



## **CPSU (PSU Group) Submission:**

**Inquiry into the extent, nature and  
consequence of insecure work in the ACT**

**Education, Employment and Youth Affairs  
Committee**

**June 2017**

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## Background

The Community and Public Sector Union (CPSU) PSU Group is an active and progressive union committed to promoting a modern, efficient and responsive public sector delivering quality services and quality jobs. As the largest union in the ACT Public Service (ACTPS), the CPSU welcomes the opportunity to provide input to the Insecure Work Inquiry.

The CPSU recognises the challenges faced by insecure workers. These workers have less job security, fewer entitlements and as a result are less satisfied with their position. This has flow on consequences for many areas of their lives such as the ability to plan for the future, eligibility for loans, and retirement incomes. Insecure work arrangements creates undue pressure and stress on workers.

There is a common perception that insecure work is not an issue in the public sector. This submission demonstrates that this is not an accurate view. While there are some circumstances in which there is a legitimate need for the engagement of employees on a temporary basis, the current use of these arrangements in ACT Government goes far beyond this.

The CPSU's membership areas encompass many different types of insecure working arrangements including the direct engagement of staff by an employer on a casual or temporary basis; the use of contractors, sometimes hired through a third party provider; the use of labour hire employees working within organisations alongside directly employed permanent staff; and outsourcing of formerly secure jobs.

In the ACTPS, approximately 23.3 per cent of all employees are engaged on a "non-going" basis, classified as either temporary or casual.<sup>1</sup>

Whilst 'flexibility' and 'efficiency' are often given as reasons by employers for engaging insecure workers, in the CPSU's experience any benefits of this sort tend to be at the expense of employee conditions. Poor workforce planning can also be a factor when the lack of an appropriate number of skilled staff produces a reliance on contracting or labour hire arrangements.

The use of non-ongoing employment arrangements can in fact lead to additional financial costs to employers such as additional recruitment and training costs, the premium paid to labour hire companies and the increased expense of using contractors. Longer term costs can include loss of corporate knowledge and business continuity, reduced security of information and accountability, reduction in the quality of services, and lower staff morale.

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<sup>1</sup> ACT State of the Service 2015-16, 'ACTPS Workforce Profile Information', December 2016  
<http://www.cmd.act.gov.au/functions/publications/2015-16annualreport/state-of-service-report/act-public-sector-201516/appendix-2>, accessed 26 June 2017

Insecure work continues to be a significant issue in the ACTPS. It is necessary to pursue more far-reaching and comprehensive solutions to ensure that this group of employees have access to fair and reasonable entitlements, and that the services our members are employed to provide are not compromised by an unnecessary reliance on non-permanent employees.

## Incidence of Insecure Work in the ACT

The ACT Public Service is made up of eight directorates and seven ACT public sector entities directly employing approximately 21, 260 employees. *The Public Sector Management Act 1994* (the PSM Act) regulates employment arrangements in the ACTPS. This act specifies that there are needs for “temporary employees” but the specified term is that they “may employ the person for a fixed term of— (a) less than 12 months; or (b) if the head of service consults the principal union about the need for the temporary employment—less than 5 years.”<sup>2</sup>

Despite this, non-ongoing employment is consistently used in the ACTPS, accounting for approximately 23.3 per cent of the workforce.<sup>3</sup> Of particular concern are the higher rates of non-ongoing employment amongst ATSI, employees with a disability and culturally and linguistically diverse employees, as well as which directorates in the ACTPS these non-ongoing jobs are concentrated in.

## Temporary work in the ACTPS trends

According to the 2015-16 ACTPS State of the Service Report, 23.3 per cent of the workforce were in insecure, non-ongoing work. As this table shows, this rate has slowly but steadily increased over the last five years.

**Figure 1 Employment Modes (Proportion of total workforce based on headcount)**

Type	2011-12	2012-13	2013-14	2014-15	2015-16
Permanent	77.9%	77.6%	77.4%	77.6%	76.7%
Temporary	15.3%	15.3%	15.6%	15.9%	16.8%
Casual	6.8%	7.1%	7.1%	6.5%	6.5%

Source: ACT State of the Service Report Workforce Profile 2015-16

<sup>2</sup> *The Public Sector Management Act 1994* Division 5.8 Temporary Work

<sup>3</sup> ACT State of the Service Report 2015-16, ‘ACTPS Workforce Profile Information’, December 2016

<http://www.cmd.act.gov.au/functions/publications/2015-16annualreport/state-of-service-report/act-public-sector-201516/appendix-2>, accessed 26 June 2017

ACTPS Use of Non-Ongoing Employees

The use of non-ongoing employment varies greatly by Directorate and by work area within each agency. Figure 2 shows the number of non-ongoing staff in each Directorate and Entity and what proportion they make up. We note that there have been Machinery of Government changes impacting on the Directorates below.

