to help get all the work done but I do not get paid overtime rates for that as it is considered voluntary. I get called in to cover a shift sometimes if someone is sick.

On the subject of illness, when I was with the department store, I could not afford to get sick. A missed shift meant missed income. I missed one shift due to illness, but generally, even if I did not feel well, I still worked. At least now, at the supermarket, I get sick leave if I need it.

While casuals do get a higher rate of pay to supposedly make up for sick leave and annual leave entitlements, at my level of income I was not able to save much. And if I did put some money away, there was always an expense that wiped it out. While the financial side of being a casual or even a part-timer is hard, for me, one of the more annoying aspects of casual and part-time work is that in some ways your life is not your own. If you are full time, you have set hours; you work them and that is that. You know what to expect. But when you are casual, it is the exact opposite. You cannot plan much at all.

At the department store, rosters were supposed to be planned so you could see the current week's roster in store and the next two weeks online. However, it was not uncommon for casuals to get to the Sunday on the current week and still have no allocated hours. You would go and look on the computer on the Sunday night, and there would be time, but up until then, as far as you knew, you had nothing. However, it usually did turn up.

Shifts had no regularity whatsoever for casuals. You really could not make appointments or arrangements for future events unless they were more than four weeks in advance. Even for something simple like wanting to meet a friend for coffee, you had to say, "Sure, we'll meet at such and such a time, unless I'm working." On the off days you had to be prepared for a phone call from work. Obviously you could refuse, but if you did, you were much less likely to be called in the future. For some, that probably did not matter but, for me, with a family to support, having extra shifts meant extra pay, which was most welcome. There were times I gave up the chance to do something fun because work called and I went in. I was grateful for the income, but it was really anxiety provoking for me, wondering at the start of just about every non-working day whether I would get a call.

I thought that would be over when I started at the supermarket, but I still get called in randomly. I have a three-day break built into my fortnightly roster, but I have only actually gotten the three days off once. Every other time I have been called in to cover a shift. I am grateful for the income, as quite honestly I am getting a bit over "just managing", and I would like to have some money to do some nice things. But I do find it frustrating to have scheduling difficulties in my day-to-day life.

In conclusion, I do not like being underemployed. It is difficult managing on a low income, especially when the level of income changes unpredictably. It is difficult to keep up with friends, schedule appointments and plan outings when your roster changes frequently or you get called in to work on a random basis. The supposed flexibility may suit some, but for many such as me it is just hard. Thank you.

**THE CHAIR:** Thank you, Ms Mitchell. I will lead off with the questioning. You mentioned some of the rostering arrangements when you worked at the department store, how you would get to a Sunday night and they might still not have shifts allocated.

**Ms Mitchell:** Yes.

**THE CHAIR:** In your statement you mentioned that if you got that phone call you felt it was hard to say no.

**Ms Mitchell:** Absolutely.

**THE CHAIR:** Why did you feel as though it was hard to say no?

**Ms Mitchell:** Partly because if they were ringing me, they needed someone. Although it is a department store, it was not a particularly large branch, and the team was not terribly large. If they rang me they needed someone. If they were ringing around, they would need someone. But one day when the boss was trying to get somebody to work in a particular department and could not get anyone, he actually said, “That’s it; none of them are getting any calls any time real soon.” So if you refused, there was a strong implication—in fact, he actually said it—that if you refuse you are not going to be called. And I really needed the money; so, yes.

**THE CHAIR:** It sounds as though there was a lot of flexibility on their end?

**Ms Mitchell:** Absolutely.

**THE CHAIR:** In terms of casual employment, it is often said that the flexibility is a benefit to you. Did you ever find that if you did not want to work a shift or you needed to change things around, that flexibility was afforded to you on your side?

**Ms Mitchell:** No. It is that straightforward. Supposing an event came up. You had to know at least four weeks in advance so they could build that into your roster. If it was within the four-week period, you got what you were given, and if you could not work on a particular day, tough. You did not get paid for it either, of course.

**MRS KIKKERT:** Thank you for coming in. Just reading your recommendations, I agree with them, so thank you. My mother was a single mum, and she raised us five kids on her own, so she is my hero. I just want to say thank you for all that you do. I am sure your four kids are very proud of what you do, and I do hope that there is going to be an improvement in your workload.

**Ms Mitchell:** Thank you, I hope so too.

**MRS KIKKERT:** At the moment I do not have any questions, but I just want to say thank you for all that you do, for you and for your family.

**Ms Mitchell:** Thank you.

**MR STEEL:** Thank you for coming in. The issues you are experiencing you are experiencing with your current employer? Is that right? Or is it the previous employer?

**Ms Mitchell:** It was worse with my previous employer, but I still have it in the fact that I am still underemployed. Twenty-three hours a week as my base pay is not really that good.

**MR STEEL:** How long were you with your previous employer for?

**Ms Mitchell:** Since November of 2015, so not super long.

**MR STEEL:** That was with your previous employer? You started work with them in 2015?

**Ms Mitchell:** Yes.

**MR STEEL:** One of your suggestions is that the federal government or ACT government should basically allow people who have worked casual for a certain period of time to then automatically transfer into a part-time role if they are working less than 38 hours a week or into a full-time role if they are working the equivalent of full-time hours.

**Ms Mitchell:** Yes. I used to be a teacher, and I was employed as a casual teacher as well. That is a government department. It is really frustrating working on a casual basis because you do not know what your income is going to be and you do not know what your working hours are going to be. I reckon that if you have been there for long enough that they can say, "Well, this is what we're going to use you for; this is the kind of hours we're looking at," surely they can offer you a contract.

**MR STEEL:** Yes. Were there other employees on part-time contracts as well, working beside you?

**Ms Mitchell:** In my store?

**MR STEEL:** Yes.

**Ms Mitchell:** Very few part time. There were a lot of casuals. At the time that I started working for them, they had actually stopped putting people on a contract. The word had come down from head office that they just were not offering contracts. In the entire time that I was there, one person got one. She had the most odious job, and I think she deserved any benefit she could get. It was a dreadful job that she had. She was the door greeter, in case anyone wondered. That is a horrible job. Never be a door greeter.

**MR STEEL:** In terms of penalty rates, were you working on the weekends?

**Ms Mitchell:** Yes.

**MR STEEL:** Did you get to choose to work on a weekend?

**Ms Mitchell:** No; you were rostered on. You just got what you were rostered onto.

**MR STEEL:** So your income might have fluctuated based on the days that you actually worked?

**Ms Mitchell:** That made a difference, yes. The only part that was voluntary was public holidays. You could actually sign up to work on a public holiday. Every public holiday, there would be my name.

**MR STEEL:** Thank you.

**MR WALL:** Thanks for coming in, Ms Mitchell. I do not know where I want to go. Can we maybe dispel some myths? Can you give your account of some of the common answers—you touched on some of them in your submission—as to why you do not simply get more hours? A common solution that would spring to mind—bear in mind, I am being devil’s advocate here; I am not doing this intentionally—is this: if 20-odd hours a week is underemployment, why not a second job?

**Ms Mitchell:** Because it is really hard to schedule a second job when you are casual. That was the main reason. Plus I do have a family; admittedly my youngest is an adult now, he has just turned 18, so they are not little anymore. But even with the job I have now, which is part time and has set hours, I am still called in on a random basis to cover shifts. Even today, before I came here I was asked whether I could work a couple of extra hours. “No, sorry, I can’t. I have a place to be.” So the fact that you do not have that set in stone, concrete regularity makes it very hard to get a second job. And if the second job is casual, then that makes it hard to fit that in, if you see what I mean.

**MR WALL:** So essentially you could end up with a situation where you are rostered on for both jobs at the same time.

**Ms Mitchell:** Absolutely you could.

**MR WALL:** And it becomes impossible to manage that.

**Ms Mitchell:** Yes, and although you state your availability, when I was at the department store, I was visiting family in Melbourne and they actually rang me up and asked me to come into work. So the fact that you state your availability makes little difference.

**THE CHAIR:** I want to talk about how insecure work affects you. In your submission you mention some of the stresses about it. A lot of those are financial stresses. Do you find that the stress of insecure work affects your personal relationships and maybe your mental wellbeing?

**Ms Mitchell:** I do get quite stressed out actually. My mental health, absolutely. I have to try to stay physically well, and thank God I am. But I do get quite stressed out. That

is the best way to describe it. Coming up to Christmas, coming up to birthdays, things where I know there is going to be something expensive coming up, it is hard. Even just the day-to-day juggling with, “I’ve got this much money.” I know it is the same for anybody who is on a low income. But I actually find the most anxiety-producing thing is each day when I wonder will I be called in or will I get to do the things I plan to do. That actually eats away at me more. I cope financially; it is not great, but I cope. It is the uncertainty that I find difficult.

**THE CHAIR:** What time are these phone calls calling you into work? Are they at 6 am on the dot or are they spread out across the day?

**Ms Mitchell:** Because I work in a bakery now, if I am going to be called, it is going to be early. But I was called a bit later in the morning one day because apparently they wanted me to do a grocery shift in a different department, so there is the possibility. But in my other job they used to call me any time up to about 3 or 4 in the afternoon.

**THE CHAIR:** We are talking bakery shifts here. When you say “early in the morning”, we might have different concepts of “early in the morning”.

**Ms Mitchell:** The earliest call I have ever had has been 6 am.

**THE CHAIR:** And how much notice do they give you to when they want you to be in the store?

**Ms Mitchell:** If they ring me, they want me right away. “Can you come in now?” “Okay.”

**MRS KIKKERT:** You just gave me flashbacks; that is exactly what my mum did.

**Ms Mitchell:** My kids do not like it much I have to tell you.

**MR STEEL:** I want to get a sense of the extent of your under employment in your previous role. I think you mentioned you were working 12 hours a week?

**Ms Mitchell:** Yes, it was an average of 12 hours.

**MR STEEL:** And how many hours did you really want to work on a regular basis in the week?

**Ms Mitchell:** At that time, to fit in with my studies, maybe 20 or more but no more than 25 so as I could do my study as well. Right now I would like to have a full-time job.

**MR STEEL:** And you earmarked rostered days off for three days in the middle of the week for the study, is that right?

**Ms Mitchell:** No. The job I am in now, it is just the way my fortnightly roster works out. The way my roster is built, it just happens to have a three-day period in the middle. So I thought, “Oh, yeah, three days’ time off, that’s nice.” But I have never had it except one time.

**MR STEEL:** And do you feel like you are under employed now?

**Ms Mitchell:** Yes.

**MR STEEL:** So you are looking for full-time work?

**Ms Mitchell:** Yes.

**MR STEEL:** But it sounds like there has never been an issue with the employers' view of your work. They seem that they are happy with you?

**Ms Mitchell:** They are happy with me.

**MR STEEL:** It is just that they cannot offer you extra hours, at least on a more permanent and stable basis.

**Ms Mitchell:** No. In fact, my previous manager was actually very sympathetic. The one I have got now is nice, too; don't take me wrong. But the one I used to have, very sympathetic, and that was why I was trained in so many different areas around the store so I could get available hours, but they just were not there.

**THE CHAIR:** Ms Mitchell, thank you for coming in. It was an absolute delight to have you.

## **YURTBILIR, MS TRACEY**

**THE CHAIR:** Good morning, Ms Yurtbilir, and thank you for making time to chat with us today. Witnesses are asked to familiarise themselves with the privilege statement, the pink sheet. Have you read it and do you understand the implications of that statement?

**Ms Yurtbilir:** Yes.

**THE CHAIR:** I will let you make an opening statement if you are so inclined.

**Ms Yurtbilir:** Thank you very much for inviting me to this inquiry on the extent, nature and consequence of insecure work in the ACT. I really appreciate the invitation. I am going to talk about my own experiences of insecure work. When I made the written submission I mentioned that it was experiencing insecure work about three years ago, but when I look at the extent of insecure work in my own life—I am 52 now—that journey began when I was 20 and continued up until I was about 45. So the experience of it in my life is quite extensive.

In looking at the nature of my insecure work—and I am talking about what has made my working life insecure—I will talk about particularly in my early 20s when I graduated from university. I graduated and started employment as a teacher in a particular state, and I experienced insecure work in teaching because the government in the early 90s in Victoria closed quite a number of schools. I had just started a job as a hopeful graduate and then the government of the day closed the schools and I had one year of permanent employment and then I was redundant. That meant that my career in teaching was essentially finished.

Unfortunately the nature of my insecure work has also been because of my husband's work—my ex-husband now—who was on contracts for a number of years. So to solve this issue of me being out of work as a teacher in Victoria we actually moved states. I went to South Australia and I retrained as a hairdresser and started working as a hairdresser. That industry itself is a very insecure industry to work for because it is dominated by salon owners. Even though there are award wages for hairdressers, salon owners do not necessarily employ hairdressers on those kinds of wages. I retrained—hairdressing is a very skilled occupation—and I found I was paid a very low salary at salons. I looked up the award today and the salary has not actually improved very much. So I got out of hairdressing and started relief teaching in South Australia.

I successfully had insecure work as a relief teacher. It was not permanent work; it was relief work, so I was on back-to-back contracts. Luckily my employers at the schools that I taught at always liked me, so I always had work. But you can imagine what impact that has had on my superannuation because I went from Victoria accumulating some super, then I switched to South Australia going into hairdressing and I had super arrangements there. Then I tried rolling over my super to try to amalgamate it all. But anyway, back to relief teaching.

I moved states again because my husband did not have secure work. So I went from contract work in South Australia up to Queensland where I was very lucky and I got back into teaching. I will not say I started at the bottom but I started relief teaching

because we do not have a national education system, and nor are the conditions in place where you can recruit teachers nationally. Every time you rove from one state to another, you have to start off as being a relief teacher and then going through those hoops to become a permanent teacher.

Luckily in Queensland I had more back-to-back contracts. I went up to northern Queensland to take up contracts. I left my family. At that stage, my daughter was very young, but I left my family to pursue work so we could pay a mortgage, for the first time at 35. From 20 to 35 I had rented all of my life. So I had to take up these contracts because, once again, my husband did not have secure work. I ended up in Queensland on contracts, but finally I won a permanent position in Queensland as a teacher, and this brought me a great deal of secure employment.

Just as I had permanency in Queensland, my husband secured a permanent job in the ACT, so I moved again. I ended up teaching in the ACT, and in the ACT I had relief teaching for about six years. I started off with day-to-day casual work and also I had contracts. It was insecure work in that it was on contract, but it was more secure because year by year I had contract after contract.

That was not my last stint with changing industries. I actually decided to leave teaching and went into the disability support area for about four years. I actually had a permanent job but I was made redundant because the client's circumstances changed. I was very happy being a disability support worker. I was happy with the conditions, but, unfortunately, I was made redundant after 4½ years. So I found myself back in the position of finding permanent work, which is where I end up today. I was very lucky and won a permanent position, so I have secure work.

So, the consequences: I have alluded to a few of the consequences of what has happened to me from 20 to 52. Some industries cannot offer people secure work. I mentioned teaching. It is not a national system so you are at the behest of whatever state you end up in. If we had a national education system with national recruiting guidelines, perhaps people would have more secure work.

The hairdressing industry: very low wages, no financial security, the consequence being a lot of financial insecurity. I also had financial insecurity just as a result of being on contract. In terms of my superannuation, it is a total mess. I have tried to amalgamate my supers and put it into one account, but the net effect of my super is that at 52 I have worked my entire life but I have very poor super and my old age with regard to supporting myself looks very bleak, and it is very disconcerting. You cannot plan for the long term with this sort of thing.

I suggested in my written submission that with regard to super, governments both federally and state might look at upping the employer contribution for casuals, although that would be a budgetary impact, of course, on employers when a lot of employers, government and private, are using business models to run their operations. So it would be a cost to them to up the employer contribution for casuals, but it would be one way of trying to bring some sort of security to casual workers later on in their lives when they will probably have very poor superannuation.

Another solution is to have companion legislative procedures. When you are thinking

about legislating about superannuation, for example, for insecure workers, why do you not also look at legislation relating to the age at which people retire. So you look at superannuation and you look at the age at which you are going to legislate for people to retire. When people have had insecure work is it reasonable to think they can access a pension at 67? It is going to be very difficult. So you should look at those two things together in a holistic way instead of just looking at legislation in a very compartmentalised way.

**THE CHAIR:** Thank you, Ms Yurtbilir. I will lead off with some questions. I want to talk about your time as a relief teacher. Working as a relief teacher, you get a phone call in the morning calling you in to work. At what time would that phone call be made?

**Ms Yurtbilir:** There are laws around employing teachers. Usually, schools need to ring by about half past seven. If they do not, they can be charged a higher rate. They usually ring by about half past seven in the morning, and you go to the school from that time.

**THE CHAIR:** What is that like? A person regularly gets up in the morning and waits for a phone call to know if they are going to work. Is that stressful? Is that tiring?

**Ms Yurtbilir:** Personally, it means that you have to plan your day around whether or not you are called in. I did not mind that because I needed the money. I would just wait for the phone call and then arrange my day if I did not get it.

