

**Community and Public Sector Union
Submission:**

Future of Work and Workers

February 2018

Recommendations

The Commonwealth as employer

1. The Commonwealth ends the APS staffing cap associated with its Smaller Government agenda, which is driving outsourcing and the use of labour hire.
2. Increase the number of secure permanent jobs in the public service, through eliminating the use of labour hire in the public service, and reducing the use of contractors, casual and non-ongoing positions, with adequate funding of the required staffing level.
3. The Commonwealth is required to publish yearly service-wide reports on the number of non-APS employees (inclusive of contractors, consultants and labour hire) as part of the total APS workforce, and details of the conditions on which they are engaged.
4. Measures be taken to ensure that labour hire workers engaged in a workplace, however temporarily, have the same level of industrial protections as the employees they work with, making it harder for employers to use labour hire arrangements to undermine enterprise agreements and the pay and conditions of its employees.
5. The Commonwealth should be a model employer, negotiating fairly with its employees and their representatives for fair wages and employment conditions. The Government's aim to undermine collective bargaining and to pursue individual contracts, evident in its new Workplace Bargaining Policy, must be abandoned.
6. The Commonwealth uses its macroeconomic levers of higher public sector wages to lift general demand and wage growth by abandoning its restrictive wages policy, and its move to abrogate responsibility for employees' wages through outsourcing and labour hire.
7. A substantial increase in overall APS staffing in regional communities should be a priority.
8. The APS explore establishing a Youth Cadetship Scheme modelled on the scheme recently launched by the Victorian Government.

The Fair Work Act

9. The enterprise bargaining framework in the Fair Work Act be improved to provide a stronger role for the Fair Work Commission, and easier access to arbitration to resolve bargaining disputes.
10. Restrictions are placed on the ability of employers to terminate agreements during bargaining or in order to escape the obligations of an enterprise agreement.
11. Reform of the Fair Work Act to better promote secure employment for all Australian workers. This includes stronger protections for casual employees, labour hire and contractors, reducing the incentive for employers to use insecure forms of work to side-step their obligations and undermine pay and conditions.

Workers and technology

12. The APS as an employer 'formalises' the use of explicit disclaimers that social media content posted by an account holder is done in a private capacity, to allow commentary within reasonable limits.
13. The use of biometric schemes by employers is regulated to ensure each proposal is demonstrated to be justified, subject to a Privacy Impact Assessment (PIA), including consultation with the affected people and their representatives and advocates, and must include appropriate safeguards.

A welfare system to match the modern labour market

14. Reorientate the social security system away from the assumption of full-time employment for a single breadwinner to the reality of the new labour market.
15. Better integrate employment services with the social security system by returning job service delivery to the Commonwealth.

The revenue to fund our public services

16. The Government dump its proposed \$65 billion corporate tax cut and focus on tackling corporate tax avoidance to increase revenue to meet our community's needs, including our public services.

Digital transformation in the APS

17. Ongoing, independent processes for examining the social impact of algorithms used by Government are established that involve frontline line staff.
18. Properly resourced human oversight of all APS compliance programs so the community can be confident that any issues raised with citizens are legitimate and accurate.
19. The use of block chain technology is considered in Government contracts with industrial instrument information mandated for inclusion in shared ledgers.

Executive Summary

We are witnessing a profound change in the structure of the labour market. Full time, secure work is in decline, particularly for young Australians, and insecure work has increased. Insecure work provides workers with little economic security and little control over their working lives.

The Commonwealth has played a major role in these labour market changes as an employer through a deliberate effort to decrease permanent employment and increase non-ongoing and casual employment, and also through the macroeconomic impact of its restrictive wages policy.

The Commonwealth has also encouraged the outsourcing of services and use of labour hire which has undercut the quality of jobs in its workforce, creating additional pressures to reduce wages and conditions.

In this environment, changes to the Fair Work Act are needed to resolve bargaining disputes, to prevent the termination of collectively negotiated enterprise agreements, and to protect the entitlements of workers.

The growing use of social media and surveillance technology by employers are creating new workplace issues. Digital rights for workers need to be protected.

Australia's social security system is not keeping up with these changes. It was originally designed for a labour market where full-time employment was the norm. Australia needs a social security system that works for the modern labour market reality.

Low wage growth, capital's growing share of GDP, and corporate tax avoidance are all placing pressures on government revenue for our public services, and need to be addressed.

New technology is also having an impact on how the public service operates and is shaping how services are delivered to the community. Far too often it is simply a means to cut costs rather than improve services for the public. The push to automate all functions and cut face-to-face services has only created more confusion and undermined public trust in our systems, as shown by the robodebt debacle.

The future of work debate must move beyond simply trying to deal with the negative impacts of technology and instead become a debate about how technology can make for better work, better workplaces, and a better society for all Australians.

Introduction

It is important that Australia maintains secure and quality jobs for workers. The changing nature of work in the Australian economy more generally, shows an increasing reliance by employers on sub-contractors, labour hire, and 'gig' workers. These developments, especially the rise of a 'gig economy', pose fundamental challenges to traditional models for regulating work and setting minimum standards.¹

Whether they work in the public sector or private sector such as in the telecommunications sector, call centres, employment services and broadcasting, the impact of technology and changing nature of work has big implications for the future employment prospects of CPSU members.

The changing nature of work is having a profound impact on the wider labour force. Over the last twenty years, full-time employment as a proportion of total employment has fallen by 11.1 per cent.² Australia now has the third highest level of part-time work in the Organisation for Economic Co-operation and Development (OECD).³ The high proportion of part-time workers has driven underemployment and it is growing. Official unemployment may be just over 700,000 but the number of workers who are underemployed is closer to 2 million. Even those who have full time employment face challenges with analysis by the Centre for Future Work identifying that less than half of the labour force are full time workers with access to leave.⁴

The crisis is particularly acute for young Australians. Full-time employment for young Australians has declined steadily since the Global Financial Crisis. Research commissioned by the ACTU found that 49 per cent of 18 to 24 year olds said they cannot rely on getting regular work and 64 per cent have no form of career progression.⁵ There has been a sharp decline in the number of entry-level jobs since 2006 – a reduction of more than 50 per cent.⁶ A recent report by the Brotherhood of St Laurence found that the youth unemployment rate is still more than double the overall unemployment rate.⁷ At September 2017, 50,500 young people had been unemployed for at least a year, more than three times the number before the GFC.⁸ Long-term youth unemployment represented 18.4 per cent of all young unemployed 15–24 year olds in September 2017 – almost one in five.⁹

The jobs crisis is affecting all parts of the labour market, including those with a tertiary education. The overall number of undergraduates in full-time employment is still well below the pre-Global Financial Crisis employment level in 2008.¹⁰ There are more graduates but businesses and the public service are not providing enough graduate level opportunities.¹¹

1 'Regulating work in the gig economy: What are the options?' Andrew Stewart, Jim Stanford. The Economic and Labour Relations Review, Vol 28, Issue 3, pp. 420 – 437, First Published August 7, 2017

2 Australian Bureau of Statistics (2017, December), Labour Force, Australia, November 2017. Retrieved from <http://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/961A70FE9EC98712CA2582180013F5DA?opendocument>

3 OECD Data. Part-time employment rate. Retrieved from <https://data.oecd.org/emp/part-time-employment-rate.htm>

4 Michael Janda (2017, 20 July). Unemployment steady, full-time jobs rebound, but is the economy as good as it looks? ABC News. Retrieved from <http://www.abc.net.au/news/2017-07-20/unemployment-jobs-figures-abs/8726952>

5 ACTU (2016, 30 August). New independent poll paints disturbing picture of youth employment. Retrieved from <https://www.actu.org.au/actu-media/media-releases/2016/new-independent-poll-paints-disturbing-picture-of-youth-employment>

6 Vacancies at ANZSCO Skill Level 5 fell by 50% from 2006 to 2013, according to Department of Employment data <http://lmip.gov.au/PortalFile.axd?FieldID=2790179&.xlsx>

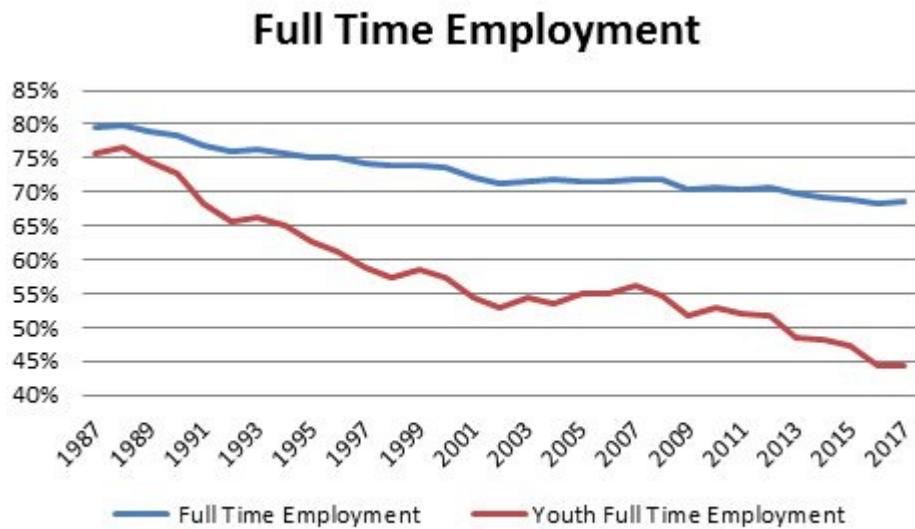
7 Brotherhood of St Laurence (2017, December). Reality Bites: Australia's youth unemployment in a millennial era. Retrieved from http://library.bsl.org.au/jspui/bitstream/1/10341/1/BSL_Reality_bites_Australias_youth_unemployment_Dec2017.pdf

8 Brotherhood of St Laurence (2017, December). Reality Bites: Australia's youth unemployment in a millennial era. Retrieved from http://library.bsl.org.au/jspui/bitstream/1/10341/1/BSL_Reality_bites_Australias_youth_unemployment_Dec2017.pdf

9 Brotherhood of St Laurence (2017, December). Reality Bites: Australia's youth unemployment in a millennial era. Retrieved from http://library.bsl.org.au/jspui/bitstream/1/10341/1/BSL_Reality_bites_Australias_youth_unemployment_Dec2017.pdf

10 Shirley Jackson (2018, 17 January). The problem isn't unskilled graduates, it's a lack of full-time job opportunities. The Conversation. Retrieved from <https://theconversation.com/the-problem-isnt-unskilled-graduates-its-a-lack-of-full-time-job-opportunities-90104>

11 Shirley Jackson (2018, 17 January). The problem isn't unskilled graduates, it's a lack of full-time job opportunities. The Conversation. Retrieved from <https://theconversation.com/the-problem-isnt-unskilled-graduates-its-a-lack-of-full-time-job-opportunities-90104>

Chart 1: Full Time Employment versus Youth Full Time Employment (1987-2017)

The alarming trend away from ongoing employment to other more insecure employment arrangements such as casualisation, outsourcing and labour hire, allow employers to avoid their obligations to employees at the expense of the security and rights of workers. 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. Workers engaged on insecure arrangements generally have less access to career progression opportunities. The effects of insecure work continue to take their toll into retirement as reduced superannuation contributions negatively affect the retirement incomes for insecure workers.