**Figure 2 Number of non-ongoing staff by Directorate**

	<b>Non-ongoing</b>	<b>Proportion</b>
<b>Chief Minister, Treasury and Economic Development</b>	435	17.3%
<b><i>ACT Insurance Authority</i></b>	1	6.2%
<b><i>Gambling and Racing Commission</i></b>	2	8.6%
<b><i>Independent Competition and Regulatory Commission</i></b>	1	16.6%
<b><i>Land Development Agency</i></b>	21	21.2%
<b><i>Long Service Leave Authority</i></b>	3	25.0%
<b>Capital Metro Agency</b>	10	33.3%
<b>Community Services</b>	194	18.5%
<b>Education</b>	1696	26.8%
<b><i>ACT Quality Teaching Institute</i></b>	4	30.7%
<b>Environment and Planning</b>	78	23.7%
<b>Health</b>	1914	26.6%
<b>Justice and Community Safety</b>	277	16.0%
<b>Territory and Municipal Services</b>	323	16.6%

Source: ACT State of the Service Report Workforce Profile 2015-16

The smaller entities are very reliant on non-ongoing work by proportion. The larger Directorates with a focus on service provision such as Health and Education have the largest number of non-ongoing staff. The proportion of non-ongoing staff is high in the Chief Minister, Treasury and Economic Development Directorate but that includes frontline services such as Access Canberra in the call centres and shop fronts which anecdotally from our members has a high proportion of contracted staff.

This is supported by advice provided under questioning to the estimates hearing at the Legislative Assembly on the 26th of June 2017 by Dave Pepper, Deputy Director General and

Head of Access Canberra, where it was indicated that 201 out of 675 staff or 30% of the Access Canberra workforce are employed on a non-ongoing basis with 106 as casuals.<sup>4</sup>

### Demographics

Within the ACTPS there is a significantly higher rate of non-ongoing employment among Aboriginal and Torres Strait Islander employees. 30.0 per cent of directly employed staff identifying as Aboriginal or Torres Strait Islander are employed on a non-ongoing basis. This is significantly higher than the APS average of 23.3 per cent.<sup>5</sup>

**Figure 3.1 Aboriginal and Torres Strait Islander Employees**

	Employees Identifying as ATSI	Overall
<b>Ongoing</b>	69.9%	76.7%
<b>Non-ongoing</b>	30.0%	23.3%

Source: ACT State of the Service Report Workforce Profile and a Diverse Workforce 2015-16

This is less so but still worryingly the case for employees with a disability who are non-ongoing at a rate of 24.2 per cent, slightly higher than the overall rate.<sup>6</sup>

**Figure 3.2 Employees with a Disability**

	Employees with a Disability	Overall
<b>Ongoing</b>	75.7%	76.7%
<b>Non-ongoing</b>	24.2%	23.3%

Source: ACT State of the Service Report Workforce Profile and a Diverse Workforce 2015-16

Employees from a Culturally or Linguistically diverse background are also on a non-ongoing rate slightly higher than the average at 25.8 per cent.<sup>7</sup>

**Figure 3.3 Employees who are Culturally or Linguistically Diverse**

	Employees who are Culturally or Linguistically Diverse	Overall
<b>Ongoing</b>	74.1%	76.7%
<b>Non-ongoing</b>	25.8%	23.3%

Source: ACT State of the Service Report Workforce Profile and a Diverse Workforce 2015-16

<sup>4</sup> ACT Government Select Committee On Estimates, Budget Estimates, Mr David Peffer, Deputy Director-General Access Canberra, 26 June 2017 <http://aod.parliament.act.gov.au/C16717>, accessed 27 June 2017

<sup>5</sup> ACT State of the Service Report 2015-16, 'Report Workforce Profile and a Diverse Workforce', <http://www.cmd.act.gov.au/functions/publications/2015-16annualreport/state-of-service-report/act-public-service-workforce-201516/4>, accessed 26 June 2017

<sup>6</sup> Ibid

<sup>7</sup> Ibid

### Women in Acting Positions

Employees in the ACTPS also experience insecurity in their employment through the use of acting positions. These arrangements, where an employee is acting at a higher classification level, are common in the ACTPS and in some cases employees can be acting in higher positions for years.