**THE CHAIR:** Were there any detrimental effects of that? Did relationships suffer?

**Ms Yurtbilir:** In my case, I did have a marriage breakdown, unfortunately, although I am still friends with my ex-husband. The fact that I had moved states so that both of us could pursue employment was the thing that had the biggest impact on my life. I could not pursue the career that I chose initially when I was in my 20s, because I loved to teach. Moving from state to state and having no security of work caused quite a big impact on the relationship.

**MRS KIKKERT:** Are you working at the moment?

**Ms Yurtbilir:** Yes.

**MRS KIKKERT:** I love teachers. I love having my kids talk about their teacher who fills in for the day. They have so much fun. Is it casual work that you do at the moment or are you a teacher?

**Ms Yurtbilir:** I am not actually a teacher at the moment.

**MRS KIKKERT:** You are a relief teacher?

**Ms Yurtbilir:** No. I am actually out of that industry.

**MR STEEL:** Thank you, Ms Yurtbilir, for coming in and giving evidence. You have obviously had extensive relief teaching experience. Do you have any recommendations for us and for the government around how we could improve the relief teaching system to provide greater stability of work? How many relief teaching shifts, so to speak, or

days, would you get on a regular basis in the various jurisdictions in which you have worked?

**Ms Yurtbilir:** With the first question, industries will probably always have to have casual workers, and teaching is no exception to that. But if a teacher is on protracted, long-term relief, I think the government needs to look at ways to make that particular teacher more permanent. It may have changed, and perhaps the government have done that now, whereby if you have been on contracts for, say, two years, they will make the person permanent. That is one way of addressing it, to look at, if someone is long term, the possibility, if they want it, of making them permanent.

I was very lucky, because in Victoria, South Australia and Queensland, I was always employed full time, day to day. I was offered contracts. I was very lucky in that I got a lot of relief teaching, which helped my situation.

**MR STEEL:** You were working full time, in practice, but you just happened to be employed basically on a casual basis?

**Ms Yurtbilir:** Yes.

**MR STEEL:** Would that mean that you would have to go to a range of different schools? I am assuming you were in the major cities in those jurisdictions?

**Ms Yurtbilir:** Yes.

**MR STEEL:** So you would have to drive around to different schools?

**Ms Yurtbilir:** That is correct.

**MR STEEL:** Did that bring some challenges in terms of having to travel long distances?

**Ms Yurtbilir:** In the ACT, because of the small geographic location, it has never really been a problem. When I was in Adelaide, yes, there were some problems there, just because it is a very large city geographically. In Queensland I was driving from Brisbane up to the Sunshine Coast to work, so there were some bigger distances to travel there.

**MR WALL:** Thank you very much for coming in and joining us today. With your teaching experience specifically, is relief teaching something that is generally done by teachers who are newly qualified, typically, or at the end of their career? What is the typical nature of someone who takes up relief teaching work as opposed to a more permanent form of employment, or is it the option of last resort if you are unable to secure a permanent teaching position?

**Ms Yurtbilir:** In my case it was a result of landing in a state—I do not mean a psychological state; I mean a geographical state. I happened to move from one state to another, and we do not have portable teaching permanency arrangements. I was permanent in Queensland and I had to go to another state, and I was immediately a relief teacher because I could not transfer my permanency.

To answer your question, the reasons people are in relief teaching are varied. Some people just want to do relief teaching because it gives them maximum flexibility. Some people are not offered a permanent job when they get out of their training. If they want to stay in teaching, they may do relief teaching to get a foot in the door. There are varied reasons why people end up being a relief teacher.

**MR WALL:** How do the pay rates as a relief teacher compare to a permanent teaching position? Are they essentially one-fifth per day of what the weekly pay would be or are there extra incentives or loadings to accommodate the flexibility and insecure nature of the employment?

**Ms Yurtbilir:** Because I have been out of relief teaching for such a long time, I would have to look up the awards. I cannot do that. What I will say is that the daily rate for relief teachers has improved in the ACT. There are reasons why it has improved. The wages are not comparable across states, either. But the daily rate has improved in the ACT.

**THE CHAIR:** Thank you, Ms Yurtbilir, for coming in. We really appreciate that you have made the time to come and see us.

**Ms Yurtbilir:** Thank you very much for seeing me today. I really appreciate it.

**SULTANA, MR JASON**, Executive Officer, Apprentice Employment Network NSW & ACT

**WHITESIDE, MR JIM**, Treasurer, Apprentice Employment Network NSW & ACT

**THE CHAIR:** I now welcome representatives of the Apprentice Employment Network. Good morning, gentlemen. Thank you for coming in to see us. Witnesses are asked to familiarise themselves with the privilege statement that is in front of you. Can you please read the privilege card and confirm that you understand the privilege implications of that statement?

**Mr Sultana:** Yes.

**THE CHAIR:** Would you like to make an opening statement?

**Mr Sultana:** Thank you. I am the Executive Officer of the Apprentice Employment Network NSW & ACT. I am joined by Jim Whiteside, who is the General Manager of the Australian Training Company, which is one of the largest ACT group training companies here. He is also the treasurer of our association.

Today we represent 23 not-for-profit group training organisations that operate in the ACT and New South Wales. The group training model has been in existence for 37 years and since its inception the model has not varied greatly over that time. It has been a strength of the model and the system itself. The group training industry employs approximately one in nine of all apprentices and trainees in this country, and over 100,000 apprentices and trainees have successfully completed their qualifications through the assistance of group training in the ACT and New South Wales.

In the ACT, group training services are provided across all industries, and not just construction, which seems to be a focus in many of the submissions to the inquiry. The hospitality, aged-care, retail business, childcare and tens of other industries all employ apprentices and trainees through group training. We should not lose sight of this at all when we think about group training.

Group training is already a regulated industry, working to a set of national standards that have been in operation since the 1990s. The industry plays a pivotal role in creating opportunities for apprentices and trainees with small and medium businesses as well as large, many of which would be unlikely to engage in the training system without an intermediary such as the group training network.

Importantly—I stress this—group training is not labour hire. They are two separate industries. We would ask this committee to ensure that it recognises what our industry provides to business, how it is actually structured and regulated and what it has produced for the ACT economy over the years. This should be heavily considered with any recommendation this committee may decide as a result of the inquiry, particularly having heard some of the earlier discussions today around the Queensland model, where they are now licensing labour hire, and group training has been tagged in that. Our recommendation is that group training should not be licensed because we are already a regulated industry.

We also recommend to the inquiry that no business that provides labour hire services have the ability to employ an apprentice or trainee by any third party unless they are a registered—and the key word is “registered”—group training company in the ACT, and they fulfil the requirement stated by the national group training standards and the governing body in the ACT for apprenticeships and traineeships, Skills Canberra.

We thank the standing committee for the opportunity to appear today at the inquiry, and we welcome any questions that you have.

**THE CHAIR:** Thank you, Mr Sultana. I will lead off with questions. You mentioned a couple of times that group training organisations are regulated.

**Mr Sultana:** Yes.

**THE CHAIR:** Do you have any views on the effectiveness of that regulation?

**Mr Sultana:** In the sense of whether or not it has been successful?

**THE CHAIR:** Yes.

**Mr Sultana:** As the model has been around for 37 years, I would say it would be. Can it always be improved? Absolutely. It is one of those evolving things with new technology, new occupations and the like. Because it is regulated, because of the different requirements that we need to meet, with the standards and within the relevant state acts to deal with apprenticeships and traineeships, I think it is a model that has worked. So the answer to your question is yes.

**THE CHAIR:** Do you have any suggestions on maybe how that regulation could be improved? Are there any areas that are causing problems? Are there any areas where you think there has been an oversight?

**Mr Whiteside:** The standards have just been reviewed and agreed by each state and territory. The big outcome from the standards has been their effectiveness in getting organisations to improve processes and procedures. I think that the standards have been very effective, and their effectiveness has been in getting organisations to review continually their processes and improve upon them.

**Mr Sultana:** That was part of the reason why the standards were implemented in the 1990s, to improve quality, to lift what group training provided to ensure that there was a level of consistency. Also, at that stage the relevant state and federal governments were funding that industry through incentives and the like. That was a way to ensure that a certain standard was being reached.

**THE CHAIR:** We had some testimony this morning where a situation was explained to us where an apprentice through a GTO was essentially subcontracted out to another company to, in their view, essentially provide supplement labour in that situation. That sounds like a terrible situation. Do you think that occurs frequently in the sector?

**Mr Sultana:** Was it a GTO or was it a labour hire company that employed that apprentice?

**MR WALL:** A labour hire company.

**Mr Sultana:** Because that is a difference. This is why I come back to labour hire and group training: they are two separate businesses.

**THE CHAIR:** I thought he said it was a group training organisation up in Queensland.

**Mr Sultana:** No. That is a registered training organisation. With apprenticeships and traineeships, you have an employer, which is either the group training company or the employer themselves, and then you have someone that has to come in and deliver the training, which they call a registered training organisation, an RTO for short. The reference that you are talking about in this morning's hearing was where a registered training organisation came in to deliver the training but they were not the employer. I stand to be corrected, but that is if this is the reference that Vince Ball was talking about this morning.

**MR WALL:** For clarity, the apprentice was hired by the labour hire company.

**Mr Sultana:** The labour hire company, yes.

**MR WALL:** And the RTO who was responsible for overseeing the training was based in Queensland.

**THE CHAIR:** Okay; thank you for clarifying that.

**Mr Whiteside:** In answer to your question, every apprentice or trainee employed by a GTO has a training plan that indicates, over the course of their employment, the sorts of skills and experiences they will be exposed to. While there can be instances where the jobs may not directly relate to that training plan, for the major part of their employment it is fairly well designed in terms of the tasks that need to be done.

**MRS KIKKERT:** I note your recommendation 3(i) on the limits on the ACT government's legislative and regulatory powers in relation to industrial relations and related matters. Can you expand on the limit of the ACT government legislation at this time? What do you mean?

**Mr Sultana:** Sorry, can I just make sure I am referencing the right point that you are referring to.

**MRS KIKKERT:** It is 3(i), the limits on the ACT government's legislation. What are the limits, and how—

**Mr Sultana:** If I am interpreting this in the right way in what you are asking here, the apprenticeship and traineeship act in the ACT has a set of rules on how you can have an apprentice or trainee in this state. You have also got relevant WorkCover legislation plus fair work and other general employment legislation. I am not sure if there are any other ones that you are referring to. That is directly from the inquiry, what the title was.

**MRS KIKKERT:** Thank you.

**MR STEEL:** I was wondering if you could explain to us the transition that happens when an apprentice or a trainee has completed their program, how they transition into a job and what sort of job outcomes your members have achieved?

**Mr Sultana:** I might just ask Jim to talk about as an operator in the ACT first; then I will talk about the industry.

**Mr Whiteside:** The pathway upon completion can vary. If an apprentice or a trainee has done the majority of their time with a single host organisation and shown their worth, they are generally offered an ongoing job with them. In the case of many apprentices, if they have spent four years learning their trade with one host, they would generally choose to move. It really comes down to a matter of choice. You are talking about someone who, in all likelihood, started as a 17-year-old or 18-year-old and is now 22 or 23. They may be looking for a change. So there is not a straightforward answer to your question; it is life. But generally anyone who has shown their worth gets offered an ongoing job.

**MR STEEL:** Do you have some figures around the percentage of job outcomes?

**Mr Sultana:** It would vary between industries and it would vary between group training organisations and the type of employer, whether it is a small business operator or a large organisation. The larger the organisation, the more capabilities and structure they have, and ability, to take on a person when they complete. A lot of companies in the ACT and New South Wales value what apprenticeships and traineeships are about. It is not about just training and churning and burning them through; it is very much about skilling their workforce to grow their business. With that time and investment they are putting into these individuals, the last thing they want to do, the majority of the time, is to let them go. They actually want to build up their business base with their strength and knowledge. While I do not have a percentage of how many are retained after they have finished, it is not generally in the best interests of an employer, if they are going to spend three or four years with an apprentice, to let them go, unless their philosophy is about educating and continuing to educate people through the system.

**MR STEEL:** Is it another pathway into another form of training?

**Mr Whiteside:** Certainly.

**MR STEEL:** Wanting to upskill?

**Mr Whiteside:** You could look at small business training in terms of some building and construction jobs. People go on and get a builder's licence.

**Mr Sultana:** If you think about business, think about child care, there are some pathways. You can start a certificate III in child care and move to a diploma after that, which is another apprenticeship, like another traineeship. In business you can do a certificate III, certificate IV, diploma and so on. It is not just do one and out you go. With a lot of the traineeships, there are various levels. Within trades, it is predominantly your apprenticeship that you complete, but then you can go on outside an apprenticeship to continue further study, university or other licensing, depending on the industry and

that sort of thing.

**MR STEEL:** Is there any formalised undertaking with an employer that they would employ someone should their traineeship be successful?

**Mr Whiteside:** No.

**MR STEEL:** Is that formalised in any way?

**Mr Whiteside:** No.

**Mr Sultana:** We encourage it. It would be a great incentive for the ACT government to put in a program to encourage that transition through, particularly with apprentices and looking at ways to instigate some small business training that might help them set themselves up as a business, help them put something back into the system so they can take on apprentices and the like. That is something that could be considered as part of this whole process: it does not stop when they finish their trade; it is about how we get them to be the next level of alumni, for a better way to describe it, for apprentices, to give something back to the community and take on apprentices and set themselves up themselves. It is a small business model, an A to B model, but that can be a great thing that can help this economy grow.

**MR STEEL:** Thank you.

**MR WALL:** Thanks for coming in this morning, gentlemen. A number of the submissions that the committee has received are from various trade unions, and some of them have been rather critical of group training organisations. Why do you think that is, from your perspective?

**Mr Sultana:** It is hard to say, because I have not been heavily involved in those particular situations. I think they are looking at one particular organisation with a particular industry. This is one of the things I come back to at the start: this is not one industry; group training is a broad industry. If there are issues between two organisations that are fighting between each other, we have not been involved in that.

**Mr Whiteside:** I do not think we can answer your question directly. But group training organisations put a lot of effort into finding opportunities and making it easier for potential employers to start someone. In the course of doing that, if there is no longevity, we will try to find subsequent placements to cover the duration required to have a qualification issued. Whether or not the union movement has an issue with that, I do not know. I would think that the GTO worth is in establishing opportunities.

**MR WALL:** What benefit, then, is there for a business operator, a qualified tradesperson, to take on an apprentice through a group training organisation as opposed to hiring an apprentice directly themselves?

**Mr Whiteside:** They avoid the machinations of recruitment, the need to identify someone, the need to sit down and talk with a whole range of people about what their aspirations and skills are, the need to induct them into a workforce. They may not have a back-of-office set-up to establish payment of wages on a frequent basis, to organise

superannuation or worker's comp policy.

The other benefit that GTOs bring is an ongoing discussion between the parties about progress and about skill acquisition, about whether or not there have been any issues in terms of communication, personal relationships. It is about making sure the parties are all open and honest with each other, resolving any potential problems before they are too inflamed and cannot be resolved, and making sure that the individual progresses at a fair rate through their formal learning. That is a whole range of tasks that new and experienced small business operators would find daunting.

**MR WALL:** I guess typically the story is of an electrician or a plumber operating out of their van as a sole trader needing a bit of extra help, wanting to give back. Taking on an apprentice under a group training arrangement alleviates a lot of the back-end administrative and regulatory red tape.

**Mr Whiteside:** Absolutely, yes.

**MR WALL:** They simply pay one invoice and get the assistance, and the apprentice gets the work experience and the training.

**Mr Sultana:** At the end of the day, for a small business operator, their specialty is their trade. They are not an HR expert. Our core business is apprentices and trainees. We generally may have a training organisation on the side or whatever, but that is our core business as an industry. That is what we specialise in. We become another arm to their business. Not only do we look after the apprentice, but we start looking at work health and safety, we look at better management of their staff, and we provide supervisory training and other aspects as well.

**MR WALL:** Thank you.

**THE CHAIR:** Last year in the ACT there was a 16-year-old kid who fell seven metres. He was working through a GTO.

**Mr Sultana:** Yes.

**THE CHAIR:** We talked about the successful regulation of GTOs. Is it the case that we have great rules written down but that maybe when it comes to enforcement, how it actually plays out on the ground, things go wrong?

**Mr Whiteside:** I do not know that "enforcement" would be the right term. You are traditionally looking at a cohort of males, generally under 21. They are risk takers in a lot of ways. Behaviourally they need to be hemmed in a little. Without knowing the specifics of the incident that you are talking about, you are trying to demonstrate to people what is required in order to ensure their own safety. That can be a hard message to get through to this cohort.

**Mr Sultana:** One of the things I would add to that is that group training is extremely conscious about safety. The ACT is the most expensive state in the country to employ an apprentice through, particularly if there is an injury. The premiums are the most expensive in the country. From our industry's perspective, every intention is there to

ensure that no accidents happen in the workplace because of the impact it will have on business, particularly on not-for-profit group training organisations.

**THE CHAIR:** I see the point you are trying to make. I am a younger gentleman myself. Construction sites are dangerous places. A 16-year-old is in many ways quite self-aware of their limitations in the world. I can also see in some places how they might not know their limitations. But they are still a 16-year-old kid. There is a responsibility. This is meant to be a place of learning for them. Something has gone seriously wrong here when someone in a place of learning is getting injured. How would it come to be that someone in a place of learning gets injured? Is that because they are a hothead or is that because, whilst they are learning, they are not getting properly looked after?