Unfortunately, rather than considering what a world-class skilled labour force would look like, the focus is often on using technology and bypassing industrial relations legislation to reduce costs in a short-term ad hoc manner, and not on improving the quality of work. Buzzwords such as “disruption” and suggestions that employment will disappear are thrown about rather than considering what kind of future we want.

The Commonwealth as an employer

In 2012 the Report of the Independent Inquiry into Insecure Work in Australia reported on the rapidly increasing casualisation of Australian workplaces. The inquiry, commissioned by the ACTU, defined insecure work as ‘poor quality work that provides workers with little economic security and little control over their working lives’. The report described the characteristics of these jobs as including unpredictable and fluctuating pay; inferior rights and entitlements; limited or no access to paid leave; irregular and unpredictable working hours; a lack of security and/or uncertainty over the length of the job; and a lack of any say at work over wages, conditions and work organisation.¹²

Published in 2012, this description foreshadows circumstances that now, some 5 years later, have alarming taken hold and become common practice within Australian Public Service employment. In the CPSU’s experience, there has been an concerning increase recently in the number of Australian Public Service agencies making use of ‘casuals’, outsourcing and labour hire contractors to perform work previously undertaken by permanent public servants. Outsourcing, labour hire and the

¹² Australian Council of Trade Unions (2017). ‘Lives on Hold - Unlocking the Potential of Australia’s Workforce’. Retrieved from <https://www.actu.org.au/our-work/submissions/2017/independent-inquiry-into-insecure-work-in-australia/report>

emergence of 'gig' work present challenges requiring significant IR law reform and new approaches to protect workers.

In recent years, the main category of insecure work in the APS has been the use of 'casual' or 'irregular and intermittent' employee.

However, it is the experience of the CPSU that agencies have increasingly overlooked the engagement provisions of the Public Service Act concerning the use of 'irregular and intermittent' workers.¹³ In some DHS call centres for example, large numbers of irregular and intermittent employees have been rostered regular shifts, working full time equivalent hours, in some cases over a period of years. These employees have performed key customer service functions and their jobs have exhibited many of the characteristics of permanent employment. However due to nominal 'casual' description of their positions, these workers have been denied salary progression, access to paid leave, and have lived in a constant precarious uncertainty regarding their futures.

As mentioned above, this is not just an issue in the private sector. The public sector has not been immune from these changes because of political pressures to reduce permanency and conditions in agreements in the name of 'flexibility'. The Australian Public Service Commissioner, for example, has argued there will be fewer public servants in the future and will see a big increase in contingent employment forms including contracting or working under labour hire arrangements.¹⁴ The Commonwealth Government is increasingly relying on these methods to engage workers at the expense of quality, permanent jobs.

The reality is that public service workplaces today include people working for a number of different entities or organisations, sub-contractors and labour hire firms – all working side by side, for example, in a large government call centre, such as those currently performing a wide variety of functions for the Australian Taxation Office. The result is permanent public servants now work alongside insecure workers who receive vastly disparate pay and conditions but perform very similar work.

These circumstances create new forms insecure employment and it is more difficult to extend existing IR laws to regulate and protect these categories of workers. The CPSU acknowledges that there is significant work underway to reform and regulate the labour hire providers by state governments, notably in Victoria and Queensland¹⁵, however there is a distinct lack of action by the Commonwealth government. The CPSU is especially encouraged by reform recommendations such as providing labour hire employees the opportunity to be covered by enterprise agreements applying at a host's workplace and reforming the labour hire sector, through the introduction sector-specific licensing schemes.¹⁶

The CPSU recognises that the federal government is responsible for the national system of industrial relations laws, and there has been a lack of action to regulate labour hire at that level. The recent process of updating Modern Awards to include provision for casual conversion clauses is significant step and the CPSU supports further reform in this space.

The growth of fixed-term and casual employment in the public sector

Employees engaged on a non-ongoing (fixed term) basis face uncertain career futures, receive fewer benefits than ongoing employees, and 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

¹³ Public Service Act 1999 (Cth) s 22.

¹⁴ Noel Towell (2017, 26 June). Public service jobs for life in the past, says Lloyd. Canberra Times. Retrieved from <http://www.canberratimes.com.au/national/public-service/public-service-jobs-for-life-in-the-past-says-lloyd-20170626-gwyncp.html>

¹⁵ Labour Hire Licensing Bill 2017 (Qld); Labour Hire Licensing Bill 2017 (Vic).

¹⁶ Anthony Forsyth (2016) Victorian Inquiry into the Labour Hire Industry and Insecure Work: Final Report. Melbourne: Industrial Relations Victoria. Retrieved from <http://economicdevelopment.vic.gov.au/inquiry-into-the-labour-hire-industry>

have the same entitlements under legislation to paid sick leave, annual leave, carers leave and compassionate/bereavement leave.

Non-ongoing employees also have fewer entitlements under many APS 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. For example, in the DHS enterprise agreement, casual employees are excluded from a range of entitlements that apply to other employees such as, learning and development, study assistance, flexible working arrangements and certain remote locality entitlements.

In many industries, the idea of a permanent job seems almost non-existent. Non-ongoing employment is also a growing issue in the public service. The rate of non-ongoing employment in the APS has been steadily increasing in the APS. In 2007 there were 11,550 non-ongoing employees in the APS making up 7.4 per cent total APS employment. This number increased to 17,778 (11.4 per cent of all employees) in 2016 and is now at 14,840 (9.8 per cent).¹⁷

The number of non-ongoing employees is even higher in the ACT Public Service where 24.1 per cent of employees are engaged on a non-permanent basis.¹⁸

Fixed-term employment is often used by employers to avoid the costs associated with standard employment conditions like leave and notice of termination. Although the Public Service Act limits the circumstances in which agencies may engage employees on a fixed term or fixed task basis, the CPSU has had many reports of workers on rolling non-ongoing contracts for many years performing core work of the APS.

Casual employment is often used as a tool to limit the employer's obligations, rather than to deal with temporary or intermittent variations in the patterns of work. In the broader workforce over half of all casuals are "permanent casuals" who have been employed in their current job for over a year and over 15 per cent of casuals have been in their job for more than five years.¹⁹ ABS data shows that more than half of all casual employees would prefer ongoing work.²⁰

This use (or misuse) of casual employment in the APS has the effect of undercutting and employee rights and creating insecurity for large numbers of individual workers. Despite the inadequacy of the IR system to provide adequate protection for casual workers, the CPSU has successfully used dispute resolution procedures in enterprise agreements to limit the misuse of insecure employment and offset the transgressions of public service agency employers. The CPSU has also been successful in negotiating enterprise agreements that go some way to recognising rights and enhancing conditions for casual (such as providing casuals with access to salary advancement).

Increasing outsourcing and use of labour hire in the APS

In addition to the gradual rise in non-ongoing and casual employment arrangements in the public service, there has been an alarming increase in outsourcing and labour hire arrangements in the APS. Outsourcing is concerning in the APS because of

- the scale of outsourcing and the type of work that is being outsourced;
- the undermining of quality jobs in the public service;
- implications for accountability and quality of services to the Australian community; and

A recent report by the Australian National Audit Office, indicated that contract procurement in the public sector was worth as much as \$47.4 billion in 2016-2017.²¹ To get an idea of the scale of government job outsourcing, early last year it was reported that there were more consultants, contractors and labour hire staff in the Department Defence than permanent APS employees.²²

17 Australian Public Service Commission (2017, September). APS Statistical Bulletin 2016-17. Retrieved from <http://www.apsc.gov.au/publications-and-media/parliamentary/aps-statistical-bulletin/statisticalbulletin16-17>

18 Australian Capital Territory State of the Service Report (2017). ACT Public Service Workforce 2016-17. Retrieved from <http://www.cmd.act.gov.au/functions/publications/2016-17annualreport/state-of-service-report/act-public-service-workforce-2016-17>

19 ABS, Employment Arrangements, Retirement and Superannuation, Cat 6361.0, 2007

20 ABS, Measures of Australia's Progress 2010: Casual Employees, 2010

21 ANAO Report No.19 2017-18, Australian Government Procurement Contract Reporting, p 6.

22 Noel Towell (2017, 20 February). Consultants and contractors now outnumber public servants in Defence Department.

The APS faces a problem with outsourcing at every level of APS work. At one level, billions of dollars are being spent on high paid consultants and consultants to perform work that could or should be done by APS employees. For example, since 2011-12, there has been a significant shift away from permanent APS staff to the use of contractors. The proportion of external ICT FTE grew from 23 per cent to 30 per cent, while the proportion of internal FTE decreased from 77 per cent to 70 per cent.²³ The most recent 2015-16 ICT Trends report show this remains the case as, on average, the labour cost of external FTE is \$213,906 while the labour cost of internal FTE is \$131,530.²⁴

At the other end of the spectrum, because of the ASL cap, the Government is increasingly outsourcing work to labour hire companies to be performed by employees on far inferior conditions to the APS employees who previously performed the work. This undermines the pay and conditions of Government employees that have been negotiated over decades of collective bargaining.

The scale of labour hire in the APS

Lack of transparency

The Commonwealth Government has not been very transparent about its use of labour hire workers and the conditions on which they are engaged. While information on contracts as consultancy services can be obtained from Austender and was reported on in ANAO Audit No.19, it can be difficult to determine exactly how much has been spent on specific types of non-consultancy services such as the use of contractors and labour hire.

The most recent service wide analysis was conducted by the ANAO in 2007, which found that non-APS employees (inclusive of contractors, consultants and labour hire) constituted 11 per cent of the total workforce.²⁵ Total expenditure on non-APS works in 2005-06 was \$2.197b, approximately \$2.788b in 2016 dollars.²⁶ Given staffing cuts since 2007 and restrictions on hiring permanent APS employees, non-APS employees are likely to be a larger proportion of the total workforce today. To the CPSU's knowledge, no service wide analysis has been conducted since, making it difficult to obtain service wide information on the number of non-APS employees that are part of the total workforce. A regular yearly-service wide report on non-APS employees and the conditions on which they are engaged would provide an important level of transparency.

Average Staffing Level cap

The increase in outsourcing and the use of labour hire is being driven by both attempts to achieve short term cost savings and by an arbitrary staffing cap imposed by the government onto agencies.

In the 2015-16 Budget, the Coalition committed to capping the size of the Australian Public Service around or below 2006-07 levels (167,596)²⁷. This has meant that regardless of funding levels or operational requirements, agencies are forced to have a maximum average staffing level. For example, the ATO has indicated it has a financial year staffing cap of 18,043.²⁸

Even where agencies have the funding to hire additional staff, the cap is forcing them to engage casuals, hire contractors and use labour hire to do work that permanent APS employees should be doing. The arbitrary cap is creating a perverse incentive that it not guided by the best use of resources and those employees are paid significantly less with far worse conditions than the equivalent APS employees.

