

CPSU Submission:

ACTU Inquiry into Insecure Work

January 2012

Executive Summary

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

Insecure work is a significant issue in both the public and private sector areas of CPSU coverage. There is a common perception that insecure work is not an issue in the public sector. This submission shows that this is not an accurate view. While there are some circumstances in which there is a legitimate need for the engagement of employees on a temporary basis, the current use of these arrangements goes far beyond this.

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

In the Australian Public Service (APS), approximately 8 percent of all employees are engaged as direct employees on a "non-ongoing" basis with an estimated additional 10 percent of the overall work force engaged indirectly through contracting arrangements. The ACT and NT public services have even higher rates of non ongoing employment at 23.1 percent and 29.2 percent respectively.

The communications and broadcasting industries which form part of CPSU's coverage also rely heavily on non-permanent, labour hire and outsourcing arrangements. This is aptly demonstrated by our experience in Telstra and the ABC.

Of particular concern is the concentration of insecure employment in certain work areas and classification levels. In the APS, statistics show that insecure employment often coincides with classes of people who are more likely to face disadvantage, for example Aboriginal and Torres Strait Islander employees, women and younger employees. It is also concentrated in lower classifications and specific work areas, such as call centres.

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

The use of non-ongoing employment arrangements can in fact lead to additional financial costs to employers such as additional recruitment and training costs, the premium paid to labour hire companies and the increased expense of using

contractors. Longer term costs can include loss of corporate knowledge and business continuity, reduced security of information and accountability, reduction in the quality of services, and lower staff morale.

Through industrial negotiations, the CPSU has sought to regulate use of insecure employment and mitigate its impact, by improving the entitlements of those workers. This has included establishing entitlements for those workers comparable to those that would apply to permanent employees.

However, despite some success in making improvements to conditions for such workers, insecure work continues to be a significant issue in CPSU's public and private sector areas of coverage. It is necessary to pursue more far-reaching and comprehensive solutions to ensure that this group of employees have access to fair and reasonable entitlements, and that the services our members are employed to provide are not compromised by an unnecessary reliance on non-permanent employees.

Introduction

The PSU Group of the Community and Public Sector Union (CPSU) is an active and progressive union with approximately 60,000 members. The PSU Group of the CPSU represents employees of the Australian Public Service (APS), the ACT Public Service, the Northern Territory Public Service, CSIRO, ABC, Telstra, the telecommunications sector, call centres, employment services and broadcasting. Insecure employment is regularly used in all of these industries and in many areas the use of this form of employment is growing.

This submission details:

- the incidence of insecure work in areas of CPSU coverage, including the extent and nature of that work;
- the causes for insecure work;
- its impact on workers; and
- costs to employers and the public.

Incidence of Insecure Work

Australian Public Service and Commonwealth Government

The Australian Public Service (APS) is made up of 20 government departments of state, 80 statutory agencies and six executive agencies, directly employing over 160,000 employees. In addition, many thousands of employees are employed by the Commonwealth Government in Commonwealth statutory authorities, Commonwealth controlled companies or other bodies.

The *Public Service Act* regulates employment arrangements in the APS. This Act provides for two types of employment: ongoing and non-ongoing. ‘Non-ongoing employees’ are employees who are engaged for a specified term, specified task or for duties that are irregular and intermittent (casual work).¹ Specified term employees may be engaged for a total period of up to three years or five years for a Senior Executive Service employee. There are no time constraints on the use of specified task employees or casuals.²

The *Public Service Act* requires that employees shall usually be engaged on an ongoing basis³. Despite this, non-ongoing employment is consistently used in the APS, accounting for approximately eight percent of the workforce. Of particular concern is its concentration in certain work areas and classification levels, often coinciding with classes of people who are more likely to face disadvantage, for example Aboriginal and Torres Strait Islander employees, women and younger employees.

In this submission we refer to non-ongoing APS employment under the *Public Service Act* as “direct” employment; and labour hire and contracting arrangements as “indirect” employment. We use similar terms where appropriate to describe the nature of the employment relationship in other areas of insecure work covered by this submission.

Statistical data about *direct* non-ongoing employment in the APS is provided on an annual basis. Relevant information from the most recent report is outlined below.

It should be noted, however, that these statistics do not cover labour hire or contractors or other *indirect* employment. The use of these arrangements and their impact is discussed later in the submission.

Direct non-ongoing employment trends

According to the 2010-11 APS State of the Service Report, at June 2011 there were 13,180 non-ongoing employees in the APS, accounting for 7.9 percent of the APS workforce.

There was a steady decline in the use of direct non-ongoing employment from 1999 to 2004. However, the CPSU believes that this was matched by an underreported increase in the use of contractors over this time. While exact numbers are difficult to ascertain, an Australian National Audit Office report shows an increase in the number of contracts for non-APS employees from approximately 3,000 in 2002 to around 9,000 in 2006.⁴ Since that time the proportion of directly employed non-

¹ Public Service Act 1999

² Public Service Regulations 1999, Regs 3.4, 3.5

³ Public Service Act 1999, s 22(3)

⁴ The Australian National Audit Office, Audit Report No.49 2006–07, “Non-APS Workers”, 2007, p 36

ongoing staff has stabilised at around eight percent, approximately 13,000 employees. See Figures 1 and 2 below⁵.

Figure 1: Proportion of directly employed non ongoing staff in the APS 2006 – 2011

	2006	2007	2008	2009	2010	2011
Total employees	146,210	155,423	159,762	161,837	164,596	166,495
Non-ongoing	11,802	11,677	12,413	11,570	13,725	13,180
Proportion who are non- ongoing	8.1%	7.6%	7.8%	7.1%	8.3%	7.9%

Source: APSC, State of the Service Report 2010-11

Figure 2: Directly employed non-ongoing staff as a proportion of total employees, 1997 to 2011



Source: APSC, State of the Service Report 2010-11, p88

APS agencies' use of direct non-ongoing employment

The use of non-ongoing employment varies greatly by government agency and by work area within each agency. The ten agencies with the greatest number of directly employed non-ongoing staff are listed in Figure 3.