**Mr Whiteside:** It could be any number of reasons.

**Mr Sultana:** Yes.

**Mr Whiteside:** It could be lack of experience of the supervisor. It could be lack of knowledge of the task being performed. It could be an induction issue. They are all the sorts of things that you try to take into account and cover off on.

**THE CHAIR:** See, this is what I am getting to. I understand that there are a lot of laws and there are a lot of rules in this sphere, and a lot of them are very good. But ultimately the crux of what I am getting at is that having them written down does not do much if people are not following them. If people are not looking after a 16-year-old kid on a construction site, something has gone wrong. Would you agree with that?

**Mr Sultana:** I understand the situation.

**Mr Whiteside:** I certainly agree but that is not the norm.

**THE CHAIR:** How do we change things so that in what are hopefully very rare circumstances—and they are rare—they do not happen? Do you have any suggestions on that front?

**Mr Whiteside:** Certainly as Jason was alluding to, the workers comp system financially penalises anyone who allows it to happen, but that is after the event. The only way to build on prevention is through knowledge. You literally need to come up with more information, upfront, around what is acceptable, what is safe, what you should and should not do.

**Mr Sultana:** And it is in the reiteration of it, and it has got to be constantly drilled. You just cannot do it once or twice. With that age group, you have got to do it constantly. It is like driving. A young person is the safest driver while they are on their Ls because they have got someone constantly with them. Once they get their Ps and they are left alone, they become the highest risk to become injured in a car. It is no different in the workplace. It is their confidence. When they get to do a task, they get exposed again to it.

**THE CHAIR:** So supervision is key to it, you think?

**Mr Sultana:** Supervision is key. But it is also the reiteration of training and constant toolbox talks, if it is the construction industry or whatever other industry it is.

**MR STEEL:** I take the point that these circumstances may be rare, but it has been put to us that GTOs who have not met health and safety standards should have their funding reviewed and essentially withdrawn in extreme circumstances. Is that something that you would support?

**Mr Sultana:** Funding for an ACT group training organisation? There is no ACT funding other than for the construction industry.

**MR STEEL:** I think we are talking about federal funding here.

**Mr Sultana:** Federal funding? There are financial incentives for taking on an apprentice or trainee. The critical thing will be not about the financial incentives, it is all about your registration. This is where I come back to our recommendation: if you want to operate as a group training organisation, you need to be a registered group training organisation with Skills Canberra. Then that will ensure that Skills Canberra, if people are not fulfilling the requirements of the apprenticeship and traineeship act, have the right to deregister the group training organisation to operate in that state. They can refuse to accept their training contracts every time they want to take on an apprentice if they are not doing the right thing, not only by the ACT government but also by Skills Canberra and the actual apprentices and trainees. There are already those mechanisms in place. If they actually wanted to do something, they could do that right now.

**MR STEEL:** Do you think that you already have mandatory health and safety requirements you have to meet? It has been put to us that we need to introduce them but I am just trying to get a sense about whether they currently exist.

**Mr Sultana:** As an industry I will say yes. Each individual group training organisation may have various levels. They have got a minimum standard they are required to meet obviously by the ACT safe work side of things but also through the national standards.

**Mr Whiteside:** That would be no different to any employer.

**Mr Sultana:** Can we improve? Everyone can improve, not only group training organisations but all organisations. Safety is obviously a critical thing. But you can never stop learning. You can never stop training in that area. It is a matter of keep refreshing and keeping up to date with the latest trends and whatever it is.

**MR WALL:** Just as a follow-up, you have highlighted the importance of training and reiterating safe practices in work settings but what importance then, particularly dealing with young people, does self-awareness and personal responsibility have as well? Coming from the construction industry, you can scream until you are blue in the face about safety sometimes but it is not going to stop the individual going off the reservation and doing the wrong thing.

**Mr Whiteside:** That is why it is such a tough area to tackle. All we can really do is continue to reinforce the importance of safety for you and for those around you, highlight what is a potential hazard and how to minimise risk, make sure the supervisors

are aware and keep an eye open; yes, constant reinforcement.

**Mr Sultana:** We as an industry association get together with the work health and safety managers because predominantly a lot of the group training companies who operate in the two states are based in Sydney. So we will get them together and we will have a chat every quarter about relevant injuries or relevant situations that have occurred and ensure that we are all talking between ourselves about what is going on in the industry to address issues but also to ensure that we all understand some of the things that they may not have the experience to be familiar with.

**THE CHAIR:** It is my understanding that you do not want to see labour hire companies employing apprentices.

**Mr Sultana:** Unless the labour hire company goes through the process to become a registered group training company and fulfils the requirements of group training regulations. Then that is not a problem, because there are organisations out there like Programmed which is a labour hire company but also a registered group training company. I have got no issue with a labour hire company becoming a group training company so long as they fulfil the requirements to the standards and they go through the registration process of Skills Canberra so that we are all the same.

**THE CHAIR:** Why is that? Why do you want them to go through that process to become a GTO? What is the fault in them not having that?

**Mr Sultana:** They are not answering to anyone. Labour hire at the moment does not answer to anyone in that sense. Group training has a requirement to meet certain standards. You are required to answer to Skills Canberra and you have got obligations under the apprenticeship and traineeship act to fulfil. And that is, again, a point of difference of why this system works.

**THE CHAIR:** Thank you for that, gentlemen.

**Mr Sultana:** Thank you very much for the opportunity.

**THE CHAIR:** Thanks so much for coming in. We appreciate you making the time.

**Mr Sultana:** No problems.

**Hearing suspended from 12.22 to 1.48 pm.**

**DAVIDSON, MS EMMA**, Deputy Chief Executive Officer, Women's Centre for Health Matters

**THE CHAIR:** Welcome back, everybody. Witnesses are asked to familiarise themselves with the privilege statement that is in front of you on the pink sheet. Can I ask that you confirm that you have read it and understand the privilege implications of that statement?

**Ms Davidson:** Yes, I have.

**THE CHAIR:** Ms Davidson, would you like to make an opening statement?

**Ms Davidson:** Yes, I would, thank you. I would like to acknowledge the traditional custodians of the land on which we meet today and pay my respect to the elders past and present. I extend my respect to any Aboriginal and Torres Strait Islander people who might be present today.

The Women's Centre for Health Matters is here to talk about the impact of insecure employment on ACT women. The Women's Centre for Health Matters is a community-based not-for-profit organisation working in the ACT and surrounding region to improve women's health and wellbeing through health promotion, social research, community development, capacity building, information provision and education and advocacy.

I want to tell you a little bit about some of the women that we are here to represent today. I refer, for example, to a woman called Vicky. She is in her late 50s. She is a carer for her ageing parents. She does not have any superannuation because she was in her 30s when the superannuation guarantee laws came into effect and by that time she was already working part time and earning under the dollar limit for superannuation while she had young children. She is now working on contracts and she has no sick or carers leave and no holidays.

Another young woman named Sarah is in her 20s. She is studying early childhood education, and she has plans for becoming a teacher. While she is studying, she is working casually in child care. But she is not actually earning enough to move out of her parents' home in Canberra, even though she is working full-time hours, because the hourly pay rate is so low, and she is on a casual contract.

Joanna is in her 40s. She has school-aged children. She is a migrant. She has professional qualifications but she cannot get work in that profession because Canberra, being the kind of city it is, means that just having permanent residence is not enough; you really need citizenship to get a good job here. She is working casually in retail to support her family but she cannot get a private rental lease without a permanent job and because she is a single-income household.

With respect to some of the issues for women, they have higher unemployment. The latest figures from the ABS labour force data show the unemployment rate for males in the ACT, seasonally adjusted, is at 5½ per cent; for women it is 5.7 per cent. They have high underemployment. Again, in the July ABS labour force data, the figure for men,

seasonally adjusted, in underemployment as a proportion of labour force is 6.9 per cent; for women it is 10.9 per cent. They have low hourly pay rates—they are working in industries with low pay, like health care and social assistance. That is child care and aged care—community sector work—retail trade and accommodation and food service. They are facing increasing casualisation and contract work and the loss of penalty rates as well, which has a big impact, particularly on students who are working outside the normal nine to five range.

Why are women taking these jobs? For a lot of them it is a matter of survival. They are taking the only jobs that they can get that fit in with their other obligations. For some women it is a stepping stone in their career while they are studying, and for some it is a vocation, particularly for people who work in the community sector or who are working in the care industries. It is something that they really feel strongly about.

The things that they are experiencing are basically around vulnerability to exploitation by employers, because they know how much these women need these jobs. It has an impact on their housing. Housing stress in the ACT is highest among workers in the retail and accommodation and food services industries, at 43 per cent and 33 per cent respectively. It has an impact on their families: making those hard choices between being there for your family and keeping your job. And it has an impact on their health and wellbeing. They do not have sick leave. They do not have carers leave. They do not have holiday leave.

What these women are looking for is decent, permanent work that pays a living wage, to be treated by their employers as human beings, not just as tools for getting units of work done, and respect. That saying of “you work to live, you don’t live to work” really only works if your job is actually paying a living wage and has enough security that you can genuinely negotiate the terms of your employment. For many women, there is really no possibility of that happening. And the employers know this in some cases.

If we can improve women’s employment security and their hourly pay rate, that will have a positive impact on homelessness, physical and mental health outcomes and safety, and outcomes for their children and families.

**THE CHAIR:** Thank you. I will lead off with questioning. You mentioned just at the end very briefly something I was hoping you could expand upon, that is, the impact on people’s health from working in insecure work. Could you expand on that? Is it physical, is it mental or is it both? How does insecure work actually affect it?

**Ms Davidson:** Yes, it absolutely impacts on both of those things. When people are working casually or they are working under contract, they often do not have any form of sick leave or carers leave. For women, in particular, they are often expected to be the carers for other members of the family. So it is not just their own health, if they get sick; it is about whether they can take leave to look after other people as well. They have to make some hard choices and they are putting themselves and their own health and wellbeing last.

The other problem is that because they do not have any holiday leave and because they do not have enough confidence in the labour market to be able to take an unpaid leave break in between contracts—what if you do not get another contract?—they are not

actually taking holidays. So there is never any break from the work.

The other difficulty is the industries that these women are working in. If they are working in retail, women talk about having to be on their feet all day from 8.30 in the morning until almost 6 o'clock at night when the shop closes, and not really getting much of a break. Similarly, in hospitality, particularly for women who are students or doing that work at night because they have other obligations during the day—perhaps they cannot afford child care, so they are taking a job where they can work at night—for those women there really never is any break. They are effectively doing two jobs—they are doing an unpaid job and a paid job. The paid job comes with no leave provisions and not enough of an hourly pay rate to enable them to take their own unpaid leave.

**THE CHAIR:** Could you expand a bit more on the effects on people's mental health?

**Ms Davidson:** Yes. Some of the women talk to us, in focus groups and in our research, about the lack of respect that they get and the lack of understanding from people about the toll that this work takes on their own mental health, particularly in the care sector, where they are actually providing care for other people. They have talked about things like having to constantly be thinking about their work and be doing preparation for their work in between shifts. They are not actually getting paid for that but they are still doing the work, and they are never actually getting any downtime from it. Some of them have talked about leaving the care sector, with its low hourly pay rate and no leave and the toll that it is taking on their own health, and taking up jobs in things like cleaning. We have heard from women who have said that they are leaving the sector and taking jobs like that because at least there is no preparation to do in between time. You go and do the job and then it is done.

The downside, though, is that they are using words like, "I'm scared about whether I'll be able to find work in the ACT or find enough work compared to other cities." Apparently, the ACT is quite a difficult place to find work if you do not know people. It is not easy.

**MRS KIKKERT:** How are these women seeking help for their mental health?

**Ms Davidson:** Particularly for the women who are working in the care sector, it is very difficult because they are working in organisations that know what these issues are about, but they are not actually able to take the leave that they need in order to take care of themselves. It is ending up burning them out and they are leaving the sector altogether. We need to make it possible for people to do these jobs long term without burning them out in the first place. If we could do that, we would not have to look at how we support them after the fact. Prevention is always better than the cure.

**MRS KIKKERT:** I agree.

**MR STEEL:** You mentioned the large number of women who are working in the early childhood sector. There are also other people, including people who work in the early childhood sector, who are parents and require childcare arrangements themselves. Can you comment on how the stability of one's work might impact on their childcare arrangements and changing them, which I know can be quite difficult?

**Ms Davidson:** Yes, it is particularly difficult for people who are working casual shifts, and those shifts change. Women have talked to us about the difficulty of having said to their employer, “Look, on these particular days of the week, I can’t work at these times of day because I have children of my own and that’s when they get home from school and I have to be able to pick them up,” and things like that. The employers are not always taking notice of that and they are finding that they are then rostered on for shifts that they have a problem with because it is that exact time they said they could not do. They then have to call in favours from other people or things like that. They do not feel like it will be okay to say no to their employer because it is a casual short-term job, they need the shifts and they need the money to pay the rent and survive. That is causing some major stress and anxiety for them.

**MR WALL:** Ms Davidson, recommendation No 4 from your submission talks about strengthening the alignment between vocational education and training and local employment opportunities. What work do you think can be done in that space? Do you have any initiatives that you or your organisation have in mind that would help bring about those synergies?

**Ms Davidson:** Yes. Some of the women in our research have talked to us about employers’ expectations that you will look after your own training; you will come to the employer fully trained, ready to hit the ground running and know what to do. But there are gaps where they do not know things, some of the basics about IT literacy, computer training and things like that.

It is also about keeping their training and skills up to date. Employers are not providing that for casual and contract employees. They are not investing in them because they are not permanent staff, and that is a major problem because that affects their ability to get the next contract and the contract after that. After a certain period of time, it just gets harder and harder if they cannot keep their skills up to date. And they do not have the money. These jobs that they are in, because we are talking about community sector, care work, retail and hospitality, have some of the lowest hourly pay rates in the country. They do not get paid enough to pay huge sums of money for private training courses. It is something that we really need to work on.

**THE CHAIR:** Several of your recommendations relate to procurement reform. Why do you think procurement reform is the way to deal with insecure work?

**Ms Davidson:** It sets a standard. There are quite a few private sector organisations that look to what the public service is doing and what the ACT government is doing as the standard for, “We have to compete with that.” In part, that is because they are competing for staff with public service and so they are looking at, “Okay, I need to be offering them similar terms and conditions.” It sends a message to industry that this is what we expect. “We expect you to be doing the right thing here.”

**THE CHAIR:** We have heard from a range of groups that have suggested something similar. Are there any particular aspects that your organisation would be interested in in procurement reform? Are there any essential components, in your view?

**Ms Davidson:** It would be hard to pick out one over another. Generally we would agree

with what ACTCOSS is saying on these issues, because they look quite a lot at procurement form as well.

**MRS KIKKERT:** Out of curiosity, how are you helping women find work that they are comfortable with? Are you providing workshops for them, helping them write out their resume for those people who are not able to? Is there a certain time frame that you help them out in?

**Ms Davidson:** The Women's Centre for Health Matters is primarily there to work on women's health issues. We are looking at insecure employment as one of the socioeconomic determinants of women's health, and what we primarily do is things like research and advocacy. We are not a direct service-providing organisation.

**MR STEEL:** One of the consequences of insecure work that have been raised with us by your organisation as well as others is the impact on finding affordable housing, and you touched on the difficulty in being able to secure a rental property. What other impacts might it have in terms of homelessness and also the ability to get finance for a mortgage?

**Ms Davidson:** What we are finding is that, for women who do not have a permanent job, getting a mortgage is out of the question. People are not going to lend money to someone who does not have a permanent job. It is not going to happen. With the rise of things like the gig economy and contracting and casualisation, there are a lot more people out there who are working on contracts. They may well be rolling contracts in some cases but there is still an end date to it and there is no guarantee that you will get another one.

For people who are not actually trying to get into the home ownership market, for people who are in the private rental market, it is also difficult because, with the heat that there is in the private rental market in Canberra at the moment, landlords are able to pick and choose from a number of applications for their property. They are not usually going to choose the person who does not have a permanent job, particularly if it is a single-income household.

**MR STEEL:** And do you think that that is leading to homelessness as a result?

**Ms Davidson:** Absolutely it is. There are people who are finding it impossible to find a safe, secure place to live now who, in past generations, would not have had that issue. And it is that combination of the rise of insecure employment and the level of heat there is in the housing market.

**THE CHAIR:** Going through your submission, there are references to the ACT encouraging employers within the ACT but then you also talk about the ACT government itself being a more flexible employer. Could you expand on that? In what way should be the government be more flexible?

**Ms Davidson:** Some of the women who have participated in research with us have actually been trying to get work in the ACT public service. They are finding that quite difficult. For example, legally you might be able to get work if you have got permanent residence but they are finding that actually, if they do not have citizenship, their

application is just not getting looked at. They are finding that increasingly it is quite hard to get work that has part-time hours that fit in with their other obligations to providing care to family members and things like that.