Canberra Times. Retrieved from <http://www.canberratimes.com.au/national/public-service/consultants-and-contractors-nowoutnumber-public-servants-in-defence-department-20170216-guf561.html>

²³ Department of Finance. Australian Government ICT Trends Report 2015-16. Retrieved from <https://www.finance.gov.au/sites/default/files/ict-trends-report-2015-16.pdf>

²⁴ Department of Finance. Australian Government ICT Trends Report 2015-16. Retrieved from <https://www.finance.gov.au/sites/default/files/ict-trends-report-2015-16.pdf>

²⁵ Australian National Audit Office (2007, 25 June). Non-APS Workers. Retrieved from <https://www.anao.gov.au/work/performance-audit/non-aps-workers>

²⁶ Calculation made using RBA Inflation Calculator from <https://www.rba.gov.au/calculator/annualDecimal.html>

²⁷ Australian Government. 2016-17 Budget, Budget Paper No.4 Part 2: Staffing of Agencies http://budget.gov.au/2016-17/content/bp4/html/09_staff.htm

²⁸ Australian Taxation Office, National Consultative Forum November 2017 report

The cap is an ideologically driven commitment that is damaging to the capacity of the public service and costing the community.

The CPSU is not the only voice highlighting how ridiculous the staffing cap is. Most notably, the Productivity Commission has recommended the removal of the cap on directly employed NDIA staff as it could hinder the ability of the NDIA to manage the NDIS effectively and independently. The Productivity Commission stated that:

“The Commission recommends that the Australian Government remove the cap on directly employed staff. This is on the basis that the NDIA is best placed to determine the most effective and efficient staff mix to deliver the scheme, within the constraints of its capped operating budget.”²⁹

The Commission also identified a link between the staffing cap and outsourcing:

“The rationale for the cap on directly employed staff appears to be to encourage the NDIA to enter into community partnerships. While it is important that the NDIA works collaboratively with the community to deliver the scheme, it could also lead to poorer outcomes. For example, the NDIA outsourcing a lot of its work can present a particular risk when the agency is so new and needs to build institutional expertise and capability.”³⁰

The NDIA is not the only example of the staffing cap driving outsourcing. Despite having the funding for permanent APS roles, the staffing cap is forcing agencies to hire more expensive contractors get work done.

Department of Human Services

The Department of Human Services has experienced significant job losses over the past five years and is set to lose further staff. At the same time, it is engaging labour hire firms to perform core DHS work. Rather than ensuring permanent, good quality APS jobs, the 2017-18 Budget announced an outsourced call centre staffed by 250 people under a 2 year contract for \$53 million. This will be delivered by Serco in Melbourne meaning clients who call the DHS may have their call about Centrelink online support services and myGov support, BasicsCard general inquiries and reporting of employment income answered by Serco.

In Senate Estimates, the Department of Human Services responded to questions about why Serco was being engaged, stating that *“we currently recruited all the way up to our ASL cap”* and that they were *“fully staffed”*.³¹

On top of the 250, DHS is engaging 1,000 staff through a labour hire arrangement to undertake compliance work in the department. These people will be working alongside APS employees doing the same work but on different conditions. Rather than enjoying the salaries and conditions of the DHS enterprise agreement, these workers are award-dependent.

Australian Taxation Office

ATO headcount data shows that the government has cut the number of ATO employees significantly over the past five years. Ongoing staffing levels are 15.5 per cent lower than they were in 2012. Furthermore, there has been a 4,338 or 336 per cent increase in externally engaged staff on the ATO payroll system.³²

Labour hire staff initially were used to provide call centre staff to respond to queries from the public (within the Service Delivery Group) but have expanded to other functions since. The ATO has stated

29 Productivity Commission (2017). National Disability Insurance Scheme (NDIS) Costs, Study Report, Canberra. Retrieved from <http://www.pc.gov.au/inquiries/completed/ndis-costs/report/ndis-costs2.pdf>

30 Productivity Commission (2017). National Disability Insurance Scheme (NDIS) Costs, Study Report, Canberra. Retrieved from <http://www.pc.gov.au/inquiries/completed/ndis-costs/report/ndis-costs2.pdf>

31 Parliament of Australia. (2017, 25 October). 2017-2018 Supplementary budget estimates - Social Services and Human Services. Retrieved from https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/ca/2017-18_Supplementary_Budget_estimates

32 Based on data from Australian Public Service Statistical Bulletin, snAPShots & ATO National Consultative Forum

that the work undertaken under the outsourced contact centre services contracts is equivalent to the APS1, 2 and 3 levels across telephony, processing, debt, social media and webchat workloads.³³

Department of Defence

The Department of Defence is one agency that has openly acknowledged the extensive use of outsourced staff. Last year, the outgoing Secretary of the Department reported that after extensive job losses, there were more consultants, contractors and labour hire staff in Defence than permanent APS employees.³⁴ This is despite contractors costing 40 per cent more than their APS equivalents.³⁵

CPSU members provided some examples of outsourcing in Defence. For example, the Systems Program Office reviews being conducted by Capability and Sustainment Group are consistently recommending the replacement of APS staff with contractors; even where work is clearly not 'transactional', such as workplace health and safety, project management, engineering and logistics.

Department of Home Affairs

The Government is also proposing to effectively outsource the design and delivery of Australia's visa system over the next five years. The number of applications for Visas in Australia is growing at around 9 per cent per annum. With no associated increase in funding, staff are under significant workload pressure. Instead of increasing staffing levels to deal with the increased demand, the Government is investigating the privatisation and automation of visa assessment.

The government has already made a decision to outsource the Department of Home Affairs Visa call centre, which will see a private organisation (Datacom) operate the call centre, taking over the jobs of 250 Sydney based former Department of Home Affairs.

The Department has now released a paper which discusses the privatisation and automation of not just low risk functions, but also complex visa assessment in categories including assessment of character, identity, capacity to financially support stay in Australia, genuine student status, genuine temporary stay, and compliance with work conditions. If this proceeds it could lead to the loss of at least 2,000 Public Service jobs. It is also likely to impact on many other public service jobs related to visa processing in other parts of the department including in embassies.

Other examples of contractors or labour hire being used because of the staffing cap include:

- The Commonwealth Department of Public Prosecutions examining bringing in contractors to work as federal prosecutors due to the staffing cap.³⁶
- Despite having the funds to keep 30 non-ongoing staff, the Australian Institute of Aboriginal and Torres Strait Islander Studies undertook a closed tender with Hayes and convert staff to labour hire to keep them beyond 1 July 2017.

These examples highlight that budget pressures and the arbitrary average staffing cap are driving outsourcing that cost the taxpayer more and undermine public sector capacity and the creation of quality jobs in the public sector.

The Government should address perverse incentives such as the staffing cap that are driving the use of more expensive labour hire. It should instead focus on increasing the resources available APS Agencies and restoring permanent APS staffing levels, bring contact centre work in-house and ensure the use of contractors is only as a last resort and is not used to undermine the pay and conditions of APS employees.

33 Parliament of Australia (March 2017). Additional Budget Estimates 2016-17: Treasury portfolio. Retrieved from https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/economicscte/estimates/add1617/Treasury/index

34 Noel Towell (2017, 20 February). Consultants and contractors now outnumber public servants in Defence Department. Canberra Times. Retrieved from <http://www.canberratimes.com.au/national/public-service/consultants-and-contractors-now-outnumber-public-servants-in-defence-department-20170216-guf561.html>

35 Department of Defence (2010, 6 April), SRP initiative information sheet: workforce and shared services: contractor conversions. Retrieved from <http://www.defence.gov.au/srp/infosheets.htm>

36 Noel Towell (2017, 14 August). Federal government to dump prosecutors for labour-hire lawyers. Canberra Times. Retrieved from <http://www.canberratimes.com.au/national/public-service/federal-government-to-dump-prosecutors-for-labourhire-lawyers-20170814-qxvo9i.html>

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RECOMMENDATION: The Commonwealth is required to publish yearly service-wide reports on the number of non-APS employees (inclusive of contractors, consultants and labour hire) as part of the total APS workforce, and details of the conditions on which they are engaged.

Labour hire undermines quality jobs

One of the effects of using labour hire to replace permanent APS jobs is that it shift the risks posed by working life onto the workforce. Instead of fluctuations in workloads and changing priorities of the Government being managed by agencies reorganising their permanent workforce, the burden is put onto employees who face uncertainty about the availability of work. Given that these employees are generally not entitled to leave, the costs associated with illness and other unforeseen events which may prevent the performance of work, are being borne by workers and not the employer.

In addition, labour hire workers become second class citizens performing the same work as other employees under inferior working conditions and a lower level of protection in the workplace. Labour hire workers do not enjoy the standard employment entitlements and conditions that attach to direct permanent employment.

Labour hire workers do not enjoy the benefits of the enterprise agreements that govern pay and conditions for the Agency that utilised their services. Instead they are usually engaged on the relevant Award on far inferior conditions. Labour hire workers cannot bargain for a collective agreement with the host employer, or participate in bargaining for such an agreement. While labour hire workers can make a collective agreement with the labour hire agency (subject to the practical barriers which attach to their predominantly casual form of engagement), the agency is not the entity that on a day to day basis controls the work that they perform and the conditions under which and location where it will be performed.³⁷

Nor do labour hire employees get the benefit of many other entitlements that attach to APS employment such as flexible work arrangements, the ability to apply to APS jobs as an internal applicant and redeployment rights throughout the APS.

Protections around job security and mistreatment are also diminished for labour hire employees. Labour hire engagements typically take the form of a triangular relationship (between the labour hire agency who acts as the employer, a host organisation and a worker) whereby the worker performs work for the host organisation but is employed by the labour hire agency. The standard view is that in the absence of a contract of employment between the worker and host, there is no employment relationship between the two. Further, it has generally rejected the idea that there could be more than one employer. Therefore, the standard view is that labour hire workers cannot make an unfair dismissal claim against a host employer, even where the host employer is the decision maker as to whether the worker will have a continuing job at the workplace or not.³⁸

In addition, the “General Protections” contained in the Fair Work Act 2009 (Cth) adapt poorly to the work situations of labour hire workers because in the main they protect the labour hire agency itself from “adverse action” rather than the workers the agency employs and makes available to workplaces.³⁹

Workers in labour hire arrangements are less inclined to speak up about matters of concern to them as they understand that the decision to request that they no longer be supplied to the workplace can be

³⁷ ACTU (2017). Submission to Inquiry into the Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017

³⁸ Arcadia v Accenture Australia (2008) 170 IR 288, Pettifer v Modec Management Services Pty Ltd [2016] FWCFB 5243

³⁹ ACTU (2017). Submission to Inquiry into the Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017

made by the host employer at any time, and may mean they have an uncertain period of time before another host engagement becomes available. The protections that labour hire employees do have against reprisals for speaking up can be hard to enforce given that it can be hard to prove the reason that further work is not made available. Also workers may not be able to afford the period without an income for the time it takes to enforce those rights which can be significant where Federal Court applications are involved.

There is no good reason why a situation should be allowed to continue whereby two workers can work side by side in the same role yet one has a lesser standard of employment protection or a lower rate of pay. Yet, this is now occurring in the APS with labour hire workers are working alongside APS employees performing the same core government work.

RECOMMENDATION: Measures be taken to ensure that labour hire workers engaged in a workplace, however temporarily, have the same level of industrial protections as the employees they work with, making it harder for employers to use labour hire arrangements to undermine enterprise agreements and the pay and conditions of its employees.