⁵ Australian Public Service Commission (APSC), State of the Service Reports 2006-07, 2008-09, 2010-11

**Figure 3: Agencies with the highest number of directly employed non-ongoing staff
2010-11**

	Non-Ongoing	Proportion
Australian Taxation Office	2751	11.0%
Defence	689	3.0%
Centrelink	656	2.6%
Australian Bureau of Statistics*	614	17.4%
Department of Sustainability, Environment, Water Population and Communities	592	20.0%
Department of Immigration and Citizenship	563	7.0%
Department of Health and Ageing	547	10.0%
Department of Innovation, Industry, Science and Research	418	11.6%
Agriculture, Fisheries and Forestry	322	6.1%
Department of Human Services - (not including Centrelink and Medicare)	316	4.8%

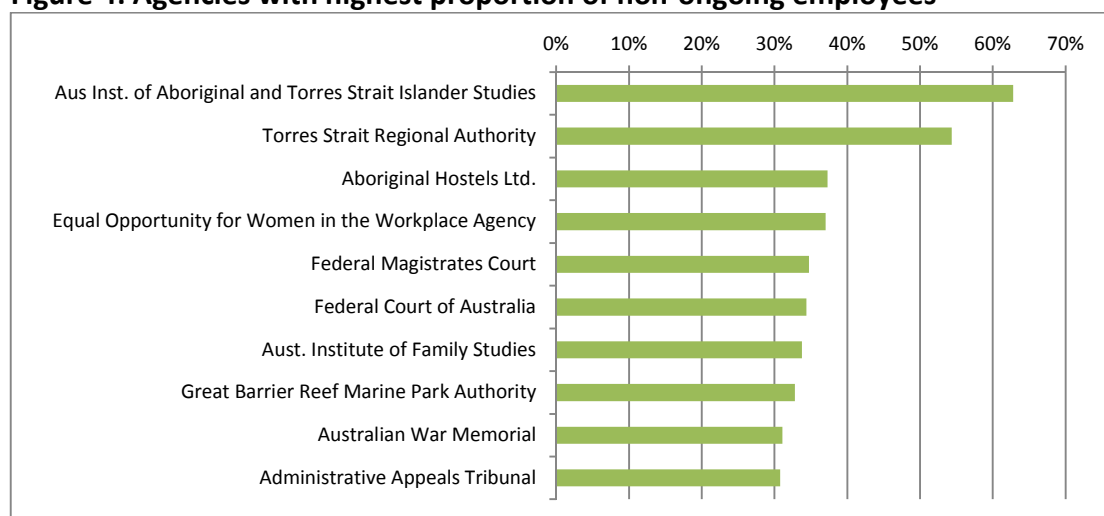
Source: Australian Public Service Employment Database (APSED) 2011

* This includes approximately 500 employees engaged to process Population Census data. A one off task that the CPSU accepts should be done by non-ongoing employees

Many of the agencies represented in Figure 3 are those with the greatest number of total employees and therefore in some cases direct non-ongoing employment does not represent a significant proportion of the labour force. To get a better idea of the agencies' most reliant on direct non-ongoing employment, it is appropriate to look at the proportion of the agency's employees who are non-ongoing.

The ten agencies with the highest proportion of non-ongoing employees are shown in Figure 4 below.

Figure 4: Agencies with highest proportion of non-ongoing employees



Source: APSED 2011

Smaller APS agencies are more likely to be reliant on non-ongoing employees.⁶ According to the latest State of the Service Report, 21 agencies had at least one-quarter of their employees engaged on a non-ongoing basis—10 of these were small agencies and the others were medium-sized.⁷

For a full breakdown of direct non-ongoing employment within the APS by agency see **Attachment A**.

Type of direct non-ongoing employment

The State of the Service Report also provides information on the type of non-ongoing direct employment used by APS agencies – specified term, specified task or casual employees. At June 2011, 5.2 percent of all APS employees were engaged for a specified term, 0.3 percent for a specified task and 2.4 percent as casual employees (ie for irregular or intermittent duties)⁸.

There are however, significant differences between individual agencies' use of these arrangements. For example, more than 25 percent of agencies only use specified term employment and do not use any either task or casual employment whereas in the ATO over eighty percent of non-ongoing employees (9.2 percent of all employees) are engaged on a casual basis⁹.

For a full breakdown of non-ongoing employment by type in the APS, see **Attachment A**.

Direct non-ongoing employment by gender

There are a greater proportion of women who are employed as non-ongoing employees, as compared with men; although that gap has narrowed in the past five years.

At June 2011, 59.7 percent of non-ongoing employees were women, compared with 57.4 percent of ongoing employees. Figure 5 below shows the proportion of men and women who are non-ongoing at each classification level. Overall, 8.2 percent of women employed in the APS are non ongoing compared to 7.5 percent of men.

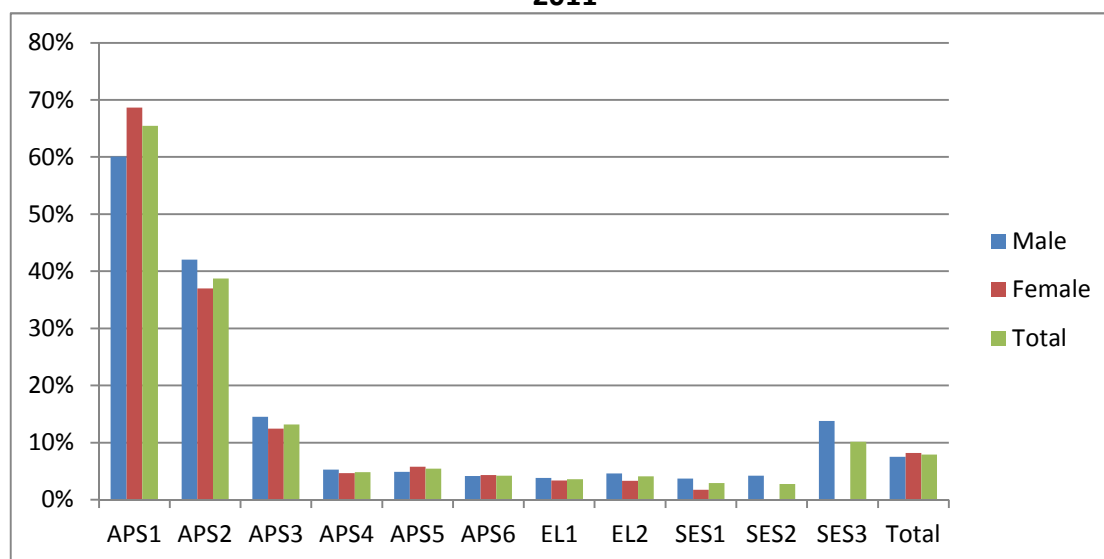
⁶ Ibid, p 89

⁷ Ibid, p 88

⁸ APSC, State of the Service Report, p 89

⁹ Ibid, p 89

Figure 5: APS Direct non-ongoing employment by gender/classification – 30 June 2011



Source: APSC, APSED database 2011

Direct non-ongoing employment by classification

Figure 5 also shows that non-ongoing employment in the APS is concentrated at lower classification levels. These employees are paid lower wages, and are generally in a poorer bargaining position in regard to their working arrangements.

At June 2011, over 65 percent of all APS 1 employees and over 38 percent of all APS2 employees were non-ongoing. At higher classification levels the proportion of non-ongoing employees is far smaller, with only 3.7 percent of Executive Level (EL) employees and 3.4 percent of Senior Executive Service (SES) employees engaged on a non-ongoing basis.