With a lot of these jobs even in the public service now, there is an increasing use of contracts and things like that and it means that they are not able to take holiday leave. They cannot get a break from work at any point because what if you cannot get another contract? So they are just looking for contract after contract and never actually getting permanent. And that is quite a problem for them.

**THE CHAIR:** Thank you for coming in.

**WATTS, MS HANNAH;** Acting Director, Youth Coalition of the ACT  
**CUZZILLO, MS REBECCA,** Policy Director, Youth Coalition of the ACT  
**KENNY, MR TAYLOR,** Sector Development and Policy Officer, Youth Coalition of the ACT

**THE CHAIR:** Witnesses are asked to familiarise themselves with the privilege statement on the table, the pink sheet. Please ensure that you have read the privilege card and that you understand the privilege implication before you speak. You have read it. With that, I will ask: do you have any opening statements?

**Ms Watts:** We do. Thank you for the opportunity to come to speak today and to put a submission into this inquiry. Issues around employment and young people are something that I guess the Youth Coalition has advocated on for a long time and it has been a key area that we have focused on in the past few years. So we think it is really great that we can be part of this.

I guess one of the reasons why it is so important to us and to young people is that employment affects many areas of life. Housing, physical and mental health, education, social connectedness, all those things that are really important to young people are linked to employment and employment issues. And young people are a population group who are more likely to be impacted by insecure work, one of the key groups who are impacted by that.

It is due to a number of factors, casualisation of the workforce being one of them, and also, of course, that young people are often employed in industries that rely heavily on casuals—things like hospitality, retail, tourism. Often young people are employed in these jobs while they are studying, which is kind of why, as they get older, they get out of it. But many young people do end up in those industries for a long time after they have finished studying because they cannot get other work. So it is not just young people who are studying and doing that, it kind of continues on.

Last year we did a survey of young Canberrans. We had over 2,000 young people respond to our surveys, and there is a report, *Rate Canberra*, which you may be familiar with that we put out from that research. Seventy per cent of young people who responded to that survey and who were working—yes, 70 per cent of those— were employed in retail and sales and in hospitality and tourism. It is a large number of young Canberrans who are affected by insecure work, and job security is not something that is common for a lot of young people.

One of the issues with insecure work is that it also relates to underemployment. That is something that does not get talked about a lot, but in the *Rate Canberra* survey, 53 per cent of the 16 and 17-year-olds and 61 per cent of the 18 to 20-year-olds said that they would like to increase the number of hours that they were working. This is young people who are in employment and are not captured by unemployment figures but who want to work more and are not getting the opportunity.

We think that having a better understanding of the extent and the impact of underemployment, particularly in insecure work, is really important to understand what is really going on for young Canberrans. It also impacts on emotional wellbeing. A lot of young people talk to us about the things that worry and affect them. Employment is

one of their top concerns. It is not just something that they think about, it is something that actually is having an impact on how they are feeling about their lives.

Employment and insecure work help to paint a bigger picture of what we know and understand about young people that we are working with and who are in our community. We also know that things like junior pay rates are a real issue of concern for a lot of young people, particularly those who are living independently: young people whose families cannot support them while they are living in Canberra and studying or young people who have had to leave home. And that is not just over 18-year-olds. In homelessness services we are expecting 16 and 17-year-olds to be financially and in every other way supporting themselves, but they are getting a very low rate of pay when they are trying to work. So that also impacts on things.

It is the young people particularly who are more adversely affected by insecure work. There are often groups, I guess—and that is not all young people but, for example, young people who are from a multicultural background and young people who are in an out of home care experience—of young people who are trying to live independently and who are really struggling. And insecure work is one of those things.

We have got a lot of things that we will talk about, but we also have Taylor, who is a young person who has been working with the Youth Coalition for about 18 months, and he really, I guess, has a few experiences working in other places in Canberra. If I can just hand over to him, he has prepared a bit of a story that he wanted to share with you guys as well.

**THE CHAIR:** Of course.

**Mr Kenny:** My first full-time salaried job was working as store manager of a fast food franchise and it came about that I was told by my doctor that I needed to get surgery and I was going to be immobilised for two weeks after the procedure. Naturally I approached my boss to request that I would schedule in sick leave, being able to provide all the necessary doctors certificates and all that kind of stuff. And then my boss informed me that as I was nearing the end of my 12-month contract it would be wise to save my sick leave so that I would get paid out at the end. I would end up with a bigger payout and it would be more beneficial in the long run for me to have that.

Being my first salaried position I was completely unaware that you do not get paid out for your sick leave and that any remaining sick leave is null and void when you leave that position. After being convinced that it would be better for me in the long run, I agreed that I would not take sick leave for that time and instead took leave without pay. After struggling through a couple of weeks of having no income, having the extra expenses of medical bills and medication and all that kind of stuff to deal with the surgery and I guess the repercussions of that surgery, I returned to work only to be informed by my employer that it was never actually going to be possible for me to be paid out for that sick leave.

**Ms Watts:** I guess that one of our key recommendations is really around education and how important that is. Young people need to be better educated on what their rights are. I think we are really great at educating young people on what their responsibilities are as employees and not so much on what their rights are.

But we should also be making sure that employers really understand that it is not necessarily the case that they give an employee a massive handbook and expect them to understand everything that is in that. When employers are taking on young people they might need to think a little differently about how they make sure young people really do have an understanding of what the procedures are in applying for leave, accessing sick leave or living up to obligations on both sides.

**THE CHAIR:** I will lead off with questioning and we will make our way down the line. When we talk about insecure work we often spend a lot of time talking about hospitality and retail. There is traditionally a very large younger cohort working in those industries. But I would generalise that casualisation affects all age groups in those industries. Are there any industries where insecure work affects only young people and not the older cohort in that workplace that you can think of?

**Ms Watts:** I do not know; not off the top of my head.

**THE CHAIR:** Or do you think any casualisation affects all age cohorts equally?

**Ms Cuzzillo:** I think what happens with casualisation of the workforce is that it tends to happen in specific industries. While it is happening across the board, it is happening in those industries that are more likely to be employing young people. Therefore, they are more adversely affected. But that does not mean that the older cohorts who work in those industries are not also affected by that casualisation. Insecure work affects all sorts of different groups and young people just happen to be one of them.

**Ms Watts:** I would say that an area where young people might be more affected would be in things like just general life experience. I know how to set a budget. I have been in the workforce long enough that I have a bit of money saved up so that if I ever lost my job for whatever reason I have a bit of a backup there. I also, I guess, have a better understanding of how to manage my money or where I can go for help.

For young people I would say that that would be an area where they would not necessarily have that. They do not have that, I guess, life experience to know. They have not had a chance to save up so they have a bit of a slush fund or a backup fund like probably many of us do. They also do not necessarily know where to go for help, yes. That would probably be why young people might be more affected. But it is pretty general.

**MRS KIKKERT:** I have a quick and very simple question. Thank you for coming in. In regards to your experience before about not feeling you were educated enough to find out your rights, does the Youth Coalition offer some sort of workshop to teach the youth about their rights at work? I am thinking that some youth are not confident enough to speak to their employer about those sorts of rights. They want to speak to somebody that they trust. If they come to Youth Coalition quite regularly, do you offer some sort of support system or a workshop where you train them to understand what their rights are in workplaces?

**Ms Watts:** It is not something that we offer currently. It does not really fit under what we are funded to do. If you would like us to do that, great. But like a lot of the services,

you do that support of young people. You have individual youth workers who, if they have young people, will make sure that they understand what their rights are or are aware of where they can go.

I think the role of the front-line youth workers is really important in making sure that those young people are supported. It is not really something that is the role of our organisation, but it is certainly something that we think is really important, that that information is available, that it is not just through schools or through employers but that the community does have a responsibility to understand how they can support young people.

**Ms Cuzzillo:** There are a number of services in the ACT that run some employment programs. Most of the homelessness services will have a life skills program built in. But also BCS has a youth employment hub. The Multicultural Youth Services also run an employment program. Part of that includes education for young people. I suppose it is happening in an ad hoc way rather than in a systematic way. Those services would be filling in the gaps for where they feel young people are not getting educated in other parts of their lives. It would be good to see it happen systemically.

**MRS KIKKERT:** Do you just do referrals to those agencies that offer that service?

**Ms Cuzzillo:** Yes. If we ever get phone calls or inquiries about this—often just because of the name of our organisation, we do get calls from concerned parents or young people—we will put them in touch with the people. It might be the Youth Law Centre or one of the employment services, like one of the services who are doing that. We try to refer to whatever is appropriate but, again, that takes someone kind of knowing that they can ask for help, whom to ask for help and actually doing that.

I think one of the really big problems is that young people who are maybe being exploited or taken advantage of do not know that they can ask for help or do not realise that they are being taken advantage of. Like Taylor said, he did not know that he was being told the wrong information. He only knew that after it came up in a conversation we had after he started work with us. He was like, “Oh my gosh, I can’t believe they did that.” Yes, they should never have done that. It is really about taking the initiative to make sure that people know what they can do before they have a bad experience.

**MR STEEL:** Thank you for coming in and thank you for your submission. One of the recommendations that have been put to us from another organisation is that the government should make changes to the Children and Young People Act 2008, which regulates the light work that very young people can do: children and young people before the age of 18. They want to see a tighter accreditation and certification system for employers that employ more than five children and young people. Is that something that you think could help in terms of providing an extra level or extra standard for those employers that are employing more children and young people?

**Ms Cuzzillo:** We have talked about this at some length.

**Ms Watts:** I think we see that there are two sides to what we would like to see happen. We would like to see more education of young people, but we would like to see more employers doing the right thing, I suppose. One of the ways we have talked about doing

this is rather than having something that potentially could punish employers, we should be doing something that would reward employers who are doing well. For example, they could apply to be an employer of choice for young people, whatever that may look like. I suppose that is the kind of thing that we have spoken about.

I guess it is also really hard in respect of things that are regulated. Obviously, that is more of a burden on the employer and on the government, which can sometimes make things difficult. It is also around the accountability of that. For example, I have talked to a whole bunch of young people in the past weeks about this. When you start a job you are meant to get the Fair Work statement. I have shown that to a whole bunch of young people. None of them has ever seen it before.

It is legislated that they are provided with that, but it just does not happen. But no-one is going to go around and ask every person who is employed, “Hey, have you seen this Fair Work statement? Do you know what’s in it?” Also, when I have showed them the Fair Work statement, they are like, “This doesn’t apply to me because I’m a casual.” The information is not relevant or youth friendly.

Having something where it is regulated and enforced is one way of doing things. Having something where you are really recognising and rewarding is another way. In these days, we have social media campaigns—things where people can be recognised. People want to get on board with things like that because it is better for their businesses. Something like that could be an opportunity or something along those lines as well.

**Ms Cuzzillo:** An example of that is when the penalty rates conversation was happening nationally. There were lots of people who came out, businesses that came out, and said, “We’re not going to stop paying penalty rates no matter what. We’re going to support our workers who work on the weekend.” That kind of thing, doing that, saying something like that says, “We care about our staff and we particularly care about those situations that often involve young people.” When there are campaigns that happen like that, young people would even see that and decide, “Maybe I’d prefer to work for them than somebody else.”

**Ms Watts:** And parents would say, “Great! If they support young people, I’m going to go and support their business.” So it is, I guess, a bit of a win-win.

**MR STEEL:** You mentioned the large number of young people working in the retail and hospitality industries who would presumably be affected by those penalty rate cuts. What do you think the impact of those cuts will be on young people who are working in insecure jobs?

**Ms Cuzzillo:** I think it is less money in their pocket. Young people who are working in those jobs are often living in share houses. They are often students. Every little bit of money that they have goes towards their rent, their day-to-day living. It makes it a lot harder. Combined with the higher cost of living in a town like Canberra, that can make it really difficult to afford to live.

**Ms Watts:** Certainly, we have heard stories and talked to youth workers who have been supporting young people who have been just getting by. They might have come to Canberra for uni. They are just getting by and then when their income does drop—even

by \$20 a week, \$50 a week—that can sometimes be the last straw that then means they return back home, wherever it was, because their parents cannot support them to be here. It affects the day-to-day lives where they are now, but it also can have an impact on their long-term future.

**MR WALL:** I have a supplementary on penalty rates. Any changes to those is going to require the Fair Work Commission to rule on the no-disadvantage test, which would mean that if there were a trading off of some level of penalty rates on a Saturday or a Sunday, the base hourly rate would need to increase. Since we are talking about insecure employment, would not having a higher base rate of pay any day of the week take away a lot of the peaks and troughs or the insecurity around casual work, knowing that if you are working 10 hours a week, and that is what you need to survive, working 10 hours Monday through Friday will mean that you get paid the same as working those 10 hours over the weekend? If you miss out on a weekend shift, it takes away some of that risk for young people that are on casual employment?

**Ms Watts:** I guess it depends. It is going to be different for different young people, depending on what else they have got on in their lives. If they are at university studying, all their classes may be during the week, particularly if you think of students who are required to do a practical placement, for example. Lots of teachers and nurses—young people like that—when they are doing their pracs they are having to work 35, 40 hours a week. If they are teachers, that is Monday to Friday. They do not have the opportunity to work during the week; so they have to work on the weekends. I guess it depends on their shifts, their schedules and stuff like that. I do not think one approach is going to work for everyone because it really depends on what their situation is.

**MR WALL:** I want to touch on your experience, Taylor, in hospitality or retail, depending on where you were, and your employment scenario with your sick leave. I am guessing that the person you were dealing with was not the business owner who gave you that advice.

**Mr Kenny:** It was a combination of the owner and his son who were running the business together.

**MR WALL:** Right.

**Mr Kenny:** It was the communication between the two of them. It was trying to get a straight answer out of both of them at the same time. The son would go against his father and then the father would go against his son. But the father was ultimately the deciding factor, and that experience and that advice came from him.

**MR WALL:** I was curious to know. In a number of hospitality and retail employment places the owner of the business is not necessarily in every day. I was trying to get to whether or not there is an issue also of staff training at that management level about some of the industrial relations laws and provisions to try to prevent misinformation being given to staff.

**Mr Kenny:** In my opinion, definitely, because a franchising agreement is not just a blanket thing. Each franchise has its own operating systems. The franchise I was working for—usually an owner of a franchise has just one store. They are very involved

in that store. Usually they hire in a manager to do the everyday stuff, but they are still very involved. It might be a different case for the bigger ones like KFC, McDonald's and all those kind of places. In my experience, there was not that training and if there was that training, it was coming from the owner, anyway.

**MR WALL:** Okay.

**Mr Kenny:** So they were dictating what you were learning in that job.

**MR WALL:** I appreciate the insight.

**THE CHAIR:** How common is it for young people to be working for a labour hire company?

**Ms Watts:** I do not know the stats on that, sorry.

**THE CHAIR:** Do you have any anecdotal experiences of people working for labour hire companies? Do young people like working for labour hire companies? Do they dislike it?

**Ms Watts:** With respect to liking it or disliking it, many people who are really desperate for work will take anything. It is not often a case of whether you like it or do not like it; it is: "I have to pay bills," or: "I have to buy food." I would say that for a lot of young people it probably would not be a preference, but if that is what they can get, that is what they can get.

**THE CHAIR:** Why would you say that it would not be a preference for young people?

**Ms Watts:** A part of all of this is around the instability of things. When young people are in any kind of work situation where things are unstable or they are not sure about what is happening, it does have an impact. When they are thinking about their future, it is not just the making of future plans that it impacts on; it is the other areas of their life as well. As I was saying before, for older people who have a bit more life experience behind them or have maybe had a few more resources behind them when they were young, through family, whether that is money, emotional support or whatever, it may not affect them quite as much. But for young people who have come from a disadvantaged background or who are really struggling or who are isolated and on their own, it is just another pressure sometimes that may be not necessary or that they would prefer not to have.

**THE CHAIR:** One of the terms that go with insecure work is the flexibility of it, and that often comes with being rostered onto shifts only a week out or maybe even less so. Would you say that young people have equal flexibility to say, "Actually, I don't want to work that shift"?

**Ms Cuzzillo:** I think it would depend on the employer but, generally, probably not, because of the power imbalance. I am not a young person anymore, but when I was I worked for a hospitality company in Canberra. We had an event on New Year's Eve and it was a matter of, "You can't not work on New Year's Eve; you have to." There was no option there. When you need a job and that is the one you have got, there is

pressure applied when actually, as a casual, I should have been able to say, “No, I’m not doing that, sorry.” But they leave you with very little option. The alternative is that you get fired or they just stop giving you shifts. I suppose that is the risk and where the power imbalance comes in with casual work.

At the same time, though, the flexibility is something and casual work is something that young people do appreciate in other ways. When you are studying or when you have other stuff going on, casual work can work in your favour. It is not that casual work is bad, necessarily; it is just that the power imbalance often means that young people, and anyone in casual work, are more open to exploitation.

**THE CHAIR:** The flexibility is quite one-sided; that is what I am taking away from what you are saying. The employer can choose what shifts to offer you and they often vary between weeks, and it suits them. But when you talk about being an employee, it is really hard to say no to a shift.