We found through our CPSU What Women Want 2015-16 survey that 12.6 per cent of women respondents in the ACTPS were acting in their current position. 4.1 per cent said that they had been doing so for over a year. In comparison, overall the rate of acting on higher duties was 8.9 per cent and only 1.8 per cent had been doing so for over a year.<sup>8</sup>

The long-term use of acting positions leaves employees in a vulnerable position with uncertainty about their ongoing pay arrangements. Higher duties can be discontinued with employees facing an immediate and significant decrease in wages.

### **Use of Outsourced Labour Hire**

There is very limited public information on the amount of contractors engaged in labour hire arrangements. The CPSU understands, through information provided by the Director of Public Sector Industrial Relations, that Access Canberra currently engages 103 people through Contractor Central working in the ICT, fines recovery, parking inspectors, administration and other inspectors. The vast majority are in the customer facing areas--around 70 of the 103.<sup>9</sup>

Dave Pepper, the Deputy-Director General at ACT Government Budget Estimates said that the reason for so many of these jobs being on rolling contracts from outsourced labour hire was due to the business needs of the call centres and shop fronts to be outside normal public servant hours which meant it was better dealt with via a third party provider.<sup>10</sup> We reject this view and recognise that there are a range of public service jobs that operate outside usual public service hours that are adequately accommodated for through an Enterprise Bargaining Agreement or other arrangements.

Labour hire workers have less job security, fewer entitlements and as a result are less satisfied with their position. This has flow on consequences for many areas of their lives such as the ability to plan for the future, eligibility for loans and accessing rental accommodation. The CPSU contends that reducing reliance on labour hire strengthens corporate knowledge, increases business continuity, improves security of information and accountability, improves quality of service, and increases staff morale.

<sup>8</sup> ACT State of the Service Report 2015-16, 'ACTPS Workforce Profile Information', December 2016 <http://www.cmd.act.gov.au/functions/publications/2015-16annualreport/state-of-service-report/act-public-sector-201516/appendix-2>, accessed 26 June 2017

<sup>9</sup> Director of Public Sector Industrial Relations ACTPS

<sup>10</sup> ACT Government Select Committee On Estimates, Budget Estimates, Mr David Pepper, Deputy Director-General Access Canberra, 26 June 2017 <http://aod.parliament.act.gov.au/C16717>, accessed 27 June 2017

The high use of arbitrary labour hire can have poor results for Government agencies. A NSW Auditor-General report into the use of labour hire by the Department of Industry, Transport for NSW and the Department of Education found that these departments were not able to demonstrate their use of labour hire was the best strategy to meet gaps in their workforce. It found that due to the absence of workforce plans they were not able to demonstrate whether their use of outsourced labour was the best use of resource capabilities and recommended that it perform an agency wide analysis in order to assess whether outsourced labour hire was actually addressing short term skill gaps and the best use of resources.<sup>11</sup>

While the use of outsourced labour hire is meant to be used for temporary skill gaps, CPSU delegates have told us that there is currently a hiring round of people to go onto contracts in these shop fronts, and that current staff are being asked to reapply for their exact same jobs in order to stay on. This leaves staff feeling under pressure in their own jobs and calls into question whether these jobs necessarily need to be outsourced contracts when there are clearly ongoing needs for them.

**Recommendation:** That ACT Government make the outsourced labour hire numbers publicly known in their annual State of the Service report as a measure of accountability.

## Impact on employees

It should be noted that there may be some employees, especially at higher pay rates and with greater market power, who prefer working in non-ongoing arrangements. However, the overwhelming experience and research in CPSU's areas of membership show that this is not the view of the majority of insecure employees.

### Reduced Security and Fewer Entitlements

Employees engaged on a non-ongoing basis or through labour hire companies face uncertain career futures, receive fewer benefits than ongoing employees, often have no certainty about their hours and no ongoing job security.

Under the *Fair Work Act*, non-ongoing employees are not entitled to the same protections at the end of their employment as permanent employees. They do not qualify for redundancy entitlements and have more limited access to unfair dismissal protections. In addition, casual employees also do not have the same entitlements under legislation to paid sick leave, annual leave, carers leave and compassionate/bereavement leave.

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<sup>11</sup> Audit Office of NSW, 'Auditor General's Report to Parliament: Contingent workforce: management and procurement', 27 April 2017

Non-ongoing employees may also have fewer entitlements under enterprise agreements. Even where these employees have the benefit of an enterprise agreement, there may be differences between their entitlements and those of ongoing employees.

Labour hire employees are generally not covered by the same agreement or award arrangements that apply to the other employees who they work alongside. This means that although they are often made to do the same work, they may not be entitled to the same pay and conditions.