Direct non-ongoing employment by age

Younger employees are also more likely to be non-ongoing. At June 2011, only 3.9 percent of all employees were under 25 years old, however 22.1 percent of all non-ongoing employees were under 25 years old¹⁰.

Employees aged 55 years and over are also slightly over-represented in non-ongoing employment¹¹. Anecdotal evidence suggests that a greater proportion of employees in this age group work on a non-ongoing basis by choice, for example as a transition to retirement¹².

¹⁰ Ibid, p 89

¹¹ Ibid, p 89-90

¹² Ibid, p 90

Aboriginal and Torres Strait Islander employees

Within the APS there is a significantly higher rate of non-ongoing employment among Aboriginal and Torres Strait Islander employees. 13.9 percent of directly employed staff identifying as Aboriginal or Torres Strait Islander are employed on a non-ongoing basis. This is significantly higher than the APS average of 7.9 percent¹³.

Figure 6: Proportion of employees who are non-going by Aboriginal and Torres Strait Islander (ATSI) status

	Not Identifying as ATSI	Employees Identifying as ATSI
Ongoing	92.5%	86.1%
Non-ongoing	7.5%	13.9%

Source: APSED Database 2011

In addition, agencies that provide services to Aboriginal and Torres Strait Islander people have higher proportions of non-ongoing employees. Those agencies are themselves more likely to have Aboriginal and Torres Strait Islander employees and offer some of the lowest pay rates in the APS.

The three agencies with the highest proportion of non-ongoing employees are the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS – 62.8 percent), the Torres Strait Regional Authority (TSRA – 54.4 percent), and Aboriginal Hostels Limited (AHL – 37.3 percent).¹⁴ The table below shows proportion of employees who are non-ongoing in the five agencies with the highest rates of Indigenous and Torres Strait Islander employment.

Figure 7: Proportion of employees who are non-ongoing in agencies with high ATSI employment rates

Agency	Employees identifying as ATSI	Non-ongoing employees
Aboriginal Hostels Ltd.	78.9%	37.3%
Torres Strait Regional Authority	53.7%	54.4%
AIATSIS	22.9%	62.8%
Department of Families, Housing, Community Services and Indigenous Affairs	8.6%	4.8%
National Native Title Tribunal	7.5%	12.1%

These agencies face uncertainty with their funding arrangements, which in turn forces them to rely on substantial numbers of fixed term and casual employees. For example, a significant component of AIATSIS's funding is project based which has to

¹³ APSED database, www.apsedii.gov.au, accessed 7 December 2011.

¹⁴ Ibid

be renewed each year. Given that AIATSIS cannot be sure that they will continue to receive funding for the project the following year, staff are engaged on a non-ongoing basis. The case study on cultural agencies, below, discusses this situation in more detail.

Labour Hire

In addition to non-ongoing employees, the APS also engages labour hire employees and contractors and outsources certain functions. While exact numbers, locations and uses are difficult to ascertain, anecdotal evidence suggests that this type of work has significantly increased in the last ten to twenty years and in some areas is being used as an alternative to direct employment. This means that the true extent of insecure work in the Commonwealth Government sector is often hidden.

A rough estimate of numbers can be gained from a 2007 report by the Australian National Audit Office which found that approximately 11 percent of the broader APS labour force was made up of non-APS employees (ie contractors).¹⁵

This is supported by the 2010-11 APS State of the Service Report which found that over \$1.587 billion, or at least 10.4 percent of total departmental expenses on labour, were being paid to non-departmental staff, such as contract workers. These figures do not include labour hire employees.¹⁶

When this is coupled with the 7.9 percent of employees who employed directly by but on a non-ongoing basis, this demonstrates that issues of insecure employment in the APS are far more significant than they may first appear.

¹⁵ The Australian National Audit Office, Audit Report No.49 2006–07, “Non-APS Workers”, 2007, p 15

¹⁶ APSC, State of the Service Report, p 122

Case studies: Non-ongoing and labour hire employees in the APS

Australia Tax Office: How headline figures can obscure the reality of insecure work

The ATO employs 2,859 non-ongoing employees which accounts for 11 percent of the total ATO workforce. These employees are concentrated in certain areas, such as the Operations area which deals with Tax returns, Client Account Services, Debt, Call Centre work. This work is the day-to-day contact between the ATO and members of the Australian public in relation to the administration of their taxation matters.

The ATO's Operations business model developed in 2008, aimed for one third of the workforce to be "flexible" (ie non-ongoing). Figures obtained by the CPSU in March 2011 indicated that this has now been achieved – by March 2011, 36 percent of the employees in the Operations were non-ongoing.

Of the 8,548 employed people in March 2011 in Operations, 2341, representing over 25 percent of the workforce, were casuals. There were also a further 800 casuals 'on the books' for potential use. On top of this there were 669 (7.3 percent) labour hire employees, indirectly employed by the ATO.

Type of Employment	Number	%
Ongoing	5946	64.5
Specified term/task	261	2.9
Casual	2341	25.4
Labour hire	669	7.3

The ATO also uses outsourcing arrangements for some of its Operations work. Since 2007, the debt collection function for smaller debts of Operations was predominantly outsourced to external companies. This is core ATO work and it presents a high risk to Government and individual data security to have this performed outside the ATO.

The situation in the ATO demonstrates how headline agency figures can obscure the reality of insecure work in Government agencies; where key government work and functions are being casualised and outsourced.

Department of Human Services: Increase in the use of labour hire

The Department of Human Services (DHS) is a new super-department that includes Medicare, Centrelink, the Child Support Program and CRS Australia. Given its size, DHS has the greatest number of directly employed non-ongoing staff and labour hire contractors in the APS.

Non-ongoing employees have been used for some time by DHS, and its predecessors, to respond to periods of peak demand, many of which are unexpected (eg after a natural disaster). In circumstances such as the response to the 2011 Queensland floods using some non-ongoing employees to meet the additional demand may be justified.

Recently however, there has been a trend away from using directly employed non-ongoing employees to the use of labour hire. This is especially so in call centres in Perth and Cairns.

Although the overall percentage of non-ongoing and labour hire workers is small in comparison to the agency as a whole, like the ATO example above, labour hire work is heavily concentrated in certain areas.

In early 2011 Centrelink, in response to natural disasters, took on 1,000 labour hire workers to ensure it had the workforce sufficient to provide necessary services. A breakdown of staff by employment type from April 2011 is below.