**Ms Cuzzillo:** Yes.

**Ms Watts:** There would be employers where that is not the case. That would not be the case for everyone, but it is the case for a lot of people. It is another of those areas; Bec mentioned the power imbalance. That is something that is really important to get our heads around. It is around the hours that you are working, but there are a whole heap of other areas where young people can feel pressured into doing things that might sometimes be illegal or that might not be strictly legal or strictly right, but if they want to keep their jobs, if they want to keep the number of hours that they need to be working, they just go along with it, because fighting it means missing out on shifts or a job, ultimately.

**THE CHAIR:** Do any examples come to mind? Are there any stories that you have heard about young people having to do illegal things because they do not feel particularly secure in the workplace?

**Ms Watts:** “Illegal things” did you say?

**THE CHAIR:** Yes.

**Ms Watts:** Yes. I know of a young person who is working in child care and has been asked to sign documents around the number of staff that they have had on site, looking at childcare ratios and things like that. They have said, “Actually, I wasn’t in the room at the time, but I’ve had to sign a thing to say that I was.” They have been quite upset and have rung someone to say, “My boss is making me do this. It’s not true. Am I allowed to do this? Am I going to get into trouble?” Basically they have been forced to sign it. We then supported them to work out what to do if that happens again. That is not one of these industries that we are talking about. But because they are young, they do not necessarily have the understanding or the strength to be able to push back at their boss and say, “No, I’m not signing it.” Their boss is literally saying, “Well, you’re not leaving till you sign it.” So what do you do?

**THE CHAIR:** Underlying that, they felt compelled to do it because they were fundamentally worried that they were not going to get more shifts if they were seen to

be someone that does not just go along?

**Ms Watts:** Yes. They were told that.

**THE CHAIR:** They were told they would not get more shifts?

**Ms Watts:** Yes. They were told, “If you don’t sign this.”

**THE CHAIR:** That was in child care?

**Ms Watts:** Yes.

**THE CHAIR:** Terrifying.

**Ms Watts:** I remember a few years ago when I was doing youth work—not in the ACT—quite a lot of young people that I was supporting were working in retail: clothing, jewellery and things like that. I was working in a homelessness service, crisis accommodation. A young person had just got a job, came back, it was their first payday and they were really excited. They had a bag of stuff from the shop. I said, “What have you got there?” and it was a whole heap of jewellery that they had bought, because it was a jewellery shop. I said, “Why did you buy that?” and they said, “Our boss said we had to. If we’re working, we have to be wearing stuff that’s for sale.” I know there has been a whole heap of legal action around that happening with companies, but that sort of thing is still happening. It is not something that employers are explicitly saying or putting in company policies anymore—that you have to be wearing clothes from this store—but young people have told us that they feel pressured and if they turn up to work and they are wearing clothes from a different store, the next week they are given fewer shifts. When they have turned up for a couple of weeks wearing clothes from the store, all of a sudden their shifts go up. So young people are recognising that, “Hey, our employer might be doing the wrong thing,” and experimenting. They go, “All right, if I wear all the right stuff, do I get more shifts? I’ll look at that. All of a sudden, I do. If I stop wearing our store clothes, then all of a sudden my shifts are getting cut.” So it is not things that people are explicitly saying but it is just that pressure that young people are feeling. If they want to work, they have to toe the informal company line.

**THE CHAIR:** Another aspect I wanted to talk about is young people who are currently in insecure work who would like to transition out of that. They want to get a full-time job; they want to start a career. Maybe you have heard some stories or you have had people come to you and talk about being stuck in a casual job. They might be working 40 hours a week but they cannot actually get a full-time job.

**Ms Cuzzillo:** I think availability of full-time work is less than it once was. We hear lots of reports from young people about really struggling to find work. Whether that is transitioning out of casual or not, most likely that is the case. In our *Rate Canberra* report—I do not have the exact figures here—the outlook of young people on their future was quite bleak in terms of employment. A lot of young people were worried that they would not find work. A lot of high school students were saying, “I feel like school is just preparing me to go to university,” and a lot of university students were saying, “I feel like I have no idea what’s going to happen after I finish my degree.”

I know people who have gone from their degree straight into another degree because they cannot find work in that time and they do not really know what else to do except get more qualified. At the end of that degree, they are told by people that they are too qualified with no experience. I think the key word there is “experience”, and every full-time job you look at pretty much has that word as one of the key requirements. If you cannot get experience, how are you going to get that job? There is not really the availability of entry level jobs in the full-time workforce; it is dwindling. Young people are feeling really worried about their future in work. Therefore that often comes with worries about not being able ever to own a home, not being able to pay back their HECS fees at the end, and that kind of thing. It is a very bleak outlook. It was pretty disappointing.

**MRS KIKKERT:** With that bleak outlook, is there some sort of help provided to them, some mental health guidance to them to let them know, “This period in your life will pass and eventually you will get some full-time work”? It will come. Is there some way for the Youth Coalition to provide that hope for them? We have all been unemployed in our lives. I lived on two-minute noodles for a whole year when I was 20. If somebody had told me when I was 20, “This time will pass and this struggle that you are going through will end; there is hope for you,” I would have been so grateful for that advice.

**Ms Cuzzillo:** There are lots of youth services that provide that support to young people at that time. We know that particularly young people who are going through year 12 are really stressed. There is lots of that. Mental health is a really huge issue and that kind of bleak outlook probably does not help with that. As the peak body, it is our role to raise these issues with government and the community, and support our members at the youth services in Canberra to support young people through that time.

One of the issues is that there is lots in the media and lots of things being said in the community about house prices going up, and there not being as much full-time work as there once was. When they are being fed that story over and over again, it is hard not to buy into it, I suppose.

**Ms Watts:** Of course, there are the good news stories—the 25-year-old who has seven investment properties, and people try to get on board with that and go, “Well, that’s great.”

**MRS KIKKERT:** The quick rich scheme.

**Ms Watts:** “If that young person can do it, why can’t everyone else?” When you look into the detail of that, they have often had a lot of family support and things like that. The young people that we primarily represent and the young people who are accessing these services are the ones who do not have those supports behind them. We can’t just say, “Oh, it sucks for you. You had a bad family life or a tough upbringing. She’ll be right.” That message for those young people is not actually very helpful. It is often what they have been told all their lives, and they are saying, “Well, now I’m 18,” or “Now I’m 22 and she’s still not right.” A lot of it is around the way that we talk to young people. We should not invalidate their experiences or their concerns, because I think they are genuine, and we need to recognise that.

**MRS KIKKERT:** Absolutely.

**MR STEEL:** Is it fair to say that most young people working in the hospitality and retail industries are working on Saturdays and Sundays in insecure jobs?

**Ms Watts:** I do not know. I would say all those industries have young people who are working on the weekends. I do not know that all the young people are necessarily working on the weekends.

**MR STEEL:** Not all, but do you think most are because of study commitments and so forth during the week that preclude them from working on weekdays?

**Ms Watts:** Yes, I think most are, because of study commitments, and also a lot of them choose to when they get the chance because they get paid more then. There are a lot of young people who would love to be able to say, “Yeah, I’m just going to work and study Monday to Friday and that’s it.” This is the first year of my life when I have ever had one full-time job, no study, no extra things and I have weekends free all the time, and that is ridiculous. I am in my 30s and that is the case. And I love it. I would have loved that when I was 25 and had a lot more energy to go out and rage or go away for weekends or whatever. I think it is a bit of both. Some young people are choosing to because they need the extra money and it is not really a choice when you need it. With other young people it is because that is just the requirement of the job. As Bec was talking about, if your employer says, “I need you to work on Sunday,” it does not matter what else you have got on that day; if you want to get shifts then you go to work.

**MR STEEL:** So the disadvantages that come with insecure work on the weekend are potentially going to be exacerbated by a cut to take-home pay as a result of penalty rate changes; is that what you are concerned about?

**Ms Watts:** Generally, I would say yes.

**Ms Cuzzillo:** You would see different things for different age groups as well. If you are talking about 17 and 18-year-olds who would still be in college, they are more likely to be working on the weekends exclusively. Some might be working at night during the week, but most of the time they will be working on weekends. Uni students tend to have more flexibility, but it really depends what they are studying.

**THE CHAIR:** Thanks for coming in.

**Hearing suspended from 2.44 to 3.01 pm.**

**STEPHEN-SMITH, MS RACHEL**, Minister for Workplace Safety and Industrial Relations

**YOUNG, MR MICHAEL**, Executive Director, Workplace Safety and Industrial Relations, Chief Minister, Treasury and Economic Development Directorate

**TOMLINS, MR GEORGE**, Executive Director, Capital Works, Chief Minister, Treasury and Economic Development Directorate

**MILLER, MR DAVID**, Director, Skills Canberra, Chief Minister, Treasury and Economic Development Directorate

**JONES, MR GREG**, ACT Work Safety Commissioner and Director, Construction, Environment and Workplace Protection, Access Canberra, Chief Minister, Treasury and Economic Development Directorate

**THE CHAIR:** Welcome back. Witnesses are asked to familiarise themselves with the privilege statement in front of them, the pink sheet, and say that they have read the privilege card and understand the privilege implications of it. Minister, would you like to make an opening statement?

**Ms Stephen-Smith:** I would, thank you. I acknowledge the privilege statement, thank you. And thank you to the members of the committee for the opportunity to appear here today. The ACT government is, of course, committed to doing what it can to ensure that all workers are safe in their place of employment, are treated fairly, are paid well and have their rights at work upheld. The government is concerned about the prevalence of insecure work and, obviously, condemns any exploitation by some employers, particularly of young, vulnerable and migrant workers.

As you would be aware, the commonwealth Fair Work Act 2009 is the main source of employment rights and conditions for workers in the territory. The ACT's ability to regulate in the area of industrial relations is constrained by the operation of the Australian Capital Territory (Self-Government) Act 1988 (Cwlth) and the Fair Work Act. The Fair Work Act covers the majority of rights and entitlements for territory workers, while the ACT maintains control and responsibility over a number of specific areas, including public holidays, long service leave, workplace health and safety, and workers compensation.

Within these constraints, the ACT government is committed to pursuing better outcomes for Canberra workers. The ACT's portable long service leave scheme is one example of this commitment. The scheme allows workers in the construction, cleaning, security and community sectors, each sector known to have high levels of casualisation, use of short-term contracts and subcontracting, to move from employer to employer without losing credit for time worked in that industry. In 2016 the scheme was expanded to include aged-care and security workers.

Prior to last year's election, the Chief Minister committed to a secure local jobs for local workers package. The package will deliver better, more secure jobs for Canberrans by establishing clear principles to ensure worker safety and fair pay and conditions on public projects and contracts. Fundamental to this commitment is recognition that the ACT government can play an important role in delivering better outcomes for Canberra workers by using its purchasing power to set high standards for workplace safety and workers rights alongside the delivery of quality services to the people of the ACT.

Work is continuing on the development of the package, but a key focus will be on industries that are prone to insecure work. These could include those employing workers in insecure, low paid, unskilled or semi-skilled jobs and trades. It would also include industries that have high proportions of visa workers and young people. A key component of this package of reforms will be the establishment of a local jobs code to ensure worker safety and fair pay and conditions on public projects. The local jobs code will be established within the next 12 months.

I would also like to take the opportunity to acknowledge the role that the ACT Work Safety Council plays in providing advice to the government. I have asked the council to provide advice on issues associated with insecure work and labour hire industry compliance around safety and injury management. I have specifically asked that the council examine labour hire arrangements and recommend whether it would be appropriate to introduce a licensing scheme. The views of this committee will be extremely valuable in this regard.

Continuing its important work, the council has recently established the apprentice and young workers safety advisory committee. The committee will consider all apprentices, including construction trade apprentices. Its objectives will be: to consider the adequacy of existing regulatory frameworks and guidance material for the purpose of ensuring the workplace safety, health and wellbeing of apprentices, trainees and young workers; to inform the ACT Work Safety Council on the current state of workplace safety management practices with regard to apprentices, trainees and young workers, with a focus on industries and/or types of employment that are more likely to put apprentices, trainees and young workers at risk of poor safety outcomes; to recommend remedial actions to the ACT Work Safety Council for consideration; and to facilitate tripartite stakeholder partnerships to drive industry safety improvements for apprentices, trainees and young workers through consultation awareness and training.

WorkSafe ACT will also be launching an audit into the supervision of young workers. I am advised that consultation is currently taking place with key stakeholders, including unions, to finalise the scope of the audit. The proposed objective of the audit is to identify the current levels of compliance with supervision, workplace induction and safety obligations, and the extent of bullying and harassment. The audit will also provide education and advice on safe work practices to managers, supervisors, apprentices and trainees. Inspections will commence shortly, if they have not already, and continue through to the end of October 2017. The outcomes of the audit will be made available by the end of 2017.

WorkSafe inspectors have also recently undertaken a series of structured visits to our local shopping malls, where retailers and food outlets employ a high proportion of young people and people in insecure work who may not be as aware of their rights and obligations as older full-time workers. These visits focused on raising awareness of work health and safety issues, such as safe lifting, slips and falls and bullying and harassment.

Mr Chairman, it is worth noting here that concerns have been raised with me about the level of resources available within the Fair Work Ombudsman in the ACT to enforce the Fair Work Act. I have raised these concerns directly with Minister Michaelia Cash

and we have sought advice from the Fair Work Ombudsman about what resources are available in the ACT to ensure that employers are not exploiting workers in insecure jobs. I will continue to pay close attention to this and advocate for appropriate resourcing for the ACT.

I would again like to thank the committee for the opportunity to appear before you today. This is an important inquiry, and I look forward to considering the committee's report. We welcome any questions from the committee.

**THE CHAIR:** Thank you, minister. I will lead off; then we will go down the line. There have been several similar inquiries across the country—Queensland and Victoria being just two—and they have investigated and started to go down a path of licensing labour hire. Do you think a similar scheme would be suitable in the ACT?

**Ms Stephen-Smith:** All of my state Labor colleagues, at least in discussing the issue of labour hire at a recent commonwealth state ministers meeting, were of the view that a national licensing scheme would be preferable. However, in the absence of a move towards national labour hire licensing arrangements, states are moving. We are watching that closely, and one of the reasons we are so keen to see the outcomes of this committee is that I believe this is an opportunity for people in the ACT to bring forward evidence about what is happening in this jurisdiction. If we decide to move in the direction of regulating labour hire, we will certainly seek, as much as we can, a consistent approach with other states that are moving in this direction, in the hope that we will at some point have a nationally consistent approach to this issue. I do not know if any of my colleagues want to add anything to that.

**Mr Young:** I second the minister's comments. I can say that via Safe Work Australia and the heads of workers compensation authorities we are working very closely with those jurisdictions that are in the process of legislating labour hire licensing regimes. We are very keen to understand the design of those. We note that Queensland has, as of yesterday, passed the enabling legislation. We note a number of similarities in the designs of the proposed licensing regimes being put forward by those jurisdictions, which I think, in the event that this committee and other stakeholders support a licensing regime in the ACT, would be transferrable to our jurisdiction.

**THE CHAIR:** What are the most important components of a labour hire licensing scheme? What would be the criteria to have a licence?

**Mr Young:** If you look at the way those licensing regimes are being set up, you will see that they will essentially define what constitutes a labour hire company. Having had a number of discussions with our local stakeholders, that is not as straightforward a matter as you might think. I have recently been at meetings where some stakeholders have raised questions around gig economy type IT platforms and put forward an argument that they perhaps would constitute a labour hire type arrangement. So there would be a piece of work to define what would constitute a labour hire entity. There would be requirements that such entities be licensed. They would establish penalties for employers that use an unlicensed labour hire entity or an entity that puts itself forward as a labour hire company without a licence. And then there would be the establishment of licensing regimes which would test for a range of things in order to be issuing a licence. And there would be some sort version of a fit and proper person or fit and

proper corporation test where they are verifying compliance against existing state and commonwealth workplace relations statutes.

This is an area where we are keen to understand in more detail exactly where these jurisdictions are going. However, having looked at the information that is available, I see quite a lot of similarities with what the ACT government is already doing with public construction contracts around the IRE certificates. That would be the broad bones of a licensing regime based on what we are seeing happening in those two jurisdictions which have introduced legislation, and Victoria, which is currently consulting.

**MR STEEL:** In your submission, there is a section on payroll tax. I just want to ask a question about whether the ACT government thought that there might be a risk that labour hire firms may essentially act as payroll tax avoidance schemes in splitting the number of employees to be below the threshold. Is that something that you are concerned about?

**Mr Young:** Particularly where government agencies are contracting with labour hire companies, we are keen to ensure that any labour hire entities that the ACT government is using are compliant with all state and commonwealth requirements.

**MR STEEL:** So you are not speaking from an ACT revenue perspective; you are speaking from a compliance perspective in terms of—

**Mr Young:** From a procurement perspective. There is a strong commitment through our procurement activities to ensure that, where we are procuring, the entities that we are procuring from are compliant. From a regulatory perspective, I cannot speak for that office, but I guess we would be concerned about any corporate structuring that might result in fraudulent behaviour or behaviours where an employer is avoiding their obligations. I assume the payroll tax regulators would be also.

**MR STEEL:** Is it the nature of these sorts of labour hire firms that one organisation may be a parent organisation to several of these labour hire firms? Is that the sort of relationship that you are seeing in the sector?