Implications for accountability and quality of services to the Australian community

Outsourcing has major implications for both the accountability of and quality of services that are delivered to the public. Labour costs are a major component of the cost of government service provision. For outsourcing to be financially viable, it requires that the combined cost of employee's wages, operational costs and the profit be less than what public sector provision would cost.⁴⁰ This often means that cost savings come from driving down wages and conditions, not improving the quality of services. Competition that focuses excessively on reducing the costs of running these services may lead to the employment of casuals and contractors, and poorly trained labour.⁴¹

Furthermore, the government is the sole buyer when public services are outsourced so this is not a genuinely competitive market. The market power of the one buyer is often used to get very low prices from suppliers. Prices can become so low that there are long-term costs. For example, many Australian charities and other not-for-profit bodies have been used to deliver low cost welfare services, but this has often been at the expense of program effectiveness or dynamic efficiency. Pricing is often too low to sustain adequate training, employ fully qualified staff, or to develop new service models.⁴²

The experience of outsourcing from the Job Network is a classic example. Between 2003 and 2008, the Commonwealth put organisations such as Catholic Social Services Employment under growing pressure to reduce their costs while delivering employment outcomes. Fees paid for their services remained almost static while inflation and the cost of delivery rose.⁴³ A 2012 Government review into the Job Network's successor, Job Services Australia, also identified uncompetitive wages as a major issue, causing high staff turnover.⁴⁴ It is very clear that these circumstances have a direct impact on the quality of service provision on the wider society that relies on these government funded services.

Furthermore, outsourced services have less accountability and transparency. It is the nature and extent of accountability and transparency is one of the things that distinguish the public sector. Public sector agencies must also balance complex political, social and economic objectives – different to the constraints and influences affecting the private sector.⁴⁵ Public servants themselves are subject to a

40 Cook, B., Quirk, V., and Mitchell, W. (2012). The Impact on Community Services of Staff and Service Reductions, Privatisation, and Outsourcing of Public Services in Australian States. Centre of Full Employment and Equity. University of Newcastle

41 R. Lynette-Smith and I. Martin McDonald (2016, 27 May) More competition may not be the answer to reforming the aged care system. The Conversation. Retrieved from <https://theconversation.com/more-competition-may-not-be-the-answer-to-reforming-the-aged-care-system-58155>

42 Centre for Policy Development (2015), Grand Alibis: How Declining Public Sector Capability Affects Services for the Disadvantaged. Centre for Policy Development

43 L Fowkes (2011), 'Rethinking Australia's employment services', Whitlam Institute, Sydney, p.7

44 Advisory panel on Employment Services Administration and Accountability – Final Report Feedback, http://docs.employment.gov.au/system/files/doc/other/advisory_panel_on_employment_services_administration_and_accountability_final_report_feedback.pdf, p.7.

45 Pat Barrett AM (2000, 26 July). Some Issues in Contract Management in the Public Sector. Retrieved from https://www.anao.gov.au/sites/g/files/net616/f/Barrett_some_issues_in_contract_management_in_the_public_sector_2000.pdf

legislated Code of Conduct and the public can enquire through Freedom of Information about virtually all aspects of public activity. Private sector competitors do not have this. Quantifying this is difficult yet it is an important characteristic of “public” services.

Public accountability and transparency are eroded if services are no longer delivered by the public sector. Privately run services do not have the same requirements of disclosure to parliament and to the general public, nor do they have the same levels of independent oversight and audit. As Emeritus Professor Richard Mulgan has noted, *‘contracting out inevitably involves some reduction in accountability through the removal of direct departmental and Ministerial control over the day-to-day actions of contractors and their staff.’*⁴⁶

The public sector has a range of social, environmental, governance and community obligations, and delivers outcomes that cannot be captured solely by financial measures⁴⁷ A focus on purely financial inputs, i.e. cost of services, may result in situations where increased “efficiency” leads to a reduced quality of services and the neglect of other obligations.⁴⁸

Slow wages growth

Workers’ share of Australia’s prosperity is getting smaller. While Australia is experiencing the longest period of uninterrupted growth in the developed world. The proportion of GDP that is being paid to workers has hit an all-time low. While GDP has been growing, wages have been stagnating.⁴⁹ Australia is among countries with the highest growth in income inequality in the world over the past 30 years, according to the International Monetary Fund.⁵⁰

This is being exacerbated by slow wage growth and pay freezes and pay freezes in the APS which are problems for CPSU members who work for the Commonwealth Government and for workers more broadly.

Wage growth has slowed in the in the Commonwealth Government in the last 5 years due to the Government’s harsh attitude to enterprise bargaining and its strict wages and bargaining policy. Prior to the round of enterprise agreements that have only just recently been concluded, Australian Public Service enterprise agreements expired on 30 June 2014 and most APS employees received their last pay rise on 1 July 2013. At the commencement of bargaining, the restrictive wages policy imposed on the APS saw agencies table pay offers as low as 0 per cent and 0.8 per cent p.a. This was eventually revised to 2 per cent p.a. in November 2015, a year and a half after APS enterprise agreements had expired.

Major APS agreements (ATO, DHS, and Defence) were not settled until the second half of 2017, with the majority of APS employees waiting over three years for a pay rise. These agreements offered an average of 2 per cent p.a. pay increases over the three years of their operation, with no back pay for the effective wage freeze since bargaining commenced in 2014.

This means that real wages for most APS employees have gone backwards since 2013. From mid-2013 until mid-2016 APS the median base salaries for all APS and EL level employees only rose by an average of 0.6 per cent. In that time CPI increased by 5.5 per cent. From mid-2013 until mid-2017 when major APS agreements were settled, CPI increased by 7.4 per cent.

Slow wage growth in enterprise bargaining has been compounded by the outsourcing of government work to labour hire companies that engage workers on inferior pay and conditions to the enterprise agreements that apply to APS employees performing the same work.

46 R. Mulgan (1997) ‘Contracting Out and Accountability’, Discussion Paper 51, Graduate Public Policy Program. Australian National University, 1997, cited in in P. Barrett AM (2000, 26 July) Some Issues in Contract Management in the Public Sector
47 Cameron Elliot, Christopher Stone, and Stephen Beverley (2013). Whatever Happened to the Big Society? Centre for Policy Development,

48 David Hetherington (2013, October). Social Innovation. Public Good – New approaches to public sector productivity. Per Capita

49 Jim Stanford (2017, 13 June). Briefing Note: Labour Share of Australian GDP Hits All-Time Record Low. Centre for Future Work at the Australia Institute

50 International Monetary Fund (2017, October). IMF Fiscal Monitor: Tackling Inequality. Retrieved from <http://www.imf.org/en/publications/fm/issues/2017/10/05/fiscal-monitor-october-2017>

Low wage growth in the public sector directly contributes to low wages growth for the rest of the Australian workforce. This Government has acknowledged the role that its wages policy plays in the broader economy, its previous Workplace Bargaining Policy stating that *"the public sector is a large employer – its wage outcomes have a macroeconomic effect."*⁵¹

While APS employees have undergone a wage freeze, Australian workers have experienced the lowest wage growth on record, with the wage price index ranging from 1.9 per cent to 2.3 per cent between June 2014 and September 2017. A recent analysis of household living standards between 1990 and 2016 concluded that 'living standards in Australia peaked in June 2012' and have since 'declined by 0.6 per cent to March 2016'.⁵²

Low wage growth has been acknowledged as a significant economic problem and a drag on general demand and government revenue, including by the Treasurer Scott Morrison.⁵³ Despite this, the 2018 Bargaining Policy limits remuneration increases up to an average of 2 per cent per annum.⁵⁴

There are several ways in which reducing wages and indeed any reduced private or public spending has a detrimental effect on the economy.

- In the short term, reducing wages reduces consumer spending which diminishes demand which slows economic growth and leads to unemployment. The effect is worse at the lower end of the earnings spectrum as lower earners tend to spend, rather than save, a higher proportion of their income.⁵⁵
- Secondly, as even OECD now accepts, a reduction in wages that increases wage differentials and inequality will inhibit long term economic growth.⁵⁶
- Reducing wages and thus consumer spending reduces public finances by reducing the tax take from the GST, income tax and tax on profits (which in any event the current government proposes to reduce). Lower government revenue means reduced public spending and investment, which also slows the economy, further reducing consumer spending and employment in the short term and productivity in the long term.⁵⁷

The RBA Governor Philip Lowe has said that low wages is a key threat to economic growth and has suggested that workers' incomes need to rise⁵⁸, stating that *"in this country we should be able to deliver workers, on average, wage increases faster than 2 per cent"*⁵⁹, and economist Saul Eslake has suggested that a lever available to address low wages is for the government to adjust the approach it takes to wages negotiations with its own employees.⁶⁰

The Government should take on board the advice of economists and use the lever of increasing public sector wages to increase general demand and help to lift wage growth across the economy.

51 Australian Public Service (2015, 7 August). Australian Government Public Sector Workplace Bargaining Policy. Retrieved from <http://www.apsc.gov.au/publications-and-media/archive/publications-archive/2014-workplace-bargaining-policy>

52 Phillips, Ben (2016). "Trends in Household Living Standards in Australia: 1990 to 2016," Research Note, Canberra: Australian National University.

53 Henry Belot and Matthew Doran (2017, 13 March). Low wage growth Australian economy's biggest challenge, Treasurer Scott Morrison says. ABC News. Retrieved from <http://www.abc.net.au/news/2017-03-13/scott-morrison-low-wage-growth-biggest-challenge-economy/8350032>

54 Australian Public Service Commission (2018, 6 February). Workplace Bargaining Policy. Retrieved from <http://www.apsc.gov.au/priorities/workplace-relations/bargaining-policy-2018>

55 https://www.actu.org.au/media/1033211/d_04-2017-actu-submission-corporate-avoidance.pdf, Troy Henderson and Jim Stanford (2017, July). False Economies: The Unintended Consequences of NSW Public Sector Wage Restraint. Centre for Future Work at the Australia Institute

56 OECD (2015). In It Together: Why Less Inequality Benefits All. Retrieved from <http://dx.doi.org/10.1787/9789264235120-en>

57 Troy Henderson and Jim Stanford (2017, July). False Economies: The Unintended Consequences of NSW Public Sector Wage Restraint. Centre for Future Work at the Australia Institute

58 Jacob Greber (2017, 19 June). Workers must demand greater share of pie, says RBA governor Philip Lowe Read. Australian Financial Review. <http://www.afr.com/news/economy/workers-must-demand-greater-share-of-pie-says-rba-governor-philip-low-20170619-gwtxht>

59 Workplace Express (3028, 16 February) "No-one knows" when wages will take off: RBA's Lowe

60 Saul Eslake (2017, 4 October). Is faster profit growth essential for a pick-up in wages growth? The Conversation. Retrieved from <https://theconversation.com/is-faster-profit-growth-essential-for-a-pick-up-in-wages-growth-83819>

RECOMMENDATION: The Commonwealth should be a model employer, negotiating fairly with its employees and their representatives for fair wages and employment conditions. The Government's aim to undermine collective bargaining and to pursue individual contracts, evident in its new Workplace Bargaining Policy, must be abandoned.

RECOMMENDATION: The Commonwealth uses its macroeconomic levers of higher public sector wages to lift general demand and wage growth by abandoning its restrictive wages policy, and its move to abrogate responsibility for employees' wages through outsourcing and labour hire.