It became apparent, however, that these labour hire workers were retained on rolling monthly contracts even after the spike in work was over. One of the reasons for this was that there was a departmental staffing freeze imposed in February, restricting the hire of any new staff. Management was using labour hire to get around the tightening of recruitment. This created a perverse outcome. In response to budgetary restrictions, it seems these employees were engaged on lower pay and conditions than other staff, while DHS paid a premium to labour hire companies. In fact, as is outlined later in the submission, this could actually be costing the employer more than if non-ongoing employees were engaged.

After negotiations with the agency this was resolved, with the work undertaken by APS employees and some of the labour hire employees being made permanent. However, this example demonstrates some of the inefficiencies, costs and inequities which can lie behind engaging labour-hire and other indirect employees.

Type	Total	Centrelink	DHS/CSP	Medicare	CRS
Total	37920	25502	4586	5860	1972
Non ongoing	1242 (3.3%)	621 (2.4%)	72 (1.6%)	277(4.7%)	272 (13.8%)
Contractors	2219 (5.90%)	1133 (4.37%)	579(12.86%)	478 (8.11%)	29 (1.47%)

Source: DHS Balanced scorecard reporting

Non-ongoing employment as an entry point to permanent employment

Of the 12,777 engagements of ongoing employees in the APS in 2010-11, 5,014 (39.2 percent) had previously worked as non-ongoing employees in the APS. Of those, over 80 percent were engaged by the same agency in which they had previously worked on a non-ongoing basis.¹⁷

This shows that non-ongoing employment is used as an entry point into the APS. The median length of service as a non-ongoing employee before re-engagement as an ongoing employee was one year. This pattern of employment suggests that the work performed by these employees is in fact ongoing, rather than temporary in nature.

Acting Positions

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

In the 2011 CPSU What Women Want survey, 13.2 percent of female respondents in the APS said that they were acting in their current position. 4.1 percent of all respondents said they had been doing so for more than a year.

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

Australian Capital Territory Public Service (ACTPS)

The ACT Public Service is made up of nine Government directorates as well as several public authorities and territory-owned corporations. At 30 June 2010, the ACTPS employed 20,349 people.

The *Public Sector Management Act 1994* regulates employment arrangements in the ACTPS. This Act permits ACTPS employees to be engaged on a permanent basis, a temporary fixed term basis for a total period of up to five years and a casual basis¹⁸. There is no maximum period for casual employment.¹⁹

¹⁷ Ibid, p 100

¹⁸ Public Sector Management Act 1994, s 108

¹⁹ Public Sector Management Act 1994, s 110

Non-permanent employment

The most recent employment data for the ACTPS is from June 2010. At that point in time 23.1 percent of the ACTPS workforce was employed on a non-permanent basis. Non-permanent employment has been at roughly the same level for the last few years (see Figure 8 below)

Figure 8: Non permanent employment in the ACTPS 2007-2010

Year	2007	2008	2009	2010
Proportion non-permanent	24.6%	24.6%	23.8%	23.1%

Source: ACT Public Service Workforce Profiles 2008 to 2011

Non-permanent employment by gender

A greater proportion of casual and temporary employees in the ACTPS are female, however the ACTPS broadly employs a much greater proportion of women than men. Females (23.3 percent non-permanent) are only marginally more likely to be employed on a non permanent basis than males (22.5 percent non-permanent).

Figure 9: Number of employees against employment mode by gender June 2010

Employment Type	Female	Male	Total	Percentage of Total
Permanent	10,300	5,365	15,665	76.9%
Temporary	1,672	985	2,657	13.1%
Casual	1,451	576	2,027	10%

Source: ACT Public Service Workforce Profile 2009-10, 2011, p 14

Non-permanent employment by occupation/agency

The classification groups with the highest percentage of permanent employees are fire fighters (100 percent permanent) and ambulance officers (99 percent permanent). The classification groups with the highest percentage of temporary employees are trainees/apprentices (80 percent temporary) and medical officers (63 percent temporary).²⁰

Agencies with the highest rates of casual employees were the Department of Education and Training at 44 percent, Canberra Institute of Technology at 21 percent and ACT Health at 15 percent of the total ACTPS casual workforce.²¹

²⁰ Commissioner for Public Administration, ACT Public Service Workforce Profile 2009-10, 2011, p 14

²¹ Ibid p 15

Non-permanent employment by age

The ACT Government reports on employment type by generation. As is the case in the APS, non-permanent employment is more predominant among younger workers. Generation Y (employees aged 31 or younger) make up 27.1 percent of temporary and casual employees compared to only 15.6 percent of permanent employees.

Non-permanent employment is also proportionally high among pre-baby boomers (employees aged over 65). Over one third of pre-baby boomers are engaged on a casual basis. As with the APS workforce, some of this may represent transition to retirement arrangements.

Figure 10: Employment type by generation in the ACTPS

Employment type	Generation Y	Generation X	Baby Boomers	Pre-Baby Boomers
Permanent Full-time	2,133 (57.2%)	4,117 (56.2%)	5,432 (61.8%)	185 (37.2%)
Permanent Part-time	317 (8.5%)	1,582 (21.6%)	1,802 (20.5%)	97 (19.5%)
Temporary Full-time	802 (21.5%)	730 (10%)	451 (5.1%)	19 (3.8%)
Temporary Part-time	121 (3.2%)	261 (3.6%)	243 (2.8%)	30 (6%)
Casual	354 (9.5%)	640 (8.7%)	867 (9.9%)	166 (33.4%)
TOTAL	3,727	7,330	8,795	497

Source: ACT Public Service Workforce Profile 2009-10

Acting positions

As with the APS, the ACTPS has a high proportion of employees who have been acting in higher duties for long periods. The CPSU What Women Want survey found that 20.6 percent of women respondents in the ACTPS were acting in their current position. 6.8 percent said that they had been doing so for over a year.

As discussed above, employees in this position face insecurity in terms of their ongoing pay arrangements.

Northern Territory Public Service (NTPS)

The NT Public Service is made up of 22 agencies and at 30 June 2011 employed 19,053 people.

The *Public Sector Management Act (NT)* regulates employment arrangements in the NTPS. Under this Act, employees may be engaged on a permanent or temporary basis. Temporary fixed term employment may be for a period of up to five years but may be renewed.²²

²² *Public Sector Employment and Management Act (NT)*, s 34

The data available about the incidence of insecure work arrangements in the NTPS is more limited than for the Australian and ACT public services.

Non-ongoing employment trends

The NTPS employs a large proportion of its workers on a temporary basis. At June 2011, nearly 30 percent of employees were engaged on a temporary basis. This represents the second lowest rate of permanent employment of all the State and Territory public services in Australia (See Fig. 11).