**Mr Young:** I am not seeing it a great deal. In my role we have access to limited datasets. Having responsibility for the oversight of the territory's workers compensation scheme, we have access to wages and employee numbers, which are put forward as part of workers compensation policy. What I am unable to do is to cross-reference that information with other databases, for example the portable long service leave database, payroll tax, commonwealth ATO datasets and so forth. Access to those datasets would give me, the workplace relations regulator and other regulators greater capacity to target compliance activity and to form a greater view around what may potentially be going on in respect of the scenario that you have put forward. I guess this is a matter that the government is considering in the context of potential changes to procurement. However, obtaining access to those cross-databases would require a legislative change. We are limited in our ability to look at them at the moment by a combination of privacy and laws around commercial information. So we would need to work through those legal processes in order to gain access. But consideration of those factors would certainly be something that we are looking at in the context of a labour hire licensing regime.

**MR STEEL:** And that licensing might serve as a way to gather more information about the nature of these labour hire agencies, including the number of employees that they employ?

**Mr Young:** I need to be clear: this is a matter that has not yet gone to government. At an officials level, as part of that work that I described previously, we are considering what a licensing regime for labour hire might look like. We have a strong preference for digital solutions, so automating compliance checking is one avenue that we would like to explore. Part of that would potentially involve, with the consent of the labour hire company seeking a licence, access to a variety of databases for the purposes of automated confirmation of compliance and also periodic rechecking of that during the period of the licence. It is in context of that potential regime that I am considering how we might obtain access to different databases to assist, and the answering of your original question around what might be going on in terms of corporate structure.

**Mr Tomlins:** The contractor central arrangement that the government has entered into with New South Wales, which we have 80 per cent of the labour hire arrangements going through at the moment—and that is growing—is essentially an aggregation database, so that is the start. And I mean that it really has only just started. That will start to provide much more centralised data in the way that Michael has described.

**MR WALL:** You touched on IRE certificates. That falls within your bailiwick?

**Mr Young:** Yes.

**MR WALL:** My understanding is that when a company prepares an IRE certificate for, say, procurement, it is largely just a snapshot at that point in time of that company's track record. There have been suggestions to me that often when a particular pre-qualification is done it is all hunky-dory and they get a green tick but that, as time goes on, six or 12 months later, the compliance is not necessarily up to the standard you would expect. What spot checks or audits are done by government of companies that have contracts under procurement that they are maintaining compliance with workers entitlements, pay rates, superannuation, workers comp insurances, payroll tax and the like?

**Mr Tomlins:** First of all, to give you an idea of the scale, we have about 2,000 organisations with IRE certificates. We have about 200 with pre-qualification, and you need an IRE certificate before you can apply for pre-qualification. Both of those are renewed about every 18 months. Again, this has not gone to government, but we are looking at a shorter period of time for start-up organisations or organisations coming into the ACT because they grow.

A number of organisations, say the long service leave board, can do spot checks. We do spot checks and audits. Because they are paid through the project, we need to do those in conjunction with the agencies. We have recently had some complaints about an agency doing construction work for Health, so we did an audit there. We have got another one on foot now for City Services and Capital Metro. We go in and do an IRE audit. That is actually an audit of the books.

I can, if you like, leave for the committee—or it is on the procurement website—the IRE project audit form and the IRE certificate that we get our people to sign. And I can go through, if you like, the information we ask for, which is about whether they have essentially paid everything that they had to to their employees and to their subbies, have had any court findings against them, have had any orders, have any court proceedings on foot, et cetera. That is the start-up. That is quite rigorous. It is every 18 months. If we get a complaint, we go to talk to the agency. I can think of one where a team of form workers were not being paid on time. We rang up the organisation. The organisation essentially said, “Yes, we pay them on time. We pay them every 45 days” or whatever. We said, “If you look at your contract, it’s 15 days.” They were paid the next day. Obviously we did not do an IRE audit. But if we cannot get clarity and agreement, we will then go in with the agreement of the agency and do an IRE audit.

**THE CHAIR:** I want to talk about the secure local jobs package. We have heard from several witnesses today calling for procurement reform. Do you think procurement reform will flow through the entire sector, or will it only affect those who tender for government work?

**Ms Stephen-Smith:** Are you talking specifically about the construction sector, or are you talking about the various sectors that will be—

**THE CHAIR:** Why do we not start off with construction?

**Ms Stephen-Smith:** Our aim is to ensure that we set a high bar that we hope would flow through industries. One active area of conversation is around the scope and related entities and how any requirements would apply to related entities of specific companies that are subject to the local jobs code and the other requirements of the secure local jobs package. Michael, do you want to talk more about the discussions that are ongoing?

**Mr Young:** I am happy to do so. The discussions that I am having are essentially around establishing what will be a procurement code. The scope is there for government purchases and procurement. That being said, I think the government has been quite open in its policy for the territory to be a paragon of ethical procurement and for that to be an example to the wider industry. So in that sense the hope is to leverage as much influence as we can on ethical and safe behaviours beyond territory procurement but within the confines of legislative instruments that can be made as part of the procurement act. Whether we will be successful in that is the challenge, and it is the one we are working towards achieving.

**Ms Stephen-Smith:** The more we can get support from employer organisations that not necessarily supports our local jobs code in every detail but supports the idea of employers being good employers, keeping their workers safe and paying their workers fairly, pursues that through their organisations and upholds that as an objective they want to see all of their members meet, the more successful we are going to be across the sector. The conversation we will have with them around the code is also a conversation around how employers should behave generally.

**THE CHAIR:** This is a slightly broader question: how commonplace is insecure work in the ACT?

**Ms Stephen-Smith:** It is a really good question. From my perspective, that is part of why we welcome this inquiry: to really try to get a clearer handle on the nature and the extent. The name of the inquiry is the nature and the extent of insecure work and what that means. Michael touched earlier on the introduction of the gig economy and the extent to which that is changing the way people work. You are talking labour hire, casual employees and short-term contracts. How you scope the definition of “insecure work” affects how prevalent it is, and whether people are considered employees and whether you have to be considered an employee to be in insecure work. If you are in the gig economy, you are not necessarily an employee but you are probably in insecure work. Michael now has some numbers.

**Mr Young:** I do have some numbers. One of the databases that I have access to is workers compensation injury data. That is an imperfect dataset to answer that question. Other sources from the Australian Bureau of Statistics and elsewhere may provide more light. In respect of lost-time injuries, in the ACT private sector in 2016-17 there were a total of almost 2,000 injuries. Of those, 635 were injuries to apprentices, trainees, labour hire workers or people who were 24 years of age or younger at the time of injury. I would expect rates of injury among vulnerable workers, particularly young and inexperienced workers, to be somewhat higher than the average proportion of the population. But the context of much of this inquiry is around the safety of vulnerable workers, and I think it is quite a pertinent statistic. It is a significant proportion.

**THE CHAIR:** Is there a relationship between insecure work and injuries at work?

**Mr Young:** Again, insecure work is a somewhat nebulous concept. However, certainly there is a relationship between workers who are young, who are working in high-risk industries, and who have not been on the job terribly long and are inexperienced. They are all risk factors that would lead to potentially higher rates of injury.

**MR STEEL:** I have some questions about the standards for group training organisations. In your submission the ACT government said that the registration of GTOs is voluntary. What is the status of a GTO that has not registered with the government?

**Mr Miller:** They can still identify as a GTO but effectively they are a non-registered GTO. I know that Jason Sultana appeared earlier. He would have described, I think, the benefits of registration of GTOs and that it effectively stands as a kind of quality mark about what GTOs stand for and what their obligations are. But you do not have to be registered to operate as a GTO.

**MR STEEL:** Is there any rationale for that?

**Mr Miller:** In the past the requirement for GTOs to be registered was linked to funding that might have been provided from government. There used to be a shared commonwealth and state and territory agreement called the JGTP, joint group training program, which provided money from both the commonwealth government and state and territory governments to GTOs. One of the conditions to access that funding was that you had to be registered. But that program no longer operates. As there is no funding being provided, the obligation to be registered lapsed, effectively, with the cessation of that agreement.

**MR STEEL:** What is the ACT government's role in auditing registered GTOs?

**Mr Miller:** We are responsible for their registration. Skills Canberra, as the state training authority, takes that responsibility. There is usually a role in the two- or three-year registration process where we go out and conduct our compliance audit. They have been a fairly long time coming, but new standards were just released and endorsed nationally earlier this year. At the moment the GTOs that are registered in the ACT are all registered until the end of the year, so we are currently looking at preparing the auditing process for those GTOs to be registered going into the future.

**MR STEEL:** How many non-registered GTOs are there in the ACT?

**Mr Miller:** I think it is in the submission that we have 23 identified GTOs operating as employers of apprentices or trainees in the ACT. Of those, only six are registered in the ACT, but all of the other 17 GTOs operate in multiple jurisdictions and are registered in at least one other jurisdiction.

**MR STEEL:** You have a graph of cancellation rates of GTOs. Is that from the ACT or is that Australia wide?

**Mr Miller:** That is just from the ACT. It is taken from our administration system. It is comparing the cancellation rates of apprentices and trainees employed through a GTO to those not employed through a GTO.

**MR STEEL:** Cancelling their training, essentially?

**Mr Miller:** Yes.

**MR STEEL:** It is not the cancellation of their registration?

**Mr Miller:** No, that is the cancellation of their training contract.

**MR STEEL:** Do you capture those job outcomes as well, the result from having completed the training or apprenticeship?

**Mr Miller:** Yes, we do. So obviously if you are in an apprenticeship or a traineeship you have got a job, and that is obviously one of the benefits of undertaking a qualification through an Australian apprenticeship pathway. We do have surveys through both our apprenticeships program and also through non-apprenticeships programs so that when students complete their qualification there is a survey that they can complete which helps them identify what sort of benefit they have achieved through their qualification and whether or not that has contributed to an improved employment outcome as a result.

**MR STEEL:** Do we know what the percentage of successful job outcomes is?

**Mr Miller:** No. I certainly do not have that in front of me at the moment.

**MR STEEL:** Can you take that on notice and have a look whether you can provide it?

**Mr Miller:** Sure. Is it across a particular industry area?

**MR STEEL:** If you could break it down by that, that would be great, but overall would be fine, too.

**MR WALL:** Minister, you mentioned there is a great deal of interest in the outcome of this inquiry in trying to ascertain the depth and breadth of insecure employment and also unscrupulous practice in industries. How is that going to be balanced on your part given that this inquiry, as with most that the Assembly conducts, hears only about negative examples and experiences? No-one has written in and said, "I've been working for this employer for the last 20 years and they've been great," which I would expect is the experience for thousands of Canberrans. So how is the substantial negative evidence that has come forward in submissions going to be balanced against the thousands and thousands of experiences that are positive in the ACT workplace?

**Ms Stephen-Smith:** There is the responsibility of government to protect vulnerable people and vulnerable workers and to address issues occurring in the workplace. And you are right; they will be the ones that we hear about in these kinds of inquiries. This government has a pretty strong record in red tape reduction and in working efficiently with business to deliver an outcome that is about fairness and is about good treatment of workers in our community but is not about overburdening business. Businesses that are doing the right thing should not be seeing a significant extra burden in terms of the work we do to protect vulnerable workers. So it is about striking that balance where we are efficient and effective in putting in place whatever the response is to support and protect vulnerable workers, to ensure that worker safety is not compromised and to ensure that workers' rights are upheld but in a way that businesses who are doing the right thing are not going to experience a significant increase in compliance burden.

**Mr Young:** Obviously the findings of this inquiry, particularly in respect of labour hire licensing will be of great interest. But we do have other sources of business intelligence that we are gathering on the questions of insecure employment. As the minister mentioned in her opening statement, we have the tripartite ministerial advisory work safety council on which business peak bodies are represented, and they have been tasked with making recommendations around insecure work and labour hire licensing. We also work, as I indicated previously, with other jurisdictions, other regulators, to understand what level of complaints and adverse findings there have been around obligations of this nature. We have access to injury and work safety data which can be used to form a view on the prevalence of issues of this nature in the territory.

Altogether I think we are in a fairly strong position to be able to come to an informed view about the key stakeholders' views on those operations. We will take them all into account, and my focus will be on making sure that the balanced arguments are presented to government so that they can make informed decisions on where to go.

**Ms Stephen-Smith:** The other thing I would add—I think I have said this in the Assembly before—is that we are equally likely if not more likely in relation to some of the services we procure to get complaints from other businesses who are doing the right thing and who are concerned that they are being undercut by businesses who are doing the wrong thing. I know you, Mr Wall, have asked questions around that in the security

contracting space. I have certainly had representations quite recently from peak employer organisations calling for more regulation in their sector because they want to create a fair level playing field for those businesses that are doing the right thing and at the moment they consider that is not happening. So it is not just around employees, although that is important; it is also around subcontractors and ensuring that they are paid on time so that across sectors there is an incentive for employers who are doing the right thing to support regulation that will create a level playing field for them so they are not being undercut by dodgy employers.

**Mr Tomlins:** I think one of the principles that we will follow will be targeting the way any policy is introduced. When we introduced the active certification policy after the bringing them home safely report we were auditing every quarter all organisations in terms of the safety of the operations on their construction sites. Following the performance of that we had people saying, “We’re being audited and we’re getting clear audits. Can you move it back?” So the government has now moved to a situation where two successful audits and you can skip the next audit—in other words, you can go to two audits a year instead of four audits per year for the organisations which are performing well in terms of safety.

That has reduced the accident rate by somewhere between 25 and 50 per cent we estimate. It gives a reward to the people who are performing well and it frees up government resources to focus on the people who need more focus on them. I think those sorts of processes can also be introduced as we move forward. And I should say that New South Wales entities have been talking to us about introducing that sort of scheme, Victoria has been talking to us and Queensland has been talking to us about that.

**MR WALL:** In the space of noncompliance around industrial relations obligations, I imagine that employers fall into broadly two categories: intentionally doing the wrong thing and being unaware of their obligations. Do you have any research or understanding of what the split might be between those two groupings? I am trying to get a sense of what information government might hold. We can make the most draconian legislation in the world to ensure compliance, but there will always be operators out there that do the wrong thing. I am conscious of getting the right balance between allowing businesses to get on with doing what they do best in providing services to the community and the need for compliance, knowing there will be some operators in industry—from my background in the construction industry I know it happens from time to time—who intentionally seek to flout the rules.

**Mr Tomlins:** This is more anecdotal than statistical, but there is probably a third category. As I said before, we have plenty of instances where someone is doing the wrong thing but they are not aware that they are doing the wrong thing. We will get a complaint from an employee or a competitor or a subbie. We will ring them and it will be fixed up almost instantly. If we ring up people who are intentionally doing the wrong thing, there will be an obstructionist response. They will probably deny it, they will try to not ring us back, they will do all the sorts of things that you would expect. Then there is a third group who are doing the wrong thing but maintain they are not doing the wrong thing. We actually have to sit down with them and work through it. Once or twice we have been wrong and they have been right.

I do not know what the statistics would be, but with construction we are in daily or weekly contact with just about all of the organisations. We get monthly invoices and that sort of thing, so it is a fairly regular interchange. We do not keep the statistics, but I would have thought that it is a reasonable minority of instances where people are doing the wrong thing intentionally as opposed to many more instances where people are doing the wrong thing but are not totally aware of the fact that they are.

**MR WALL:** So it suggests that education of employers on their obligations is more the key to compliance rather than more stringent regulation?

**Mr Young:** If I could use the example of workplace health and safety, that is one area of workplace relations where the territory has retained regulatory responsibility. The regulator has a wide range of enforcement and compliance tools available to it, which include education and awareness-raising through to penalty notices, on-the-spot fines and prosecutions. So the fact that such a spectrum exists is an acknowledgement that you have variations of noncompliance. As to the statistics, the regulator publishes information about how often they are using those different tools. If you look at the numbers, prosecutions are far less common than education and awareness-raising visits.

In terms of your question around statistics and data, that might shed light on the question of which of the possible camps employers are in. That is one potential source, and I think it shows there is a spread. Mr Jones may wish to comment further on what the regulator sees, but certainly we observe a range.

**Mr Jones:** What Michael has been saying has been absolutely spot on. Our experience is that the vast majority of organisations wish to be compliant and wish to follow the legislation. A lot of them are not as fully informed or are not as up to date as perhaps they should be. ACT WorkSafe as part of Access Canberra has an engage, educate, enforce regime. The majority of our interaction with the various organisations that we deal with on a compliance arrangement is to make sure they understand their obligations. Where they are not being compliant we point that out. Most of the time you either get a very rapid positive response, which is confirmed by follow-up audits or follow-up visits, or for those organisations that are not either being or wishing to be compliant—a lot fewer, of course—we have a fairly wide range of regulatory tools to use from improvement to prohibition notices to infringement notices and ultimately prosecutions.

The engage and educate approach would probably deal with 70 or 80 per cent of what I would call the lower risk, lower harm enforcement issues. But, clearly, where there is either a high risk or there is significant noncompliance, then engage and educate is not necessarily appropriate, proportionate or relevant to those circumstances. We at WorkSafe would certainly take strong enforcement action where that is relevant and where there is a significant breach, significant injury or significant potential for harm or death. Enforcement is a really important backup tool, and we do not hesitate to use it. As I said, there is a range of other instruments and mechanisms we can use, including prohibition notices, where we can cease operations at a particular site until there is compliance, and that certainly gets their attention.