Government needs to play a pivotal role

There is a national crisis in full time employment and the situation even worse in regional areas. Unemployment is higher than the national average of 5.4 per cent in many regional areas.

For example, recent Small Labour Area Market statistics⁶¹ show unemployment rates of:

- Townsville at 8.6 per cent
- Shoalhaven at 6.7 per cent.
- Launceston and the North East at 6.3 per cent
- Coffs Harbour-Grafton at 8.8 per cent
- Cairns at 5.8 per cent

Youth unemployment rates are even worse than the national average of 12.4 per cent:

- In Townsville, the youth unemployment rate is 19.9 per cent
- In Cairns it is 13.4 per cent.
- In the Shoalhaven and Southern Highlands it is 28.6 per cent
- In Launceston and the North East it is 15.8 per cent
- In Coffs Harbour- Grafton it is 21.6 per cent

As alarming as these figures are they do not capture the full extent of the problem. These high unemployment rates are based on participation rates lower than the national average – which was 65.5 per cent in December 2017.

- In Cairns the participation rate is 61.7 per cent
- In Townsville it is 62.3 per cent.
- In Launceston it is 60.1 per cent.
- In Coffs Harbour-Grafton it is 53.8 per cent
- In the Shoalhaven and Southern Highlands it is 43.0 per cent

The Department of Employment has conceded in presentations that if labour force participation rates in these areas of higher unemployment were in line with national average, unemployment rates would be even higher.

Even where jobs are available in regional centres, it can be very difficult to find full-time work. A report by Adzuna Australia found that:

- In regional NSW, there were 8 job seekers per vacancy compared to 3.6 in Sydney,⁶²
- In regional Victoria, it is 10.4 compared to 6.1 in Melbourne,⁶³
- In South Australia, it is 12.83 job seekers per vacancy,
- In Tasmania, it is 11.74 job seekers per vacancy,
- In Western Australia, it is 11.02 job seekers per vacancy and

61 Department of Employment (2018). Labour Market Information Portal. Retrieved from <http://lmip.gov.au/maps.aspx#layer=EmploymentRegions>

62 Ben Phillips (2017, 26 March). Adzuna Job Report: Jobs & Salary in City VS Regional Australia. Retrieved from <https://www.adzuna.com.au/blog/2017/03/26/adzuna-job-report-jobs-salary-city-vs-regional-australia>

63 Ben Phillips (2017, 26 March). Adzuna Job Report: Jobs & Salary in City VS Regional Australia. Retrieved from <https://www.adzuna.com.au/blog/2017/03/26/adzuna-job-report-jobs-salary-city-vs-regional-australia>

- In Queensland, it is 9.01 job seekers per vacancy.⁶⁴

Similarly, figures from the Department of Employment suggest that there was an average of 14 applicants per vacancy in the Hunter region.⁶⁵

2016 Employment projections have employment growth for regional Australia to 2020 at around half (5.8 per cent) of the projection for employment growth for capital cities (9.5 per cent).⁶⁶

The situation in regional Australia is unacceptable. The fact is that not enough jobs are being created in regional economies and the divide will continue to grow unless the Government actively plays a role.

The CPSU believes that Government must take an active role in using APS employment to address regional unemployment, particularly given that Government has direct access to the employment lever of the public service. The CPSU therefore strongly supports increased public sector employment in regional locations.

However, the public sector is itself in need of urgent repair after decades of public sector cuts have stretched the APS beyond its policy development and service delivery capacity. In this environment, moving existing agencies, functions, and staff to new locations does not rebuild APS capacity, and risks exacerbating the problem. The CPSU therefore calls for a substantial increase in overall APS staffing with regional communities to be a priority recipient of that increased staffing.

There are a number of factors that would determine the optimum size of the proposed increase in APS staffing and the proportion of that increase that should be targeted to regional communities. CPSU suggests that those factors should include:

- Restoring the policy development and service delivery capacity of the APS,
- Setting targets for the creation of new APS jobs in regional communities,
- Improving access to public services in regional Australia, and
- The achievement and maintenance of full employment as an express goal of Government economic policy.

The fact is that there is a growing divide between capital cities and the regions and the public sector needs to play a larger role in helping to overcome that growing inequality. Full employment should be the aim with the APS playing a key role. Full employment should be treated the same way as Australia already treats its inflation target, or indeed the government's role in building physical infrastructure. The Reserve Bank already lists "the maintenance of full employment" as one of its objectives.⁶⁷

Full employment would see an unemployment rate of between 2-3 per cent, a substantial reduction on the current 5.65 per cent. At an unemployment rate of 5.65 per cent there are 726,000 unemployed Australians and 1,129,600 underemployed Australians⁶⁸, and the situation in regional communities is considerably worse.

Because unemployment disproportionately hurts regional communities, especially their young people, our regions stand to benefit the most from a government committed to full employment. Achieving full employment would see the jobless number decline to around 390,000. Achieving that outcome requires the creation of some 350,000 new jobs in addition to the current rate of jobs growth.

The APS has the capacity to do much more in regional Australia including to provide entry level jobs and pathways such as cadetships, and to assist in building the skill base of regional labour markets. The scope for improvement is huge. The APS currently has 152,095 employees⁶⁹ but:

64 Ben Phillips (2017, 22 May). Adzuna Job Report: May, 2017. Retrieved from <https://www.adzuna.com.au/blog/2017/05/27/adzuna-job-report-may-2017>

65 Department of Employment, Survey of Employers' Recruitment Experiences, Hunter Employment Region, March 2016 <http://lmip.gov.au/default.aspx?LMIP/EmploymentProjections>

67 Reserve Bank of Australia (2017). Our role. Retrieved from <https://www.rba.gov.au/about-rba/our-role.html>

68 Australian Bureau of Statistics (2017, 19 October). 6202.0 - Labour Force, Australia, Sep 2017. Retrieved from <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6202.0>

69 Australian Public Service Commission (2017, 26 September). APS Statistical Bulletin 2016-17. Retrieved from <http://www.apsc.gov.au/about-the-apsc/parliamentary/aps-statistical-bulletin/statisticalbulletin16-17>

- Only 410 employees, 0.27 per cent of the workforce are under the age of 20,
- There are only 563 Trainees, representing 0.37 per cent of the APS workforce.

A model to explore is the Youth Cadetship Scheme recently launched by the Victorian Government.⁷⁰This is an innovative scheme with strong prospects for scaling up. The CPSU has calculated that the \$23m allocated for the APVMA relocation could have been used to provide cadetships or scholarships, each with 12 months guaranteed employment at APS wage rates and which would provide the recipient a recognised Certificate Level Three qualification, for around 450 young people in regional Australia. Such an investment would produce a far higher social dividend than the APVMA relocation.

Increased APS employment will need to be part of any comprehensive plan for full employment. The CPSU does not suggest that the public sector can provide all of those new jobs. We do suggest that government must play a key role through increased public investment, especially in infrastructure, and through increased direct employment, and that these efforts must be targeted at regional communities in particular.

RECOMMENDATION: A substantial increase in overall APS staffing in regional communities should be a priority.

RECOMMENDATION: The APS explore establishing a Youth Cadetship Scheme modelled on the scheme recently launched by the Victorian Government.

The Fair Work Act

In addition to the recommendations above, there are a number of other areas in which legal reform is required in order for the entitlements of workers to be adequately protected.

Rules governing enterprise bargaining

The enterprise bargaining framework established by the Fair Work Act is currently insufficient to require employers to genuinely bargain with their employees. The CPSU has experienced in the recent bargaining round with the Commonwealth Government in which the CPSU sought genuine, constructive negotiations with the Government. Instead, decision-makers in government avoided genuine negotiations, sought a cut to real wages and conditions, and left APS agencies with little room to negotiate sensible agreements with their employees.

Shortcomings in the FW Act in relation to the rules of bargaining and limitations on workers' rights to take industrial action have left workers and unions with little formal redress when employers appear to comply with the procedural good faith bargaining requirements but do not in fact substantively participate in bargaining in a meaningful way.

For employees of the Commonwealth, a rigid, centrally controlled Bargaining Policy has prevented agencies from negotiating fairly and genuinely with their employees to resolve enterprise bargaining. Bargaining has been tightly controlled by the APS Commissioner and the Minister Assisting the Prime Minister for the Public Service.

These problems are likely to be continued under the government's recently released Workplace Bargaining Policy 2018, which signals an aim to undermine collective bargaining by encouraging agencies to investigate other arrangements, including individual contracts, as an alternative to enterprise bargaining.

The Good Faith Bargaining requirements of the FW Act are inadequate to address these issues because they are largely procedural.

⁷⁰ Jobs Victoria (2017). Youth Cadetship Scheme. Retrieved from <http://jobs.vic.gov.au/about-jobs-victoria/youth-cadetship-scheme>

Problems around the genuineness of bargaining processes are compounded by the fact that the Fair Work Commission has limited scope to intervene in bargaining disputes and ensure resolution. The current setting, which provides only conciliation of bargaining disputes in most situations, does not encourage parties to reach agreement in the way that the availability of arbitration would.

The limited role of Fair Work Commission provided by the FW Act means there is often no sensible way to resolve intractable bargaining disputes. Bargaining conduct would improve if the Fair Work Commission had a stronger role in the bargaining process.

Termination of Enterprise Agreements

In recent years an alarming practice has developed whereby employers are able to subvert the collective bargaining process by terminating current, collectively negotiated agreements, leaving employees' pay and conditions to fall back to the award. This has been used as leverage by employers to obtain employees' agreement enterprise agreements with drastically reduced conditions.

This is an illegitimate bargaining strategy that should not be permitted, as it is effectively penalising workers for their stance in bargaining.

While such a termination of an agreement is meant to take account of public interest issues, the Fair Work Act doesn't adequately articulate the breadth of the public interest issues to be taken into account including whether there is any public interest in employers actually continuing to be bound by the agreements they sign, or any public interest in protecting workers from economic coercion when they seek to bargain collectively.

RECOMMENDATION: The enterprise bargaining framework in the Fair Work Act be improved to provide a stronger role for the Fair Work Commission, and easier access to arbitration to resolve bargaining disputes.

RECOMMENDATION: Restrictions are placed on the ability of employers to terminate agreements during bargaining or in order to escape the obligations of an enterprise agreement.

RECOMMENDATION: Reform of the Fair Work Act to better promote secure employment for all Australian workers. This includes stronger protections for casual employees, labour hire and contractors, reducing the incentive for employers to use insecure forms of work to side-step their obligations and undermine pay and conditions.

Workers and technology

The prominence of social media and workplace issues about statements made on social media

The vast majority of Australians use social media. In 2017, 79 per cent of Australians reported using social media.⁷¹ The rapid growth of social media in Australia has had a significant impact on workplaces across the nation, and the Australian Public Service (APS) is no exception. Emerging social media platforms have allowed Commonwealth agencies and their employees' new and unforeseen opportunities to engage not only with their stakeholders, but also with one another and the community at large.

There are, however, vexed questions about how an employee's private use of social media impacts on their obligations to their employer. As social media usage has increased, there has been an increasing blurring of work and the personal. In the experience of the CPSU, this has emerged as a particularly difficult issue in the APS in recent years.