Figure 11: Non-ongoing employment rates in all state/territory public services

Commonwealth/State/Territory	Temporary rate in June 2010
<i>Australian Capital Territory (2010)</i>	23.1% not permanent ²³
<i>Australian Public Service (2010)</i>	8.2% non-ongoing ²⁴
<i>New South Wales (2011)</i>	20.82% not permanent ²⁵
<i>Northern Territory (2011)</i>	29.2% temporary/casual ²⁶
<i>Queensland (2011)</i>	19.44% (FTE) not permanent ²⁷
<i>Tasmania (2010)</i>	16.2% not permanent ²⁸
<i>South Australia (2010)</i>	35.4% not ongoing ²⁹
<i>Victoria (2011)</i>	24% (FTE) fixed-term/casual ³⁰

NB: No available figures for Western Australia

The use of insecure employment in the NTPS has been steadily growing. In 1994 the percentage of non-permanent employees was 18.5 percent; the most recent data puts it at just under 30 percent as positions that were previously permanent have been converted.³¹

²³ Commissioner for Public Administration, ACT Public Service Workforce Profile 2009-10, 2011, p14

²⁴ Australian Public Service Commission, APSED database

²⁵ Table 5.5, Department of Premier and Cabinet, New South Wales Public Sector: Snapshot Tables, last updated 9 August 2011

²⁶ Office of the Commissioner for Public Employment, State of the Service Report 2009-10

²⁷ Public Service Commission, Queensland Public Service Workforce Characteristics 2010-2011, 30 June 2011, p12

²⁸ Table 40, Annual Report 2009-10, Office of the State Service Commissioner, November 2010, p 62

²⁹ Commissioner for Public Sector Employment, South Australian Public Sector Workforce Information 2010, Table 4

³⁰ State Services Authority, Fact Sheet: profile of the victorian public sector workforce at June 2011, p1

³¹ NT Office of the Commissioner for Public Employment, State of the Service Report 2010-11, p 74

Fig 12: Employment Status of NTPS Staff 2001–11

STATUS	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Change 01to 11
Permanent	77.6%	78.1%	78.3%	77.0%	75.5%	75.6%	74.0%	72.3%	70.9%	70.4%	70.8%	-6.8% pts.
Temporary	19.5%	18.9%	18.7%	19.6%	21.3%	21.3%	22.1%	23.7%	24.9%	25.3%	25.3%	5.8% pts.
Casual	2.8%	2.8%	2.8%	3.3%	3.2%	3.0%	3.6%	3.7%	4.0%	3.9%	3.7%	0.9% pts.
Misc.	0.1%	0.2%	0.2%	0.2%	0.1%	0.1%	0.3%	0.3%	0.3%	0.4%	0.3%	0.2% pts.
	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	

Source: NT Office of the Commissioner for Public Employment, State of the Service Report 2010-11, 2011

The largest percentage decreases in permanent employment since 1994 have been in the administrative stream (16.5 percentage points), education (15.7 percentage points) and health (12.9 percentage points).

Acting positions

In the CPSU What Women Want survey of women in the NTPS, 23.9 percent of women said that they were acting in their current position. 7.5 percent said they had been doing so for over a year.

As discussed above, employees in this position face insecurity in terms of their ongoing pay arrangements.

Communications and broadcasting

Insecure work, through both non-ongoing employment and labour-hire arrangements, is prevalent throughout CPSU's coverage areas in the communications and broadcasting industries. This submission details in particular the incidence of insecure work in Telstra and the ABC. A substantial reduction in full time secure jobs as work has been progressively outsourced (and, in the case of Telstra, offshored) is notable in both these instances.

Telstra

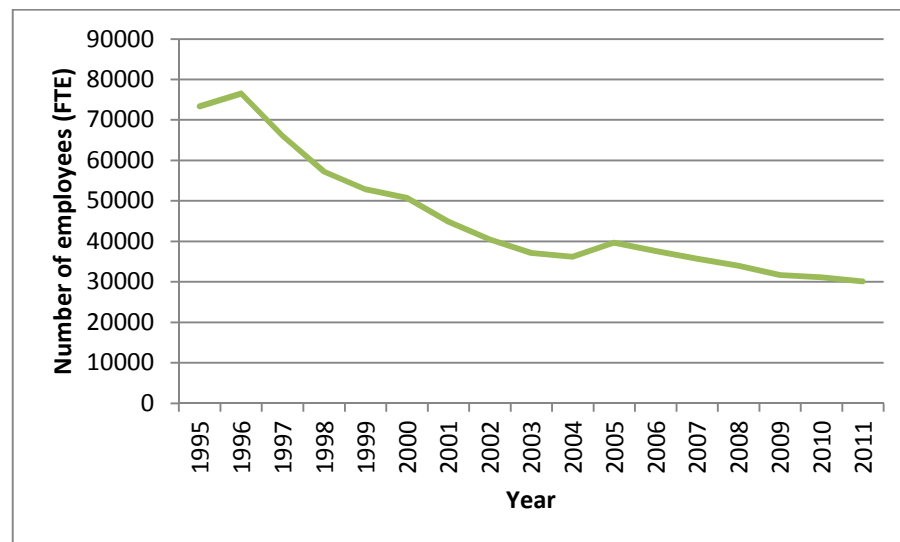
Over the last fifteen years, Telstra has gone from a government owned enterprise of over 70,000 full time staff to a fully privatised company with a directly employed workforce of approximately 35,000. Job security even for ongoing employees is undermined by continual outsourcing of functions and workforce reductions resulting in a constant flow of redundancies.

In its 1996 Annual Report, Telstra stated it would look to drive cost efficiencies where possible outsourcing non-core functions.³² In 2005, then Telstra CEO Sol

³² Telstra Annual Report, 1995-96, p 39

Trujillo announced that the company would shed 12,000 full time equivalent jobs over the next five years; a mission that has been pretty well accomplished. Figure 14 below shows the dramatic reduction in the size of Telstra's workforce since 1995

Figure 14: Telstra Full-time staffing levels since 1995



This period has also seen dramatic changes in the structure of the telecommunications industry with the introduction of competition and latterly the introduction of the National Broadband Network.

CPSU's membership within Telstra is concentrated in customer contact, sales, IT, professional and administrative areas.

Telstra has moved large areas of work from direct performance by a permanent workforce. This move has involved large scale use of contract call centres and contracted IT providers; employment of labour hire workers working alongside Telstra employees; and in recent years, sending customer contact, administrative and technical work to be performed offshore. In some instances, work has first been outsourced within Australia for a period, and later sent offshore. For example Telstra now operates six call centres in and around Manila in The Phillipines.³³

³³ "Telstra chief answers the call at Melbourne's call centre" The Australian April 5 2011

Current staffing numbers

Telstra's annual report for 2011 shows staffing figures in June 2011 of:

- (i) 30,121 "domestic full time employees". This figure includes domestic (i.e. Australian based) full time staff, domestic fixed term contracted staff and expatriate staff in overseas subsidiary entities.
- (ii) 35, 790 "full time employees and equivalents" including the domestic full time employees at category (i), plus casual and part-time employees and employees in offshore subsidiary entities
- (iii) 39, 790 "total workforce" including the full time employees and equivalents outlined in categories (i) and (ii), plus contractors and staff employed through agency arrangements measured on an equivalent basis.