**THE CHAIR:** I want to talk about labour hire licensing again. Are there any benefits to individual states having standalone licensing schemes, or would the ideal system be a national scheme?

**Mr Young:** Of the three jurisdictional inquiries into noncompliance in labour hire, I believe two, possibly all three, recommended that the commonwealth institute a national scheme but that, failing that, jurisdictions proceed in their own right. If you consider the case in the ACT, we have fairly permeable borders; it is possible for a New South Wales employer to have employees operating in the ACT for up to six months without necessarily needing to register in the ACT for the purposes of workers compensation, for example. Significant efforts have gone over many years into harmonising workplace health and safety laws on a national basis. In matters such as this national systems are preferable, particularly for the ACT given our cross-border issues. But to go back to the findings of those inquiries, a single jurisdiction system was preferable in their case to there being none at all.

**THE CHAIR:** Further drilling down into the details of any scheme, what would be the purpose of a fit and proper person test in a scheme?

**Mr Young:** If I look at the types of tests that appear to be being pursued in those other jurisdictions, it would be an active process to verify that the workplace relations, workplace safety and workers compensation obligations of employers are being met. So it is to verify essentially that it is a compliant labour hire employer that the host employer is dealing with. That would be the minimum standard in my view, and it would be for governments to determine what additional standards a labour hire employer may need to be held to.

**THE CHAIR:** What would be the purpose of a capital requirement in a licensing scheme?

**Mr Young:** I am assuming it would go to the stability of that employer and potentially using it as a red flag to determine where there is a risk of phoenix activity or sham contracting. Those are two things that I believe from a workplace relations perspective would be preferable to avoid.

**MR STEEL:** Are you of the view that different standards should apply to group training organisations compared to labour hire companies?

**Mr Young:** I do not have a fixed view. At the moment I am trying to understand what other jurisdictions are doing. I acknowledge that labour hire arrangements which involve a labour hire company placing an employee with a host brings with it a number of additional risks above and beyond what would exist if it were a single employer with a permanent employee. For example, you have potentially got two employers who are sharing workplace health and safety responsibilities, which adds complexity. Given the nature of the employment arrangements that a labour hire entity brings with it, potentially there is an argument for setting higher standards in much the same way that we set higher standards for construction safety, because that is acknowledged to be a higher risk area. For example, certain high-risk construction activities are licensed and have additional national standards applied. I expect when we continue to look at it we will see where there are additional risks and that may prompt consideration of additional qualifications.

**MR STEEL:** We were talking before about some of the figures around young people

being more at risk of injury. Presumably they are also employees with group training organisations. Often government regulates in areas of high risk, particularly when we are dealing with children and young people. I think of the childcare industry where they have a fit and proper person test for a childcare provider. Do you think there is merit in looking at that sort of regime for GTOs similar to the labour hire companies, notwithstanding their new standards?

**Mr Miller:** I think there are lots of different things that impact on or require obligations for group training organisations. When you are talking about their employment of apprentice and trainees, their role as an employer on the national training contract gives them a whole range of obligations about what they are obliged to do under that national training contract. I think that is where there is already a level of obligations that employers of apprentices and trainees have that might be over and above what you have in typical labour hire companies. You already have that additional obligation that is laid out within a national training contract that clearly, explicitly details what the obligations of that employer are. And that is partly to do with when you are dealing with apprentices and trainees you are often talking about young people who might be considered to be more vulnerable than other workers. I think that is where the national training contract itself forms another really important part of the oversight in terms of obligations of group training organisations as an employer of apprentices.

**MR STEEL:** So there are dual sets of regulations?

**Mr Miller:** Yes.

**MR STEEL:** National training contract and then also the registration standards?

**Mr Miller:** That is right, yes.

**THE CHAIR:** Back to labour hire again, what would be the purpose of requiring a bond for a labour hire licence?

**Mr Tomlins:** Perhaps I can give an analogy. We require bonds in capital works essentially so that if the organisation goes into liquidation there is money there to sort out at least some of the issues. It is not so that everything can be resolved. There are rules about what the priority there is. But the bond we require is essentially so that the government does not lose out to too great a degree. There could be, I suppose, some bond that could protect essentially some of the payments that the organisation would have had to make before it goes into liquidation.

**THE CHAIR:** We have spoken today briefly about some of the priorities of the government in, I guess, regulatory enforcement. Education is the priority over enforcement; it should be a first point of call. Is there a role for training for licence holders in the labour hire licensing scheme?

**Ms Stephen-Smith:** I do not think Mr Jones was saying that education is a priority over enforcement; it is about what is appropriate for the circumstances of the business. For a business that is trying to do the right thing but does not know what the right thing is, then education is an appropriate tool. For a business that is deliberately doing the wrong thing or has made an egregious breach, then enforcement is the right tool. It is not about

one being prioritised over another; it is about identifying an appropriate use of those tools.

**Mr Jones:** Exactly. Education is the start of the regulatory pathway, if you like, which is the soft, make-sure-you-understand your obligations, path. And if that does not work or you do not pay attention, then enforcement will quickly follow. It is on that regulatory path in terms of being noncompliant. While we look at the low-risk, low-harm areas and start with that, you certainly do not always start with that engage, educate, because the risk threshold or the consequences or the harm either/or potential would certainly produce a different proportional response, which may be straight into prosecution, for example, which would be appropriate in those circumstances.

**THE CHAIR:** I am trying to emphasise the importance of education here. Is there a role for compulsory training for the licensee in a labour hire licensing scheme?

**Mr Young:** It is certainly a matter to consider. I think it would go to the nature of the obligations that the licensing regime imposed. As I was saying before, if you applied a minimum standard—ie, seeking verification that there is compliance with the existing laws—then I would hope that the employer is already familiar with those and there is probably not as much of an argument for investment in training and education in that circumstance. However, if we are going to put in place additional obligations above and beyond those, then obviously it would be incumbent on the regulator to ensure that there is proper stakeholder engagement, communication, awareness-raising, infrastructure to support those changes. I think it is a little early to say and from a policy perspective come down to what is the nature of the obligations that such a regime would put in place.

On the question of a bond, as George was saying, I think where we see other regimes where there is a bond or financial security offered up, that would be where there is either a high risk of the covered entity not meeting its obligations or where doing so would have extreme consequences. If you look at a labour hire employer compared to any other class of employer, you would need to make the case that those risks are significantly higher in order to form a view on whether a bond model is appropriate. I am not sure that that case has been made by any of the information that I have seen to date, but it is something that we would, of course, consider.

**Ms Stephen-Smith:** Just on the issue of education, I think it is also important to remember that there are two parties in the employer-employee relationship. There is one issue around the extent to which there is education for employers and we would hope that if, we were entering into a labour hire licensing regime, the very effort of going through that licensing process would be an educative one in terms of the obligations that they hold. But there is also education for employees and the obligation that may be placed on the employer to provide certain information to the employee.

I have not watched most of the day but I did see some of the Youth Coalition's evidence earlier about the existing obligation on employers to provide the fair work statement to employees and the evidence that that quite often does not happen or young people certainly do not recall receiving that information. Part of the work that WorkSafe has been doing in its shopping mall audit, for example, is not just talking to the employer or the manager about their obligations but also talking to staff and raising awareness

among employees about their workplace rights and work safety rights and obligations to ensure that they are able to understand and stand up for their own rights.

There is a bit of kudos, I think, to the Fair Work Ombudsman in this space in that they have been actively doing some work around vulnerable workers. They have just introduced a new app for workers to be able to track their hours et cetera to provide evidence if they have been underpaid. I guess all I am saying is that when you are talking about education you need to remember that there are two sides to that, and educating employees is equally as important as educating employers.

**THE CHAIR:** Mr Young, I have a question. Could you please table the workers compensation numbers that you drew your numbers on insecure work from?

**Mr Young:** Yes.

**THE CHAIR:** Thank you.

**OVERTON-CLARKE, MS BRONWEN**, ACT Public Sector Standards Commissioner, Chief Minister, Treasury and Economic Development Directorate

**NOUD, MR RUSSELL**, Director, Public Sector Industrial Relations, Chief Minister Treasury and Economic Development Directorate

**TOMLINS, MR GEORGE**, Executive Director, Procurement and Projects Infrastructure, Finance and Capital Works, Chief Minister, Treasury and Economic Development Directorate

**THE CHAIR:** Before we begin, witnesses are asked to familiarise themselves with the privilege statement in front of them. Can you confirm that you have read the privilege card presented before you and you understand the privilege implications of it?

**Ms Overton-Clarke:** Yes.

**THE CHAIR:** Do you have an opening statement, Ms Overton-Clarke?

**Ms Overton-Clarke:** I do not have an opening statement but I will say a few words. I am here as the ACT Public Sector Standards Commissioner, and clearly I am very happy to talk about the ACT public service as an employer. What I would say is that, as an employer of choice, the ACT public service has a general preference for permanent employment over insecure employment.

The effects on individuals of insecure work are well documented—I think you were talking about some of these a bit earlier—and can significantly disadvantage workers, in particular women, with the effect of having less superannuation, no job security and the effect that that has on long-term planning, such as securing a home loan, no long service leave in most industries and a lack of career progression, which is why the ACT government's policy, as I said, is a strong preference for permanent employment. And certainly that is followed through in terms of our policies and industrial relation documents, most notably in the Public Sector Management Act and the enterprise agreements.

**THE CHAIR:** I will lead off with questions and go down the line. What is the role of casual and labour hire workers in the ACT public service? Is it in addition to a full-time workforce or is it to do with surges, I guess?

**Ms Overton-Clarke:** Generally the engagement of temporary staff is limited to where there are no permanent officers available, where the work required is of a temporary nature, where it is specialised or it is just not practical to use a permanent officer. Definitely it is seen as a supplement to the normal, usual workforce of a permanent service.

**THE CHAIR:** Would you say someone working in labour hire in a casual position for the ACT government would not be in a long, ongoing situation in that type of employment? It would be quite short in nature?

**Ms Overton-Clarke:** It varies according to the criteria that I was just specifying. We would always seek to ensure that it was of a temporary nature as per its definition. And certainly if the position were to become longer term, then we would seek to change it into a permanent position.

**MR STEEL:** In UnionsACT's report, their submission to this inquiry, they say that in the Health Directorate 36 per cent of staff were in insecure work and in Education 27 per cent. I am not sure what definition they have used. Do you have your own set of numbers on the level of insecure work experienced in each directorate that you could provide? Is that in the *State of the service report*?

**Ms Overton-Clarke:** It is, yes. I will hand over to Mr Noud.

**Mr Noud:** I am not sure how UnionsACT have measured that, because statistics are that way: it depends on what you measure. I can provide you with the proportions of non-permanent employment for particular job families.

**Ms Overton-Clarke:** It is in the *State of the service report*.

**Mr Noud:** And it is in the *State of the service report* as well.

**MR STEEL:** If you can provide that on notice rather than having to read out the whole thing.

**Mr Noud:** I am happy to do that.

**MR STEEL:** That is absolutely fine. Assuming that the high percentage in relation to Health is true, what is the reason for that particular figure in Health? What reasons might there be for non-ongoing work?

**Mr Noud:** It would vary, but as Ms Overton-Clarke said a minute ago, the reasons for the engagement—and we would include temporary, casual and labour hire—varies across the directorates. In an operational environment like Health, often where people are on rosters, they will get additional leave as recognition for working strange and funny hours. They will get longer periods of leave. When they take that leave, that creates a vacancy or a slot within a roster pattern that needs to be filled. There may not necessarily be long notice to recruit to a six-week fill while someone is on holidays, for example, so a temporary or labour hire employment will be filled in that. Often with the backfilling of maternity leave positions or longer term or even shorter term positions, temporary employment will be used to fill those positions. It will vary across the directorates as to the reasons.

**Ms Overton-Clarke:** Doctors.

**Mr Noud:** Certainly doctors. Yes, that is a good point. Of the doctor cohort, two-thirds of them are junior doctors, and all of the junior doctors are on temporary contracts. That is linked to the fact that they are here for a fixed period of time while they complete their training programs. Many of them end up moving into the specialist ranks and pick up permanent employment, but while they are junior doctors, they are all on temporary contracts.

**MR STEEL:** One of the claims made to me is that in relation to nurses we have a shortage of trained nurses but on the other hand we are not actually willing to put them on full-time employment and provide them with stable work. Does the Health

Directorate provide any reasoning around those numbers in the *State of the service report* or are the numbers just provided as they are?

**Mr Noud:** To my knowledge, they are provided as a statistical report rather than with an explanation necessarily. As to why it is done in that way in Health, I would not know. We would have to seek that advice from Health; it is quite a specific and technical question in relation to their operation.

**MR STEEL:** Yes. I am just wondering how we seek that advice, because they are not appearing before this inquiry. I do not think they have written a separate submission; you are doing that on behalf of all the agencies.

**Ms Overton-Clarke:** We are happy to take that on notice and provide that to you.

**MR STEEL:** The same question could be asked of the Education Directorate in relation to teachers who are on non-ongoing contracts but are working for a significant period of time without being made permanent.

**Mr Noud:** Without knowing the full answer, they are in quite different circumstances that I am aware of. I know that in Education they do have a pool of teachers who will backfill where a teacher calls in sick on a morning. They will have, in effect, a prequalified pool of teachers that any school can call on, and they will go and fill a gap in a class on a particular day, often with next to no notice. As you said earlier, in the nursing environment, I think that it may not be the case that you could have a pool of floaters, if you like, that might backfill different positions across the nursing network. With nursing, it is whether they have the background and skill set to be able to slot into any nursing position. That is why it is quite a specific nursing question that I am not qualified to answer.

**MR STEEL:** We heard from a former relief teacher earlier today, and one thing that came to mind was why we do not have permanent relief teachers who can fill those roles, people who can be employed permanently and get the benefits of being a permanent employee.

**Mr Noud:** As a sort of a floater?

**MR STEEL:** Yes, that is right. Or why it is not being expanded if there are some already.

**Ms Overton-Clarke:** As Mr Noud said, we will find out some more specifics, particularly about teachers and nurses. What I can say more generally is that we have certainly been working with directorates to make sure that exactly the sorts of arrangements that you are suggesting come into place because, of course, it is cheaper for the agency to move those staff into permanent positions. There are a number of areas where they might start off anticipating that a more casual base works better in terms of flexibility, but certainly over the long term the sort of flexibility that you are able to get with temporary staff is just as effective as casual staff.

**MR STEEL:** And I would imagine some staff would enjoy that flexibility as well.

**Ms Overton-Clarke:** Yes.

**MR STEEL:** And they do not want to be full time and permanent.

**Ms Overton-Clarke:** That is exactly right, yes.

**MR WALL:** Ms Overton-Clarke, to what extent does backfilling or covering extended periods of leave from permanent employees result in temporary contracts and the like? With a permanent employee, if, for instance, maternity leave is the most common form of leave, and probably long service leave as that comes up, is a temporary contract often the mechanism used to fill those positions?

**Ms Overton-Clarke:** It is, but also, of course, we have flexibility within our service to be able to redeploy people from other places. In the first instance, we would ask our permanent staff who wanted to take up that opportunity in a temporary transfer or a higher duties arrangement. We always try to make sure that we look to the existing permanent staff first. Of course, that sort of mobility is ideal in terms of officers experiencing different opportunities around the service. That is, indeed, one of the advantages of the service: that we have those opportunities coming up. It is only if that is exhausted and it is difficult to get people that we would follow up more temporary employees.

**MR WALL:** But it may not be that direct position that is filled that way, but essentially, if you pull enough cogs out of the wheel—

**Ms Overton-Clarke:** Yes, exactly.

**MR WALL:** You can move them around so many times, but there are still spaces that need to be filled, not necessarily at the level of that specific position.

**Ms Overton-Clarke:** That is right.

**MR WALL:** But there may be a more junior position that becomes available on a short-term contract as people try to gain that experience.

**Ms Overton-Clarke:** Sure.

**MR WALL:** So, ultimately, somewhere in the organisational structure, a vacancy is created?

**Ms Overton-Clarke:** Yes, that is right. And it gives great opportunity for new staff, because those temporary opportunities, at whatever level they are, are often a way that people can start within the service. They give an opportunity for the employer to try out someone without having undertaken the same rigorous merit process that you would require for a permanent position. So yes, it is certainly a way that new entrants come into the service.

**MR WALL:** From an operational perspective, to not have the flexibility of short-term contracts would pose a great challenge to the operation of an organisation as large as the ACT government, would it not?

**Ms Overton-Clarke:** There is always going to be the need for those temporary positions, for whatever reason. Mr Noud has outlined some of the backfill logistic arrangements that come particularly with positions that are on rosters and so forth. But, yes, in terms of projects that are not ongoing there are situations where you would have budget funding for a particular project for two or three years or heavily specialised staff who are choosing themselves to have multiple employers. There is a range of different reasons why individuals as well as the employer would want to continue to be able to have temporary employees.