⁷¹ Sensis (2017). 2017 Social Media Report. Retrieved from https://www.sensis.com.au/asset/PDFdirectory/Sensis_Social_Media_Report_2017-Chapter-1.pdf

Generally speaking, the Australian Public Service Commission (APSC) has issued longstanding advice on the capacity of APS employees to make public comment.

However, more recently the APSC has sought to extend that advice to cover comments made by APS employees online and on social media. The Code of Conduct does provide a statutory basis for regulating conduct of employees outside of work in certain limited circumstances. In the area of social media and public commentary, the APSC has sought to rely on these statutory provisions to support a very restrictive interpretation of when, how and under what circumstances APS employees can engage in commentary online forums and on social media.

The CPSU is of the view that it is inappropriate and in a number of key areas, beyond the limits imposed by the *Public Service Act 1999*. All Australians have political opinions and preferences, and APS employees should have freedom to express their views. Many APS employees have strong interest in matters of public policy, and it is those interests that draw them to work in the APS. Not only would it be undesirable but inexplicable for Federal Government employees to be indifferent to or uninterested in topics of concern to the Commonwealth.

Furthermore, the public is firmly of the view that private social media conduct should not be limited by employers and that digital privacy at work matters. The Digital Rights in Australia report found that most Australians do not think employers should look at their employees' social media pages. Only 20 per cent agreed that it was ok for either current or prospective employers to look at private posts.⁷²

The principal duty of Australian public servants is to serve the people of Australia, and the Government they have elected, faithfully and to the best of their ability. Necessarily, this means that Commonwealth employees will serve elected representatives of different political persuasions, and be called upon to implement their policies in the most effective way possible, irrespective of any individual employee's personal political beliefs.

This duty does not require APS employees to remain silent on issues of the day in their private lives. Regulation of APS employees' engagement in political discussions on social media should be limited to circumstances that would legitimately call into question their capacity to undertake their duties impartially or is significantly damaging to the integrity or reputation of the agency or the APS.

A requirement that APS employees be prevented from making public comment on all political issues is unwieldy, ambiguous and may be unenforceable in practice, given the expansive and contested definitions of what topics are, and are not, 'political'. A restriction as to any and all public comment on political issues would, for that reason, have a serious and undesirable chilling effect on the speech and political participation of all APS employees.

Broad restrictions make the APS a less desirable place to work. The Federal Government and APS agencies should treat their staff as adults and reasonably understand that in a workforce as large and diverse there will be a whole range of views on any political matter. The APSC reasonably stand to be criticised in the public domain of trying to shut down debate if they continue on the current course or pursue an even broader restriction on the use of social media.

Broader Application?

This issue is also broadly applicable to private sector workplaces. One of the key and emerging aspects of existing case law which may be applied broadly to social media use is the distinction between a conduct undertaken in an employee's private capacity and not in their capacity as an employee.

Cases such as *Rose v Telstra* and *McManus v Scott Charlton* (1996) 140 ALR 625 establish the circumstances by which conduct outside of work may be actionable by an employer. One of the ways this rationale may be applied to emerging social media platforms is via the use of explicit disclaimers. It is common on social media to explicitly make clear that all content published by an account holder is being posted in a private, not a professional, capacity.

⁷² Gerard Goggin, Ariadne Vromen, Kimberlee Weatherall, Fiona Martin, Adele Webb, Lucy Sunman, and Francesco Bailo (2017, November). Digital Rights in Australia. Retrieved from <https://ses.library.usyd.edu.au/handle/2123/17587>

In adopting the position that such content would, within reasonable limitations, be effectively exempt from restrictions around public commentary, employers, including the APS would be formalising a system which is already commonplace and understood on social media. The ‘formalisation’ may occur via employment policy, inclusion of clearly worded social media obligations in industrial instruments or even, in relation to the APS, via statute (i.e. amendment to the APS Code of Conduct). In our view this approach would also more closely align with the general community expectations as to the divide between an employee’s professional and private responsibilities.

RECOMMENDATION: The APS as an employer ‘formalises’ the use of explicit disclaimers that social media content posted by an account holder is done in a private capacity, to allow commentary within reasonable limits.

Technology and surveillance

Another growing concern is the use of technology by employers to collect personal data without consent, for example, through the use of facial recognition surveillance technologies by employers. There is little regulation or oversight of these biometric schemes. A concerning example is the use of surveillance technology without the permission of employees.

While the Privacy Act includes thirteen ‘Australian Privacy Principles’ that broadly impose obligations on organisations when collecting, handling, storing, using and disclosing sensitive information like biometric data, and certain rights for individuals to access and correct personal information, Australians, however, have no direct right to sue for a breach – only rights to complain, first to the organisation involved or, if there is no satisfactory response, to the Office of the Australian Information Commissioner.⁷³

Comprehensive legislation needs to be introduced to regulate the use of biometric schemes to ensure that where schemes are introduced, the proposal is justified, subject to a Privacy Impact Assessment (PIA), including consultation with the affected people and their representatives and advocates, and must include appropriate safeguards.

These issues the use of facial recognition surveillance technology shows there is a need to put limits on management’s ability to collect personal data without consent. It is essential that a digital privacy agenda is and should be considered when discussing how technology is changing work. Australians increasingly need their digital rights protected in the workplace.

RECOMMENDATION: The use of biometric schemes by employers is regulated to ensure each proposal is demonstrated to be justified, subject to a Privacy Impact Assessment (PIA), including consultation with the affected people and their representatives and advocates, and must include appropriate safeguards.

A welfare system to match the modern labour market

It is broadly accepted that future demands on government will grow rather than shrink with the increase in the scope and volume of health services, long-term commitments including the NDIS and additional welfare costs.⁷⁴ Australians are, however, not supportive of cutting programs to meet these future demands, with four in five Australians (81 per cent) supporting maintaining government programs.⁷⁵

73 Gerard Goggin, Ariadne Vromen, Kimberlee Weatherall, Fiona Martin, Adele Webb, Lucy Sunman, and Francesco Bailo (2017, November). Digital Rights in Australia. Retrieved from <https://ses.library.usyd.edu.au/handle/2123/17587>

74 John Daley and Cassie McGannon (2014, May). ‘Budget pressures on Australian Government: 2014 Edition’, Grattan Institute, Melbourne. p.6

75 Ian McAllister (2014, January), ‘Public Priorities for Government Expenditure, Report No .15’, ANUpoll, p.6

Australia has both a highly progressive social security system and a progressive direct tax system with Australian social security system being well targeted by income. Social spending is the eighth lowest in the OECD.⁷⁶

Australia's social security system was originally designed for a labour market where full-time employment for a mainly male work force was the norm. Periods of unemployment were short periods and benefit levels could be kept low to avoid disincentives to work.⁷⁷ While there have been changes to social security such as the tightening of eligibility and the introduction of activity tests, this underlying premise has not changed.

The experience of robodebt highlighted how the extent to which the social security system is not suited to the modern labour market, particularly as it affects those who had casual and part-time work. Debts were calculated without considering when a person worked, what they actually earned every fortnight or the length of time a customer was on payment for in any given year. The onus was also been placed on recipients of debt notices to track down payslips and employment history from up to six years ago to prove they did not wrongly claim benefits,⁷⁸ ignoring the fact that recipients may have had multiple employers over that time period.

The current Government's welfare reform agenda shaped by the McClure Review will not address the changing nature of the labour market. It has focused on creating a new payment structure with a greater emphasis on reducing growth in the cost of the income support system.⁷⁹ Investment in ICT has been focused on making this new payment structure possible.

The problem with this approach is that any changes to policy will require a trade-off between the competing objectives of equity, efficiency and simplicity. Australia's social security system is complex, however, it is efficient by international standards and growth in the cost of working-age payments is far from 'out of control'.

The changing labour market requires a more holistic approach than the push to simply payments and automate. The robodebt debacle shows the danger of automation driven by a focus on reducing costs. The desire to save money, pushed from above, created a false economy and has created costly reverse workflows where staff are taken offline to deal with complex and difficult disputes over incorrectly raised automated debts. It has meant that DHS has just lurched from one crisis to the next and will continue to unless it is adequately funded and staffed.

Humans are complex and to be effective, any system must, at least to some degree, take account of individual circumstances. However Budget cuts coupled with the shift to online service delivery means that the number of people receiving face-to-face advice has decreased. The consequence of this is that some citizens fail to successfully navigate the system and end up with incorrect payments.

What is needed is a shift away from social security being treated solely as a payment delivery system. All aspects of the social security system – services, the support provided, reporting requirements and resourcing, needs to be reoriented to the reality of the changing labour market that is increasingly characterised by insecure work and changes in employment status. This not only will require reversing the deprofessionalisation of DHS staff, discussed in this submission, but also better integration with other Government-funded services such as employment services. These services would be better delivered by Commonwealth through Department of Human Services or a new entity. The CPSU notes that there would be broad support with Council of Small Business Organisations of Australia calling for this.⁸⁰

76 OECD Data (2018). Social Spending. Retrieved from <https://data.oecd.org/social-exp/social-spending.htm#indicator-chart>

77 Carol Ey (2012, 4 December) Social security payments for the unemployed, the sick and those in special circumstances, 1942 to 2012: a chronology. Parliamentary Library. Retrieved from

https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/2012-2013/SSPaymentsUnemployment

78 Christopher Knaus (2016, 19 December). Fears Centrelink online glitch may send welfare recipients to debt collectors. *Guardian Australia*. Retrieved from <https://www.theguardian.com/australia-news/2016/dec/19/fears-centrelink-online-glitch-may-send-welfare-recipients-to-debt-collectors>

79 Don Arthur (2016, August) Welfare—where to for reform? Parliamentary Library. Retrieved from https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook45p/WelfareReform

80 Malcolm Farr (2017, 31 October). Small business calls for revival of the CES as employers and the unemployed criticise private operators. News.com.au. Retrieved from <http://www.news.com.au/finance/economy/australian-economy/small-business->

RECOMMENDATION: Reorientate the social security system away from the assumption of full-time employment for a single breadwinner to the reality of the new labour market.

RECOMMENDATION: Better integrate employment services with the social security system by returning job service delivery to the Commonwealth.

The revenue to fund our public services

The changing nature of the labour market has implications for Australia's taxation system. Personal income tax contributed nearly half (47.2 per cent) of revenue to the Commonwealth Budget in 2017-18.⁸¹ Even if the number of permanent jobs lost due to automation and the gig economy has been dramatically overestimated, as previously flagged, the erosion of bargaining power through insecure work will affect tax revenue. The impact of low wage increases are already being seen on the Budget bottom line. Wages account for the majority of income taxes paid, this will result in overall taxes growing more slowly than previously expected.

At the same time, there has been a substantial decrease in labour compensation as a share of GDP. Analysis from 2017 found that 46.2 per cent share of GDP in the March quarter was the lowest recorded since the Australian Bureau of Statistics started collecting the data in 1959.⁸² The benefits of economic growth are increasingly captured by capital who are avoiding their tax obligations, hence the pressures on revenue.