This leads non-ongoing staff to feel unprotected in their current employment and change jobs for better opportunity despite being an asset to their workplace, as one of our members from pointed out:

**“We always have non-ongoing staff in our section but I find they leave because I believe they get tired of being non-ongoing and find better opportunities.”**

Insecure employees have less job security which has implications for them in a whole range of matters – for example it is harder for this group of employees to secure loans or mortgages and purchase property or significant items. Casual employees also have the additional issue of fluctuating hours which means it can be hard to know what their pay will be from week to week. One of our members in the Education Directorate who works in administration at one of our schools noted that a great number of contract staff have their contracts renewed every single year, and are never made permanent:

**“Individuals and schools do not know who or where they will be/have them working year to year with no stability”**

This was similarly noted in other areas, one member even noting that:

**“(Their section) has 16 out of its 23 officers on short term contracts.**

**Officers have been employed under such circumstances for long periods (being renewed annually). The worst were officers who have been there for 3 years, 4 years, 6 years and one has been employed under such conditions now for over 10 years.”**

The effects of insecure work continue to take their toll into retirement as reduced superannuation contributions negatively affect the retirement incomes for insecure workers.

**Recommendation:** ACT Government should introduce labour hire licensing to ensure protection of workers under labour hire companies by ensuring companies are complying with licence conditions, which will involve giving employees proper working conditions and entitlements.



Expand the ACT Portable Long Service Leave scheme to government contractors to ensure that they still get their entitlements when they move between employers and contracts.

### No Stability in the Workplace

It is not only a lack of stability for a non-ongoing employee that is a concern, but the instability for those around them who are ongoing within the workplace. A high turn around impacts on workload and a number of our members noted that when a non-ongoing employee left to find better opportunities, it was often up to the ongoing staff to take on additional work and become burnt out as a result.

**“This pattern of employing non-ongoing staff affects the workloads in the section by affecting permanent staff who when non-ongoing staff leave are left to pick up the duties of the non-ongoing staff member who has left.”**

One of our members in the Community Services Directorate noted due to non-ongoing work at a senior level, it resulted in a high turn over of managers which impacted the direction of the whole workplace:

**“Lack of consistent management and the ongoing turnaround of informing new management means productivity, vision and aims consistently get disrupted with differing approaches or aspirations of multiple management with varying styles”**

One of our members in the Justice and Community Services Directorate noted that non-ongoing staff levels had resulted in critically short staffing for months which had resulted in a flow on effect of staff needing to take leave and struggling to access their annual leave:

**“This issue affects everyone on a daily level and also effects staff’s ability to access annual leave”**

### Lack of Career Progression

An obvious result of using non-ongoing work is a lack of career progression or training within the workforce which ultimately leaves industries worse off. A lack of career progression can result in staff not being passionate about the work that they do or leaving for better opportunities where they can work for future goals.

Clinical psychologists in ACT Health noted that the amounts of short term contracts were affecting their career progression, after having spent years getting qualified for these jobs. Given the highly specialised nature of the work that they do this in turn also affects the quality of public services people receive, as these professionals regularly seek work

elsewhere with better pay, conditions, job security and a career path in other jurisdictions or private enterprise.

This lack of career progression also becomes an issue for permanent staff when jobs which do provide room for progression, get cut in favour of contracts. One member noted that in their workplace there are three new people on contracts while two full-time positions have been cut. Another member working in ICT said in their workplace a number of contractors are taken on for short term projects and those who are permanent see little opportunities to work on projects to build their experience themselves as a result.

**Recommendation:** Introduce stronger Government policies to limit keeping people on multiple non-ongoing contracts and create clear pathways for permanent employment and career progression.

## Conclusion

Insecure employment, through both directly and indirectly engaged arrangements, is increasingly becoming a regular feature in the ACTPS.

In the vast majority of circumstances, the notion that this form of employment allows for 'flexibility' with benefits for both the employer and employee is a myth. It is the employee who bears all the risk, whether that be of a downturn in business, budget cuts or a change to the employer's business or service delivery model.

If appropriate action is not taken, we risk seeing a growing underclass of Australian workers with fewer entitlements and limited job security. The CPSU believes that appropriate action should be taken at a government, industry and enterprise level to redress this situation.

### Recommendations:

- That ACT Government make the outsourced labour hire numbers publicly known in their annual State of the Service report as a measure of accountability.
- ACT Government should introduce labour hire licensing to ensure protection of workers under labour hire companies by ensuring companies are complying with licence conditions, which will involve giving employees proper working conditions and entitlements.
- Expand the ACT Portable Long Service Leave scheme to government contractors to ensure that they still get their entitlements when they move between employers and contracts.
- Introduce stronger Government policies to limit keeping people on multiple non-ongoing contracts and create clear pathways for permanent employment and career progression.