The report also notes a 14.3% growth in overtime, contractor and agency payments from the preceding year.³⁴

It appears that category (iii) includes labour hire employees and contractors working alongside Telstra staff. CPSU is seeking to clarify whether category (iii) also includes staff working for outsourced providers undertaking work on behalf of Telstra.

Centralisation of functions

While jobs have been lost across the country, Telstra have also shown a propensity to consolidate capital city operations and move business units to eastern seaboard states. We have seen this with Telstra Business functions moving from Adelaide to Brisbane and Melbourne, and from Perth to Brisbane. We have also seen Credit Management functions moving from Perth and Geelong to Brisbane and Melbourne and Enterprise & Government functions moved from Perth to Adelaide.

Job losses in rural and regional Australia

The shedding of Telstra's workforce has had a particular impact on regional and remote areas. Telstra has progressively shut down regional and rural Australian operations. Over the last five years, in addition to the many thousands of jobs lost in capital cities, Telstra have closed call centre operations in many regional areas including Cairns, Townsville Maroochydore, Bundall, Moe, Bendigo, Wendouree, Geelong Darwin, Grafton, Launceston, Newcastle and Wollongong.

³⁴ Telstra Annual Report 2011 p 23

Outsourcing

It's unclear whether the employment figures set out above include the large category of insecure workers employed by providers to whom Telstra has outsourced work. In the call centre environment, these providers include companies such as Stellar, Excelior and Aegis call centres.

Large swathes of Telstra's customer service operations are contracted out to these and other providers. Similarly, IT functions have been contracted out, although this year's annual report notes a program to bring in house certain IT functions previously outsourced.³⁵

Australian Broadcasting Corporation (ABC)

The ABC employs people nationally in administrative, production, research, technological and retail roles. At 30 June 2011, the ABC employed 5,412 people, with most employment in the news, television, radio and resources departments.

Directly engaged employees of ABC

In the ABC, employees are engaged as ongoing, fixed term, specified task or casual. Since the 1990s there has been a significant increase in non-ongoing work at the ABC.

In the period July to October 2011, only 43 permanent employees were recruited to the ABC (an organisation of over 4500 staff) compared with 406 on contract (term or task) engagements. In the previous financial year, 177 permanent staff were recruited and 982 employed on (term or task) engagements.³⁶

Employment statistics from June 2009 showing employees by engagement type are set out in Figure 15 below. This shows that as at June 2009 only 73.2 percent of ABC employees were ongoing.

Figure 15: ABC Employees by employment type June 2009

Employment Type	Number	Percentage
Ongoing	3945	73.2%
Fixed Term	216	4.0%
Specified Task	315	5.8%
Casual	912	16.9%

³⁵ 2011 Annual Report p 23

³⁶ Senate Standing Committee on Environment and Communications, Supplementary Budget Estimates Hearings Answers to Questions on Notice, October 2011, q 210

Figure 16 gives a breakdown by department and shows increased use of non-ongoing work over time.

Figure 16: Non ongoing employees 2005-2009

	Jun-05	Jun-06	Jun-07	Jun-08	Jun-09
Total employees	5024	5098	5260	5373	5388
Number non-ongoing	1083	1155	1346	1425	1443
Proportion non-ongoing	21.56%	22.66%	25.59%	26.52%	26.78%
Non-ongoing by department					
-News	16.71%	17.76%	19.79%	21.32%	22.57%
-ABC Resources	28.67%	29.57%	33.48%	33.13%	36.05%
-Radio	25.56%	27.41%	32.23%	30.20%	31.00%
-Television	30.59%	36.21%	39.95%	41.08%	36.57%

A common form of insecure employment, particularly in the Television and Radio departments at the ABC, is 'run of show' specified task employment. Using these contracts the ABC engages employees in television production roles for the duration of the show's season.

In many cases the annual production run only lasts for 8-9 months each year, leaving employees to find other work for the remaining three to four months of the year. Figure 17 below shows how employee numbers, particularly in television and radio fluctuate between June and December each year.

Figure 17: Specified Task employees at ABC 2004-2009

	Dec-04	Jun-05	Dec-05	Jun-06	Dec-06	Jun-07	Dec-07	Jun-08	Dec-08	Jun-09
Total ABC	180	240	174	276	272	346	274	355	259	315
News	24	29	18	33	43	58	45	53	44	39
ABC Resources	35	21	16	16	30	26	21	31	22	27
Radio	31	58	48	63	52	94	80	88	71	89
Television	36	64	28	78	52	88	46	89	36	72
Total NRRT	126	172	110	190	177	266	192	261	173	227

Many employees in these roles have long-standing employment relationships with the ABC, working on the same televisions shows year after year. The CPSU has made some progress in obtaining severance benefits for these employees (see below) but this is no substitute for ongoing employment.

Outsourcing

In recent years there has also been significant outsourcing of television production in the ABC. The CPSU believes that the ABC is moving towards closing down internal television production.

This trend is demonstrated by the Director of Television's recent announcement to close the Arts Unit and discontinue a range of television programs including The New Inventors, ArtNation and the Collectors. This resulted in redundancies of a number of ongoing staff. The CPSU believes that the programs are being withdrawn to make space for, and to free up finances to fund, further outsourcing of television production.

These moves come after the axing of many other programs over the last several years including the complete outsourcing of drama and comedy. In the ABC now only a small number of internally produced programs remain. Employment with outsourced providers is overwhelmingly insecure.

Increases in the use of outsourcing and increased use direct non-ongoing employment mean that fewer and fewer positions in the ABC are provided on a secure basis. In recent years, the ABC has moved from a model, particularly in television production, where ongoing employment was the norm to a situation where insecure employment is much more prevalent.

Causes of Insecure Work

Employers often cite the need for 'flexibility' and 'efficiency' when arguing for or defending the use of insecure work; whether that insecure work is a result of non-ongoing direct employment or indirect employment arrangements, such as labour hire.

Flexibility appears to be code for:

- reducing short-term costs; and
- having a workforce ready to work without creating ongoing obligations to those employees.

Reducing short-term costs and obligations to employees

Reducing short term costs is a purported motivation of both public and private sector employers when using insecure work arrangements.

The veracity of claims of cost savings associated with non-permanent employment have has been often disputed, with various studies showing that these

arrangements, in particular contracting out, is more expensive than using permanent employees³⁷. There are also medium and long term implications and costs associated with this strategy; these are discussed in more detail later in the submission.