For the reasons that I stated at the outset, we as the ACT public service really believe that the most beneficial opportunities for people come with the sense of a permanent job: planning is able to be done much better; their own forecasting and their own opportunities are able to be planned in a much better way. We will always have a preference for making a job permanent if we can.

**MR WALL:** I will go to a substantive question. My understanding is that most, if not all, of the staff in Access Canberra's call centres are obtained through a labour hire firm. What would be the rationale for that occurring?

**Ms Overton-Clarke:** It is a mixture of permanent, temporary and through a labour hire firm. That is one of the examples that we can use in terms of sitting down with Access Canberra and working through the most efficient and effective way for them to operate. Certainly in terms of rostering arrangements, they are moving from a staff who are used to utilising flex time to one that needs to be a service that is more available earlier in the day and later in the day. To move onto a rostering arrangement, we need to get, at this stage, agreement from staff to be able to do that. There are situations in some of our business units, and Access Canberra is one of them, where not all staff want to move to rostering arrangements, so temporary employees as well as those from labour hire firms are used to fill that gap.

**MR WALL:** That is more as a result of inflexibility in existing employee conditions?

**Ms Overton-Clarke:** We are working through all of that, of course, as part of the current enterprise agreement negotiations and with individual employees. But for various reasons, as Mr Steel was saying, some employees prefer to have different arrangements, and that is always going to be a negotiation between the employer and the employee.

**THE CHAIR:** Just as a supplementary on that, I am still a bit confused by the claim that it is rostering constraints that mean that these people have to be on labour hire. I understand that under an enterprise agreement you may not have people that are currently employed willing to work those stranger shifts, but those people who have been brought in to fill those shifts—

**Ms Overton-Clarke:** That is why people are brought in to fill those shifts.

**THE CHAIR:** Why do the people brought in to fill those shifts have to be employed through a labour hire company?

**Ms Overton-Clarke:** They do not. That is why there is a mixture of temporaries as well, direct temporary employees. Then there are, I understand, some who are through labour hire arrangements as well. But more and more we are moving to permanent temporary employees.

**MR STEEL:** I have a supplementary on that one as well. In relation to the labour hire companies that the ACT government uses, do they impose any conditions on the ACT government not to poach their employees, to then have them come across to the ACT government to be made permanent?

**Ms Overton-Clarke:** Can you explain that one for me again?

**MR STEEL:** In the contract that they have with the ACT—

**Mr Noud:** I have seen that. What it is is a clause in the contract that you sign with the labour hire company that says, “If you offer this person a permanent job, you will have to pay a fee.” That is what you are talking about?

**MR STEEL:** Yes.

**Mr Noud:** I have seen that, but as to whether that is prevalent across the breadth of the contracts within the ACT, it is not an area of government that I work in, I am sorry. Mr Tomlins may be able to add something.

**Mr Tomlins:** It is not in my area at the moment, but it has been in the past. The introduction of contractor central essentially, as I understand it, substantially reduced the rates that we pay to labour hire firms, joining the volume of purchasing procurement power that New South Wales had. We used to pay quite a bit in the past, but I understand that has been reduced substantially.

**MR STEEL:** So there is still a cost involved if you wanted to make those staff permanent? It might help to frustrate the process?

**Mr Tomlins:** I do not know that it is universal. But the rationale behind that is that labour hire firms have to go out and advertise to the market, attract people, interview them. If on day two we were to essentially employ them, that would be unreasonable. We do act as a sort of a model employer and a model litigant, so the issue from our perspective is: what is a reasonable and fair rate.

**MR STEEL:** Okay.

**MR WALL:** What conditions does the ACT government apply for labour hire companies around workers’ pay and conditions? Obviously the level of employment conditions within the ACT public service is quite high. For labour hire companies that are being utilised by government, what are the requirements as far as their pay rates are concerned, given that they would be operating under, I dare say, a modern award? An unusual occurrence would probably be an EBA.

**Mr Tomlins:** I understand this is the issue of, if you have two people working side by side, essentially whether they are being paid the same amount. I cannot answer that. I

can take that on notice and get some information from the goods and services area. The people working side by side within the public service are not always paid the same. They are not always doing exactly the same work. One could be an ASO6 and one could be a SOGC or something like that—

**MR WALL:** But two ASO6s are going to be paid within the same pay band as each other.

**Mr Tomlins:** Yes. And I am not too sure precisely what the arrangement would be. I will check on that. I suspect that the employee would be getting paid as an ASO6 and the labour hire company would be getting a margin on top of that, but we will take that on notice.

**MR WALL:** What gets passed on to the individual?

**Mr Tomlins:** We will take that on notice.

**THE CHAIR:** Could you comment on the propensity of insecure work to occur in maybe lower, entry-level jobs as opposed to higher, more senior jobs? Is it more likely to occur in one of the two?

**Ms Overton-Clarke:** No, in fact it is the opposite. All senior executives are on contracts.

**THE CHAIR:** How long?

**Ms Overton-Clarke:** Up to five years. We moved away from the commonwealth system many years ago.

**Mr Tomlins:** Over 10 years ago.

**Ms Overton-Clarke:** All SES officers are on contracts.

**THE CHAIR:** To be more specific, I meant short-term contracts.

**Ms Overton-Clarke:** Short-term contracts at lower levels? I am trying to think whether we have that data in the state of the service report. It is not cut by level. We do not have that data to hand. I do not believe there is a difference actually. For employment programs that we have set up, such as those for Aboriginal and Torres Strait Islander staff or those for people with disability, we have made sure that there is a permanent job at the end of it, because we do know that it is important for the public service to be able to make sure that at all levels permanency is available. I use those as an example because they are at lower levels generally.

**Mr Tomlins:** And graduates too.

**Ms Overton-Clarke:** That is right. So, no, I do not believe that at lower levels there is a higher propensity to have short-term contracts.

**Mr Tomlins:** As Bronwen has said, the graduates, for example, might be on a

short-term contract, but they are all guaranteed a job at the end. They then go on to a permanent job, so it—

**Ms Overton-Clarke:** Just to clarify, there is a probation period. They start off as a permanent officer but their probation period, instead of six months, is for 12 months. They are guaranteed a permanent job as long as they pass their probation period, which is no different from any other officer.

**MRS KIKKERT:** Regarding deciding to create a new position in the public service, what are the guidelines that determine whether the position should be permanent, part time or a temporary contract?

**Ms Overton-Clarke:** The starting position is that it will be a permanent job. I will let Mr Noud specify exactly how and where in both the enterprise agreement and the Public Sector Management Act it is detailed. Generally the principles that I outlined at the start will determine whether it is considered to be temporary. But the starting premise is definitely that it is a permanent job. I will hand over to Mr Noud to give a bit more detail on that.

**Mr Noud:** Section 25 of the Public Sector Management Act is specific that there is a preference for permanency in employment and requires that the directorates will only go to temporary employment in the case where there is no officer available with the expertise, skills or qualifications required to perform the function or where the assistance is of a temporary nature because of the urgency or specialised nature of the function or it is not practical in the circumstances to use an existing permanent job.

They would look at that set of circumstances and classify what needs to be done accordingly. The enterprise agreements take that a step further. They use very similar criteria but extend that to casual employees as well. The enterprise agreements apply that filter against casualisation as well. That is in A2.2 and A2.3 of the enterprise agreements.

B11 of the enterprise agreements covers the government's commitments to outsourcing or the use of contractors within the service. They go into quite extensive detail about the government's preference not to use contractors and to use permanency where that is possible. Where there are casuals used, B2 of the enterprise agreements allows the casual employee to ask for their position to be reviewed with respect to being made permanent. That is done from time to time. This review is an area of quite extensive focus at the moment industrially. There has been a recent Fair Work decision in relation to one of the awards which is looking at how this works, and we are certainly watching how that applies as it moves on. It is an area of evolving law.

**MR STEEL:** That review around whether a position should be made permanent is under the enterprise agreement?

**Mr Noud:** Yes. It has been there for some time. It is used from time to time. There have been various reviews done of groups of employees, too, over time. The take-up to move from casual or temporary to permanent is not what you would expect. Sometimes it is, but often employees will express a preference to stay temporary or permanent. I think that is often based on the strength of the labour market in whatever their particular field

is. If they have got lots of opportunities for work other than with the ACT government, they may well want to stay as a casual such that they can work in any number of roles. If that tends to shrink, then people may look for more permanency and engagement. But of course it is a very personal thing. Some people like permanent employment because it gives them that security, which is not unreasonable at all.

**MR STEEL:** It has been brought to my attention that in the past there was a situation in TCCS where an employee did work of a seasonal nature, and he certainly recognised that, but was employed on contracts for a number of years. So the seasonal nature of the work did not affect him in reality because he was actually employed right through the whole year for a number of years, but he was still not being made permanent.

**Mr Noud:** I am guessing that is a seasonal firefighter.

**MR STEEL:** No, I think it was an arborist or something like that. It is not as seasonal as grass mowing but certainly somewhat seasonal in terms of storms and those sorts of things that affect their work.

**Mr Tomlins:** We have one former employee who resigned and goes to Queensland for the winter but is so valuable that we employ him over the summer. We have two organisations, our education team and our health team, that come to me every year and essentially argue as to why they need him to work for them. So it works for him and it works for us.

**Mr Noud:** We are looking at agile solutions as to how we fix situations like a seasonal firefighter who we do not need 12 months of the year, because there are not a lot of fires in the Brindabellas in the middle of July but in the rest of the year there are. We train up those people and equip them but then cannot necessarily offer them ongoing employment, because of the fact that we do not need them all the time. We are looking at how we can offer them some job security. And, from an employer's perspective, we do not want all those skills to leave at the end of the year. We are focusing on that in this enterprise agreement.

**THE CHAIR:** Thanks for coming in.

**Ms Overton-Clarke:** Thank you.

**MAHER-BOYLE, MS NICOLA**, Executive Legal Adviser, Maritime Union of Australia

**THE CHAIR:** Witnesses are asked to familiarise themselves with the privilege statement provided. Can you confirm that you have read the privilege card presented to you and that you understand the implications?

**Ms Maher-Boyle:** Yes.

**THE CHAIR:** Would you like to make an opening statement?

**Ms Maher-Boyle:** I would, thank you. I started with the MUA in November last year. Before that I was a lawyer at Turner Freeman in asbestos litigation, and before that I was a lawyer with Slater and Gordon in federal workers compensation. Thank you for the opportunity to speak today. I appreciate that our submission is a little left of field.

**THE CHAIR:** We appreciate it nonetheless.

**Ms Maher-Boyle:** Given that the inquiry is in relation to insecure work and ways to avoid employment obligations, and the Fair Work Act in particular, we think that addressing this issue is relevant because the counterparts to this legislation—the Partnership Act 1963 in the ACT—in other states in Australia are being used to exploit workers. That is why we thought it was relevant to talk about it today. I might go into a bit of the background of how it is being used at the moment, if that is all right.

**THE CHAIR:** Yes.

**Ms Maher-Boyle:** In the past couple of years in the maritime industry, partnership legislation has been used to bypass employers' obligations under the Fair Work Act. It does this essentially by removing workers who were previously employed under an enterprise agreement and putting them on to the Partnership Act, for whatever state it is. When they remove the employees, they put out a tender for them to set up partnerships, and when the workers do that, they fall under the state partnership acts. They are then no longer employees, they are not national system employees, they are not under the Fair Work Act. In effect there is no NES, there is no annual leave, no sick leave, there is no benefit under a modern award, there is no super, and pretty much they assume all the liability and the companies have no responsibility. And they do not pay tax.

The way that they do this that we have seen is that there are a couple of things that a partnership traditionally must have, so it is normally used by lawyers, doctors and accountants. It is normally made in the pursuit of making a profit, and also the partners are liable, jointly and severally, with the other partners. So the worker assumes that kind of responsibility, in addition to having to pay all of their entitlements and being responsible for the other partners. And in the maritime industry, especially, if something happens, it is not a small thing; there might be an oil spill or an environmental disaster. That worker is liable for that, even if they are not on the ship.

By way of background, in maritime, they work in swings, so some are offshore and some are on the boat. If they are on shore and something happens to their partner—

there is an accident—they are still liable for that. If there is a death, their estate is liable for that. They do not have the opportunity to make a profit because the company that has the contract with the partnership still dictates where that tug goes and what hours they work. It is a complete way to avoid any kind of obligation.

We have been in talks with various governments around Australia. We think that we have developed a way for the different partnership acts to be amended to prevent this kind of misuse, but not to prevent circumstances where they are a genuine partnership. Obviously, people use this act very well, but it is being used at the moment in ways in which it was not intended.

**THE CHAIR:** I will lead off with questions. Thank you for your submission. Thank you for coming here today. I will be very honest: I was not aware of the Partnership Act, and I am now. So I am grateful in that regard. Is this mainly used in shipping or is it prevalent in other industries as well?

**Ms Maher-Boyle:** At the moment we have seen it used in the towage industry, which is the tugboats that take the ships in and out of the harbour. But there could be crane-driving partnerships or plumbers could go into it. It could displace any large amount of the workforce overnight. There were 229 employees in 2015 that the union was negotiating an enterprise agreement for; these partnerships were offered and overnight those 229 people did not have jobs. So they can go to any industry. At the moment we have only seen it used in towage.

**MR WALL:** Can you clarify how that occurs without a redundancy? So the company has employees?

**Ms Maher-Boyle:** Yes.

**MR WALL:** What process do they go through to get rid of those employees in order to force them into a partnership?

**Ms Maher-Boyle:** It might not necessarily be those employees under the agreement. They might put out the tender for workers to form a partnership arrangement. It might not be those workers that take it up. The alternative is that they do not get a job, so workers often take the partnership.

**THE CHAIR:** I am still trying to get my head around the Partnership Act. The ACT has this legislation. To register a partnership, do the operations have to take place within the jurisdiction within which it is registered or could someone register, for example, one of these tugboats you have mentioned in the ACT—the partnership for it?

**Ms Maher-Boyle:** Unless you are making an incorporated partnership, it does not need to be registered. You just need to have a partnership agreement.

**THE CHAIR:** Okay. I am sorry about the terminology.

**Ms Maher-Boyle:** No, I just mean that each state has one of these bits of legislation. They are all very similar. Lots of them were made 100 years ago.

**THE CHAIR:** The crux of what I am trying to get to here is this: at the moment, with the Partnership Act in whatever state the tugboats are currently registered in, could the partnership be formed in the ACT even though the ships are not operating in the ACT?

**Ms Maher-Boyle:** I am not aware of that. Because everyone has their own legislation, I am not sure why it would benefit someone setting up a partnership, to use a different state. Is that what you mean?

**THE CHAIR:** What I am saying is: let us say that every other state in Australia changed their laws to end their partnership act and the ACT was the only one that had one. I am not sure if “register” is the right word, but could you form or create a partnership?

**Ms Maher-Boyle:** It is not something that I have thought about before. It is not just related to shipping and tugboats. So if the ACT did not change its legislation, you could have crane drivers or anyone using this kind of—

**THE CHAIR:** I understand that example, and it is a worrying one. I am still—

**Ms Maher-Boyle:** I know what you are saying. It is not something I have thought about before. I could take it on notice.

**THE CHAIR:** I would love it if you took it on notice, actually.

**Ms Maher-Boyle:** Sure.

**MR STEEL:** That is actually a tricky jurisdictional question. I do not think any lawyer would be able to answer that easily. I want to talk about some of the situations that have occurred in other jurisdictions where those partnerships have been formed. How many people are we talking about in a partnership? Is it a couple of people in relation to a tugboat? Are we talking about hundreds of different partners that you might see in a massive law firm, for example?

**Ms Maher-Boyle:** With the partnerships that we have seen at the moment, there are six people on a tugboat: three on, three off. That grouping would be a partnership, and then the next set of six people would be a partnership. The worry that I see is that, for workers who have enjoyed entitlements under federal legislation, it is just a loophole. It is a massive loophole that we have unfortunately become aware of. That is why we wanted to—

**MR STEEL:** A lot of our industrial legislation does come from maritime cases because it is often the canary in the coalmine where those loopholes have been exposed. I am thinking of Patrick stevedores, in particular. This is a new one that you have identified. How recently have you identified this?

**Ms Maher-Boyle:** It was in 2015.

**MR STEEL:** Is it coming from one particular organisation? Is it the peak body for employers in the maritime industry that this is coming from?

**Ms Maher-Boyle:** No, it is used by several employers. In 2015 I think it was used by

Rivtow, which is a towage company. In 2016 it was used by Svitzer, who is one of the big towage companies.

**MR STEEL:** Are you concerned about this proliferating into other industries as well?

**Ms Maher-Boyle:** Definitely.

**MR STEEL:** Is there any example of that so far in terms of other industries using this loophole in other jurisdictions?

**Ms Maher-Boyle:** Not that I am aware of, but it is open to people.

**THE CHAIR:** There being no further questions, Ms Maher-Boyle, thank you for coming in. Thank you for bringing our attention to this. We will look into it.

**Ms Maher-Boyle:** We can give you, if you would like, our proposed amendments, if it would be of any assistance.

**The committee adjourned at 4.47 pm.**