Australia's reliance on corporate tax as a revenue source makes it vital that Australian companies meet their tax obligations in Australia. The 2015-16 ATO Tax corporate tax transparency report indicated that 732 large companies that did not pay any corporate tax in 2015-16.⁸³ Previous recent by the Tax Justice Network indicated that the effective tax rate paid by ASX 200 companies over the last decade has been 23 per cent and nearly one third of ASX 200 companies had an average effective tax rate of 10 per cent or less.⁸⁴

Given that corporations are likely to benefit the most from the lower costs and higher output associated with automation.⁸⁵ Rather than giving corporations a \$65 billion corporate tax cut⁸⁶, addressing revenue pressures requires the government to focus on tackling corporate tax avoidance by large multinational corporations that are not paying any corporate tax⁸⁷ and to strengthen the bargaining position of workers

RECOMMENDATION: The Government dump its proposed \$65 billion corporate tax cut and focus on tackling corporate tax avoidance to increase revenue to meet our community's needs, including our public services.

[calls-for-revival-of-the-ces-as-employers-and-the-unemployed-criticise-private-operators/news-story/a8c9247da2359ab5816ab1b3aa7cd979](https://www.abc.net.au/news/2017-12-07/calls-for-revival-of-the-ces-as-employers-and-the-unemployed-criticise-private-operators/news-story/a8c9247da2359ab5816ab1b3aa7cd979)

81 Commonwealth of Australia (2017, May). 2017-18 Budget Paper 1 – Statement No. 5: Revenue. Retrieved from http://www.budget.gov.au/2017-18/content/bp1/download/bp1_bs5.pdf

82 Jim Stanford (2017, 13 June). Labour Share of Australian GDP Hits All-Time Record Low. Centre for Future Work
83 Emily Clark (2017, 7 December). The ATO just dropped corporate tax data and more than 700 companies paid nothing. ABC News. Retrieved from <http://www.abc.net.au/news/2017-12-07/corporate-tax-data-released-by-ato/9236878>

84 Tax Justice Network Australia, 'Who Pays for Our Common Wealth? Tax Practices of the ASX 200', Sydney, October 2014, p.8

85 Matt Simon (2017, 30 May). Who Will Pay for the Future If Not the Robots? Wired. Retrieved from <https://www.wired.com/2017/05/will-pay-future-not-robots/>

86 James Massola (2017, 11 May) Malcolm Turnbull's company tax cut rises from \$50 billion to \$65.4 billion. Sydney Morning Herald. Retrieved from www.smh.com.au/federal-politics/political-news/malcolm-turnbulls-company-tax-cut-rises-from-50-billion-to-65-4-billion-20170511-qw2ksm.html

87 Emily Clark (2017, 7 December). The ATO just dropped corporate tax data and more than 700 companies paid nothing. ABC News. Retrieved from <http://www.abc.net.au/news/2017-12-07/corporate-tax-data-released-by-ato/9236878>

Digital transformation in the APS

Digital transformation is often seen simply as a means to cut costs

New technology is having an impact on how the public service operates and is shaping how services are delivered. If implemented correctly and with a human centred focus, digital transformation could have the potential to enhance public services delivered to the community. Technological change can improve access to services and make the work of public servants easier in delivering the support the community requires. Conversely, if implemented poorly digital transformation has the potential to undermine access to services, to cut agency budgets, worsen the work done by public servants and make it harder for the community to access quality public services.

A key test for the success of this agenda will be whether or not it improves equity, accessibility and the quality of public services. Unfortunately, the current approach in the APS is failing this test.

Our public services should be world-class but too often digital transformation is seen simply as a means to cut costs and respond to budgetary pressures. The CPSU has significant concerns about the tendency by Government and agencies to reap savings upfront, before they have been realised, or, even worse, to return to revenue savings earmarked for reinvestment. Such behaviours, which are counterproductive and have major implications for service delivery, staffing numbers and workloads, have been a frequent feature on many change programs, from shared services initiatives to contestability programs. The experience around the Gershon Review is instructive in this regard.

The Gershon review had a heavy emphasis on savings. One of the key recommendations was to reduce the total number of ICT contractors across the APS by 50 per cent over the next two years and increase the number of APS ICT staff⁸⁸. Some two years later The *Independent Review of Implementation of the ICT Reform Program* (Reinecke Review⁸⁹) released in June 2010, identified that the Gershon initiatives would have resulted in savings on ICT budgets totalling \$1 billion over four years⁸⁹. However the \$447.5 million in funding quarantined to implement the Gershon recommendations were reclaimed prior to the implementation of the initiatives that would generate the savings.⁹⁰, and the full potential savings were not realised.

The CPSU does not support digital transformation that is focused on the pursuit of a 'digital dividend', or savings generated, rather than improving services. The tendency of all governments to realise savings ahead of service delivery and ICT changes being imbedded is a key barrier to the achieving effective digital delivery of government services.

Automation is deskilling professional work

There is no doubt that technological change will have an impact on the future of work, however, the extent and nature of that change is still debatable. There is an oft cited claim is that 47 per cent of Americans will lose their jobs⁹¹ due to automation when an OECD study concluded the actual figure is more likely 9 per cent.⁹² A similar claim by the Committee for Economic Development of Australia

88 Sir Peter Gershon CBE FREng (2008, August). Review of the Australian Government's Use of Information and Communication Technology. Department of Finance and Deregulation. Retrieved from <http://www.finance.gov.au/publications/ICT-Review/chapter3.html>

89 Dr Ian Reinecke (2010, June). Independent Review of Implementation of the ICT Reform Program. p.v

90 Election Commitment Costings (2010, 2 August). Federal Election 2010 - "Remove Funding Quarantined under the Gershon Reforms for ICT Spending across Government". Retrieved from <http://electioncostings.gov.au/2010/08/02/gov23-remove-funding-quarantined-under-the-gershon-reforms-for-ict-spending-across-government/>

91 Benedikt Frey, Carl & A. Osborne, Michael. (2013). The Future of Employment: How Susceptible Are Jobs to Computerisation? Oxford Martin. Retrieved from http://www.oxfordmartin.ox.ac.uk/downloads/academic/The_Future_of_Employment.pdf

92 Arntz, M., T. Gregory and U. Zierahn (2016), "The Risk of Automation for Jobs in OECD Countries: A Comparative Analysis", OECD Social, Employment and Migration Working Papers, No. 189, OECD Publishing, Paris. Retrieved from <http://dx.doi.org/10.1787/5jlz9h56dvq7-en>

cited a figure of 40 per cent⁹³ which was found to be closer to 9 per cent after being examined by Professor Jeff Borland and Dr Michael Coelli.⁹⁴ The attention given to these claims means it is of little surprise that most Australians think the net effect of automation will be less jobs with a substantial minority thinking it could happen as soon as five years.⁹⁵

While the threat from automation is often overstated, there are big technological shifts occurring which are undermining job security and hollowing out permanent, skilled work. Digital transformation in the APS is having an impact on the APS workforce, particularly as there has been an active push for a digital by default approach. The Department of Human Services (DHS) has previously stated in public forums that it projects 65 per cent of its customers will naturally take up digital channels, 20 per cent will need support and assistance and believe 5 per cent of its customers will never get there. There is also the increasing use of Artificial Intelligence (AI) bots in the public sector. These 'virtual assistants' are slated to be used by National Disability Insurance Agency (NDIA)⁹⁶ and are already being used by DHS.⁹⁷ The use of the Roxy 'virtual assistant' in DHS has been driven by cost reductions⁹⁸ and has not been without problems. For example, there have been testing problems including the inability to get synonyms used in Australia as the program for it was American, showing a lack of foresight.

An approach that seeks to automate almost all service delivery has limitations in terms of the scope of issues that can be resolved. Individuals with complicated and interconnected problems are not going to be able to have all their issues resolved through automated digital service delivery. Attempts to automate almost all service delivery are likely to see either very poor service delivery for the recipients or a doubling of re-work. It is worth noting that a Deloitte report on digital transformation recommended that digital interactions should *"at times sacrifice functionality for simplicity to focus on the majority of people"* and that encompassing *"the complexity of government programs and eligibility may make digital interactions complex, resulting in lower take up."*⁹⁹ An automated approach will only work for more straightforward, everyday transactions. Unfortunately, this is not occurring and automation is occurring beyond simple, everyday transactions.

Within DHS, increasing automation is transforming the social security system into a dehumanised payment system rather than a holistic system that aims to get people back on track. Rather than being developed as part of a good plan that is human centred, automation has focused on developing computer programs that checks if requirements are met with minimal human involvement.

In the Child Support area, the implementation of a computer program called Pluto has led to the "dumbing down" of the work done by APS staff. Members report that Pluto required staff to be on the phones a lot more (frequently 8 hours a day) for escalations and that the program worked on a 'check box' system, meaning that staff were just required to select a box rather than providing more nuanced answers. Members also indicated it also said that it was clear that there was an AI component to such a system where the program was learning how to do their more simplified role.

Similar issues have been highlighted by other members in the Department with concerns about other computer programs such as Process Direct and Customer First. There have been many complaints regarding the real lack of training and staff consultation to make sure the programs did what was needed. Instead, members report it was more a case of staff being forced to fit in with the computer program rather than the computer program fitting in with the needs of customers.

93 Committee for Economic Development of Australia. (June 2015) Australia's future workforce? Retrieved from https://www.ceda.com.au/CEDA/media/ResearchCatalogueDocuments/Research%20and%20Policy/PDF/26792-Futureworkforce_June2015.pdf

94 Ross Gittins (2017, 12 December) Robots aren't stealing jobs: truth behind claim scaring pants off our graduates. Brisbane Times. Retrieved from <https://www.brisbanetimes.com.au/opinion/robots-arent-stealing-jobs-truth-behind-claim-scaring-pants-off-our-graduates-20171212-h02y18.html>

95 Airtasker (January 2017) Future of Work. Retrieved from <https://www.airtasker.com/future-work/2017/>

96 Justin Hendry (2017, 13 July) NDIS participants could use the Nadia bot to shop. ITNews. Retrieved from <https://www.itnews.com.au/news/ndis-participants-could-use-the-nadia-bot-to-shop-468202>

97 Justin Hendry (2017, 15 November) DHS aims for AI-driven service delivery future. ITNews. Retrieved from <https://www.itnews.com.au/news/dhs-aims-for-ai-driven-service-delivery-future-477605>

98 Andrew Probyn (2017, 21 September) NDIS' virtual assistant Nadia, voiced by Cate Blanchett, stalls after recent census, robo-debt bungles. ABC News. Retrieved from <http://www.abc.net.au/news/2017-09-21/government-stalls-ndis-virtual-assistant-voiced-by-cate-blanchet/8968074>

99 Deloitte Access Economics (2015). Digital government transformation. Retrieved from <https://www2.deloitte.com/au/en/pages/economics/articles/digital-government-transformation.html>

One example of the deskilling of public servants in a bid to see high levels of online services is the dramatic cuts in face-to-face services provided by social workers, psychologists and other allied health professionals.

The Department has cut back on face to face services provided by social workers and psychologists. Social workers, for example, increasingly work via the phone through a computer program called Work Load Manager which means that you might call a Social Worker in Queensland and are on the phone to one in Perth. This is cited as concerning by members because it prevents the development of best practice client-professional relationships which rely heavily upon trust for client disclosure. Client disclosure is understood to be important in order to provide the best, and most cost effective, solutions for vulnerable Australians. These are skills professionals acquire through often Masters level education and skills which are considered to be 'deeply human' and therefore not replicable by machines.