Funding arrangements

In the public sector, budget pressures and uncertainty are factors that lead employers to move to alternative forms of employment. For example, APS agencies face significant budget pressures. In 1987-1988 the 'efficiency dividend' was introduced – this measure cuts agency funding by 1.25 percent each year and has recently been increased by a further 2.5 percent for 2012-2013³⁸.

The cumulative effect of these budget cuts is significant with most agencies having already found all of the efficiencies that they can and are now being forced to cut back on staffing costs with implications for the delivery of government services.

These budget pressures make agencies more reluctant to engage employees on an ongoing basis. Employment on a casual or short term basis is a way to avoid employee entitlements, making it easier to scale back the workforce and move it around when required. These motivations are illustrated in the example below.

Case Studies: Causes of Insecure work

Australian Tax Office: Reducing costs by reducing employee benefits

As outlined earlier, the ATO engages a large proportion of its employees in the operations area as casual and labour hire employees.

The ATO claims that this workforce is used to meet periods of peak demand. However, on the basis of discussions with members and management and our own analysis, the CPSU believes that the use of labour hire and non-ongoing employment goes beyond this and these employees are now performing core ATO functions.

By directly engaging employees on a non-ongoing basis, or indirectly through labour hire companies, ATO avoids providing these employees a number of entitlements or provides entitlements at a reduced level.

Non-ongoing employees do not have the same entitlements as ongoing employees – for example casual employees, which represent 9.2 per cent of all employees in the ATO, are not entitled to paid sick, carers or annual leave. In addition the ATO Enterprise Agreement does not entitle non-ongoing employees to the same personal leave or penalty rates as ongoing employees. Ordinary hours for non-ongoing

³⁷ See for example Bisman, J E (2008) 'Australian Public-Sector Outsourcing in the 'Golden Era': Cost Savings Evidence or Anecdote?', *Australian Accounting Review*, Vol.18, no.2, p.118.

³⁸ 2011-12 Mid Year Economic and Fiscal Outlook, p 216

employees are from 7am to 9pm as opposed to 7am to 7pm for ongoing employees³⁹.

Similarly labour hire employees have fewer entitlements than permanent staff, including reduced superannuation payments in comparison with directly employed staff.

The CPSU also believes that labour hire employees engaged to undertake ATO work are paid equivalent to a classification that is lower than that appropriate for the work they perform. Employees who work in ATO Operations are usually in contact with the public. ATO work level standards mandate that public contact work should be done by APS3 employees, yet anecdotal evidence indicates that labour hire employees are paid at a lower rate. The ATO is yet to provide the CPSU with evidence to refute this. It appears that the cost of the premium paid to the labour hire company is being offset by labour hire staff being paid a reduced rate for undertaking the same work.

Public Sector Funding Pressures – project based funding

In addition to the general budgetary imperative to reduce costs arising out of the efficiency dividend in the APS, small agencies face very particular funding problems. These agencies often receive project-based funding, which can represent a large proportion of their overall budget. While some projects may continue for many years or almost indefinitely, the general arrangement is that funding is only guaranteed from year to year.

Many of the agencies with the highest proportion of non-ongoing employees, as set out in Figure 7, are small agencies in this predicament. This includes Australian Institute of Aboriginal and Torres Strait Islander Studies, the Equal Opportunity for Women in the Workplace Agency, the Torres Strait Regional Authority and the Australian War Memorial.

This is a problem for the public sectors in the Territories as well. The Northern Territory Government has attributed the rise in non-permanent employment in the NTPS to staff being recruited on contracts to fill short to medium term jobs provided by the Federal Intervention and Closing the Gap.¹

³⁹ ATO Enterprise Agreement 2011- 2014, ss 66.5, 81.14

Case Studies: Causes of Insecure work

Cultural agencies: project based funding

Funding limitations has meant that Commonwealth Government agencies in the cultural and Indigenous sector are among the lowest paid with the highest rates of non-ongoing employment.

Although the tasks that many employees perform are effectively ongoing, given that funding for the program is not guaranteed, they are employed on a series of fixed term or specified task contracts.

A pertinent example of the impact of project-based funding arrangements on the use of insecure employment is at the Australian Institute of Aboriginal and Torres Strait Islander Studies. In this agency 62.8 percent of employees are non-ongoing.

AIATSIS receive project, rather than ongoing funding, for a number of their key programs, including digitisation. The digitisation program is an ongoing process that is enabling the preservation of and opening up access to a unique and priceless collection of print items, films, photographs and audio recordings of Aboriginal and Torres Strait Islander cultural heritage.

In 2010-11, the program was funded for \$3.424 million out of the total agency appropriation of \$13.172 million. This funding was not renewed in the latest Commonwealth Budget. Instead, the Minister for Finance approved the Agency to run an operational deficit to continue its Digitisation program until funding can be reassessed as part of the 2012-13 Budget process.

Employees working in this area have been engaged on a series on fixed term and specified task contracts. As a result of this budget decision, employees in these roles have no guarantee about their future with AIATSIS and are required to continually reapply for their jobs. There are some employees at AIATSIS who have been working on this basis for eight years.

Other cultural agencies where funding arrangements have lead to growth in insecure work include:

- Staff working as part of the Active After School Communities program at the Australian Sporting Commission are engaged on one year contracts because funding for the program is allocated annually. Some of the staff have been working in the project for 5 years on rolling annual contracts.
- In recent times Australia Council has also been converting ongoing jobs to non-ongoing positions, and when ongoing employees resign positions are advertised as non-ongoing.
- For the last decade, the Australian National Maritime Museum has used contract hire labour for front of house, security and ushering work. In addition to this there are some cases where employees who want to transfer internally between positions have had to convert to non-ongoing employment in order to secure the transfer.

Staffing restrictions to limit overall staffing numbers

Employers, particularly in large organisations, may elect to deal with financial pressures by imposing restrictions on or prohibit the recruitment of new employees. This tactic has been used in a number of public service agencies.

As set out in the DHS case study, perversely this has often led to a growth in contractor or labour hire employees. Anecdotal evidence is that this was the experience in the Northern Territory in 2010 when the Government introduced a two-year public sector staffing cap on 'non-frontline' services.

In our experience private sector employers are more explicit than those in the public sector about using outsourcing and labour hire as a way to cut costs. This is definitely the case at Telstra where annual reports proclaim the savings that have been made by reducing the size of the workforce.

Meeting skills shortages or peaks in demand

Another common reason cited for engaging non-ongoing employees or contractors is that they are needed for short term surges in work, or for specific tasks involving skills that do not exist in the workforce or that private contractors can provide more efficiently.

There is significant evidence in all of the industries in which we operate that the use of insecure employment goes well beyond this. The examples outlined throughout this submission demonstrate that both public and private sector employers use insecure workers for 'core' work and that short-term cost considerations largely motivate those decisions.