Evidence of the de-skilling of Social Work within the Department of Human Services is found not only in the decrease in the number of Social Workers employed, which has largely been done through attrition, but also through the changes in the scope of the work conducted by the professionals. Previously Social Workers worked across Federal policy issues of lines including drug and alcohol addictions, homelessness, youth unable to live at home, domestic violence, indigenous servicing and other critical areas. The implementation of computer systems such as Work Load Manager not only deprives vulnerable Australians of receiving best practice and innovative social work services, but also deprives the Department of having a workforce which interacts meaningfully and intelligently with the policy that they implement.

The changing use of technology is not only limited to how services are provided to users. DHS employees (especially call centre workers) now work in what is called a Rostered Environment, through a computer system known as Genesys. This system has radically changed the nature of HR and other functions of management (as a form of work) within DHS. At its heart Genesys is a program which seeks to roster the workforce in a 'flexible' manner, ensuring that when work peaks (i.e. a large number of phone calls) all workers can be redirected to do the work most in need at the time. There are however several perhaps unintended consequences of the program which include a change in the function of the work of management within the Department as well as ways of measuring productivity. The system does this by noting whether workers are 'in adherence' i.e. 'in call taking mode' or doing something else such as going to the toilet. It is a system which ensures workers don't take a minute too long on their lunch break, and other such tightly controlled means of management. If a worker is found to have been out of adherence too much within a cycle they face sanctions such as being deprived overtime. Genesys also distributes shifts for workers and has removed much of the flexibility which previously ensured the public services was a place of quality employment for those requiring work-life balance such as working mothers.

It is an example of how technology is changing the nature of work and highlights the need for external oversight and regulation of management prerogatives. Without it, technology will further reduce the power of workers and give management far more power. The situation for precarious workers, in particular, will be worsened as every action at work will be constantly measured and scrutinised. It also is an example of how technology threatens the diversity of our workforce.

Along with the cuts to services and staffing, the examples of the deskilling through the use of technology and removal of the essential human element show the clear that the eventual end game for DHS is the social security system as an automated payment with minimal human interaction. Where work is not completely automated, every action by an employee is heavily scrutinised by management. Rather than the current situation, use of technology should be more focused on how it can both deliver better services for clients and improve the quality and experience of work.

The changing nature of work in the APS will have wider effects

It is increasingly clear that the thinking shaping the use of technology in the APS is short-term and focused on cost reductions. It is not about what the future of public service should look like, current approaches are missing vital opportunities to build a public service which supplies best practice for Australians incorporating gains from technology and the benefits of human-focussed service delivery. The implementation of technological and digital solutions is considered by CPSU members to be

reactionary, have zero planning, and occurring at an ad-hoc basis without consultation with the experts who do the work – Australian public servants. This movement towards reducing face to face interactions through automation will have implications, not only for frontline service delivery staff, but also have wider effects on inequality, the economy, government and society.

Automation cannot be introduced without human oversight. The push to automate all aspects of the review and complaint processes only created more confusion and undermined public trust in our systems. It also reduces citizen's access to natural justice. Algorithms and the use of big data to make decisions are not without problems as highlighted by data scientist Cathy O'Neil. Algorithms are often opaque, are not neutral and can reflect and reinforce existing human biases that have been built in and that ends up shaping how algorithms operate.¹⁰⁰ There is an added danger when scale and secrecy are added.¹⁰¹

O'Neil points out that few of the algorithms and scoring systems have been vetted with scientific rigour.¹⁰² The popularity of their use relies on the notion that algorithms are objective, but they are based on choices made by fallible human beings which can be replicated.¹⁰³ Algorithms look for and follow patterns, algorithms do not attempt to understand patterns. With these algorithms, the best is a repetition of the past.¹⁰⁴ It can entrench inequality under the guise of machine determined objectivity.

The robodebt debacle in the Department of Human Services provides a good example of what can go wrong. The Department was warned by staff that automated data matching would lead to incorrect debts but they were ignored. The robodebt debacle highlighted the importance of frontline service delivery staff in understanding what was going on as they were not properly or considerably consulted prior to its implementation.

There were three fundamental failures built in to the robodebt debacle. Firstly, the human oversight involved in assessing discrepancies and raising debts was limited. A second and related flaw is the administrative cost of managing overpayments was transferred from the Department to ordinary Australians, with the Department no longer taking responsibility for contacting employers to investigate discrepancies before debts were raised. The business process was designed to minimise cost to the government by reducing the usual manual oversight requirements and removing employer verification of PAYG anomalies prior to customer contact commencing. The business process design all but ensured high rates of error in the calculation of debt. Staff were directed not to fix errors they could clearly identify. Instead they were instructed to refer customers to online self-service portals in an attempt to transfer the administrative burden of debt recovery onto the customer.

The deskilling of work as a result of automation also occurred. Experienced debt management staff were redeployed to other areas of the Department and replaced with new permanent and casual staff who could be trained in the new process unburdened with the knowledge of the previous checks and balances that were removed. This has continued as compliance work now makes up the bulk of the work that has been outsourced to the Serco call centre.¹⁰⁵

While the Department of Human Services had used data-matching and undertaken debt recovery in the past, the use of data matching to "correct" records during the review process and calculation of debts was new. Although the data matching might appear to be similar to what was done previously, the vastly increased scale of OCI and reduction in individual human assessment means that small errors or omissions had a much more significant effect. It shows that automating decision making without

100 Cathy O'Neil (2017, 16 July). How can we stop algorithms telling lies? The Guardian. Retrieved from <https://www.theguardian.com/technology/2017/jul/16/how-can-we-stop-algorithms-telling-lies>

101 Cathy O'Neil (2016, 1 September). How algorithms rule our working lives. The Guardian. Retrieved from <https://www.theguardian.com/science/2016/sep/01/how-algorithms-rule-our-working-lives>

102 Cathy O'Neil (2016, 1 September). How algorithms rule our working lives. The Guardian. Retrieved from <https://www.theguardian.com/science/2016/sep/01/how-algorithms-rule-our-working-lives>

103 Cathy O'Neil (2016, 1 September). How algorithms rule our working lives. The Guardian. Retrieved from <https://www.theguardian.com/science/2016/sep/01/how-algorithms-rule-our-working-lives>

104 Lori McGlinchey and Jenny Toomey (2016, 11 October). "Weapons of Math Destruction": Data scientist Cathy O'Neil on how unfair algorithms perpetuate inequality. Ford Foundation. Retrieved from <https://www.fordfoundation.org/ideas/equals-change-blog/posts/weapons-of-math-destruction-data-scientist-cathy-o-neil-on-how-unfair-algorithms-perpetuate-inequality/>

105 Christopher Knaus (2017, 22 November). Centrelink to use 1,000 labour-hire staff to help recover welfare debts. Guardian Australia. Retrieved from <https://www.theguardian.com/australia-news/2017/nov/22/centrelink-to-use-1000-labour-hire-staff-to-help-recover-welfare-debts>

oversight by experienced staff, can lead to massive impacts on society, particularly those who are reliant on support from the social security system.

The CPSU also notes the aspiration of the Department of Home Affairs to have 90 per cent+ visa processing done automatically from around less than 50 per cent today. The CPSU notes reports that the Department has invited artificial intelligence and robotics companies to help it design a new visa system in a bid to automate more assessments, potentially with AI.¹⁰⁶ There is a concern that the robodebt debacle could be repeated, particularly given it is suggested that visa applications would be initially assessed by an algorithm against *“a range of criteria specific to the visa. This can also include assessing application validity, genuineness, health, security, character, identity, relationship to Australian citizens or permanent residents, skills and sponsorship.”*

What can be done?

An ongoing examination of the social impact of algorithms should be considered in Australia. Like the market, technology is never a neutral platform and there are already many examples of the use of unaccountable algorithms with built-in assumptions in Centrelink¹⁰⁷. Frontline staff need to be informed about the assumptions behind algorithms and involved in ongoing consultation while it is being used. Doing so will ensure that we benefit from algorithms whilst ensuring they display empathy for the variety of experiences of those who engage the services of the APS. This is an issue that will only grow and there needs to be far more scrutiny of and transparency with algorithms.¹⁰⁸ If not, it will only exacerbate the inequality experienced by those who have experienced a changing labour market.

Within the public service, the social impact of the use of algorithms needs to be monitored and analysed. This can only be done with the presence of a clear vision and plan of what the APS will look like and how technology will help Australia achieve that. This requires properly resourced human oversight of all compliance programs to guarantee the community can be confident there are no major issues with the social security system. All agencies should independently review their use of algorithms and the policy issues that arise, involving frontline staff and indeed the Australians using the services. These independent taskforces should develop recommendations addressing when and how algorithms should be made public, how to assess whether they are biased and the impact of such bias.

A change in attitude towards the use of technology is required. The use of technology needs to be focused on innovation that improves services for users rather than cost reductions that run down services. For example, its use in the social security system is often punitive or primarily to slash costs rather than driven by an attempt to genuinely improve service delivery, pushing a particular ideology. Not only does this reduce the availability of good, quality public sector employment, it also makes it harder for those that may lose their jobs due to the changing nature of work to access the social security system.

Part of the conversation about the future of work must also be about the quality of work and how technology can be used to improve the nature of work. Human involvement will still be necessary to address complex and wicked problems that involve vulnerable people. Digital transformation in the APS should encompass tapping into the potential of technological change to improve work more broadly should also be a focus. This could include trialling and experimenting with using technology to create and protect better conditions. The procurement power of Government could be used to lift standards across the labour market. Government could play a leading role in using new technology to ensure wages and conditions are not undermined as the economy changes. For example, blockchain technology could be used to ensure workers in the entire supply chain for goods and services are paid properly. The public sector should lead to ensure those companies involved in complex supply

¹⁰⁶ Doug Dingwall (2017, 12 July) Immigration Department moves to outsource visa system to avoid cost blow-outs. Canberra Times. Retrieved from <http://www.canberratimes.com.au/nation/ai/public-service/immigration-department-moves-to-outsource-visa-system-to-avoid-cost-blowouts-20170712-gx9mo2.html>

¹⁰⁷ Peter Martin (2017, 7 January) How Centrelink unleashed a weapon of math destruction. Sydney Morning Herald. Retrieved from <http://www.smh.com.au/comment/how-centrelink-unleashed-a-weapon-of-math-destruction-20170105-gtmsnz.html>

¹⁰⁸ Cathy O'Neill (2017, 7 August). Why We Need Accountable Algorithms. Cato Unbound. Retrieved from <https://www.cato-unbound.org/2017/08/07/cathy-oneil/why-we-need-accountable-algorithms>

chains are correctly paying staff. This could be done by mandating the inclusion of information in their shared ledger such as the industrial instrument staff involved are paid under.

RECOMMENDATION: Ongoing, independent processes for examining the social impact of algorithms used by Government are established that involve frontline line staff.

RECOMMENDATION: Properly resourced human oversight of all APS compliance programs so the community can be confident that any issues raised with citizens are legitimate and accurate.

RECOMMENDATION: The use of block chain technology is considered in Government contracts with industrial instrument information mandated for inclusion in shared ledgers.