For example the ATO established a clear goal of moving a third of its Operations workforce from secure to insecure employment which it seems that it has achieved. These insecure employees are doing work which would have previously been done by employees in permanent positions. Similarly the use of insecure work forms in smaller Government agencies in the cultural sector is clearly motivated by ongoing budget pressures, rather than particular skills shortages or peaks in work demand.

Case Studies: Causes of Insecure work

Australian Broadcasting Corporation: Meeting Peaks in Demand

The ABC provides an example of how internal structuring and utilisation of the workforce has led to an increase in peaks and demands and a reduction in the use of ongoing staff.

Peaks in demand are the principal reason given by the ABC to explain the increasing use of non-ongoing employment. A large amount of the work of the ABC, particularly in the Television and Radio divisions, involves the production of programs that operate on a seasonal basis.

In the past, the ABC had an internal labour market in its resources division. This division employed ongoing people in professions such as floor managers and researchers who were then borrowed by particular show as needed. However, lack of internal co-ordination to share staff across production units exaggerated peaks in demand as many shows were produced concurrently.

Therefore, many employees are now engaged on a 'run of show' basis, even though many shows run for a number of years and generally employ the same crew. ABC management argues that because the commissioning process (which determines which shows will be produced) is conducted annually, there is no guarantee that a show will run beyond the year for which it is commissioned.

Issues related to skill shortages and skillset of an enterprise's existing workforce would be better managed by improved workforce planning, and investing more in training and retaining a skilled workforce. The use of insecure employment, particularly where that employment is indirect, perpetuates and exacerbates current problems. This issue is discussed in greater detail as a cost to employers.

Double probation periods

Another cause of non-ongoing work noted above in the context of the APS, is the use of non-ongoing work as an entry point to permanent employment. This is also known to occur in Telstra whereby new employees are tried out on a non-ongoing basis before being made permanent. The effect of this is that employees are made to serve a double probation period and receive reduced entitlements to paid leave, and in some cases penalty rates, in the first of these periods.

Impact on Employees

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

In our industries, the average insecure worker is likely to be:

- working in a lower classification, and therefore on lower pay rates;
- more likely to be young, female or Aboriginal and Torres Strait Islander; and
- most likely to be dissatisfied with their level of job security.

Reduced security and fewer entitlements

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

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

Non-ongoing employees may also have fewer entitlements under enterprise agreements. Even where these employees have the benefit of an enterprise agreement, there may be differences between their entitlements and those of ongoing employees; as is the case with ATO personal leave, hours and penalty rates. Given the uncertain nature of their employment, they are less likely to receive discretionary benefits, such as study assistance or additional training.

Labour hire employees are generally not covered by the same agreement or award arrangements that apply to the other employees who they work alongside. This means that although they are often made to do the same work, they may not be entitled to the same pay and conditions. For example labour hire employees in one Telstra call centre are employed under the Telecommunications Services Award. In addition to being employed on a non-permanent basis and having less favourable conditions, they are only entitled to minimum pay rates, and they do not receive the commission payments that Telstra employees, who they work alongside, are entitled to under their collective agreement.

Labour hire contractors who perform work for the APS are also unlikely to receive the same superannuation arrangements or the benefit of other government policies.

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.

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

Two recent surveys conducted by the CPSU illustrate the concerns of employees in insecure arrangements.

CPSU What Women Want Survey

Each year the CPSU conducts the What Women Want survey which asks women about their working lives. In the survey conducted at the end of 2011 the CPSU received over 13,000 responses which can be used to compare the attitudes of women employed on an ongoing basis to those of women employed on a non-ongoing (fixed term or specified task) or casual basis.

When asked about their satisfaction with job security, employees in insecure positions were far less satisfied than their colleagues in permanent employment. Almost three quarters of ongoing employees said they were either satisfied or very satisfied with their job security compared with only 19 percent non-ongoing employees. This suggests that the vast majority of non-ongoing and casual employees would prefer to be working under a more secure arrangement.

Telstra labour hire employees

The CPSU recently conducted a survey of casual labour hire employees who work alongside permanent Telstra employees at a Telstra worksite. Although it was a small survey, it gives a useful insight into how labour hire employees feel about their position.

Every respondent to the survey stated they would prefer a permanent job and 85 percent said that they do not feel they had the same rights at work as permanent Telstra staff.

The surveyed employees were also asked about their work life balance. Almost three quarters of employees had taken unpaid holiday leave in the past 12 months and approximately nine out of 10 employees had to take unpaid personal leave.

92 percent of those surveyed staff did not think that their hourly rate was sufficient compensation for having to take unpaid leave and less than half believed that their pay and conditions were fair for the work that they do.

Costs to Employers and the Public

As outlined above, in many cases the use of labour hire and non-ongoing employees is driven by a desire to make savings. Any short-term savings appear to be at the cost of the entitlements and job security of the workers.

There are however significant potential costs in this approach. A number of these are set out below.

Financial costs

Recruitment and on costs

Given the nature of their employment, there is a higher attrition rate for non-ongoing employees. The recent CPSU surveys cited above also show that most insecure workers would prefer secure employment, and therefore are more likely to be looking for other job opportunities.

This means that when employers rely on insecure workers and non-ongoing employees, positions may become vacant and have to be filled more frequently. This can result in greater recruitment costs and additional costs in training up newcomers.

Labour hire commission

Although labour hire employees may receive less for the work they do than ongoing employees, costs to the employer are not necessarily commensurately reduced given the premium paid to labour hire companies.

In the private sector this often occurs in the form of a fee of between eight to 12 per cent that is paid to the labour hire company. Precise figures for labour hire costs in the public sector are difficult to quantify, as arrangements are usually subject to tender and considered commercial in confidence. However, it is reasonable to assume that labour hire companies receive a significant fee for providing workers.

This means both that for the employer the arrangement may cost the same, or even more, than if they had engaged employees directly; and that employees working for the labour hire companies may also be worse off, with lower wages and inferior conditions.

High cost of skilled contractors

In some cases contracting arrangements, particularly where high skilled or in-demand workers are required, represent very significant costs to the employer. These costs could be reduced if employers engaged in better workforce planning and invested more in training internal staff. This is demonstrated by recent reports into the Commonwealth Government's use of ICT, legal and other skilled contractors.

The Gershon Report found that the extensive use of ICT contract staff had been significantly more expensive than engaging in-house employees. On average an ICT contractor cost an agency \$186,000 per annum, \$94,000 more than the average directly employed ICT employee.⁴⁰

Following the Gershon Report, the Government has started to reduce the use of ICT contractors. However, there have been reports that, in some cases, the effects of the requirement to engage fewer contractors were being mitigated by the employment of contractors through third party service providers so that they did not show up in agency contractor numbers. This costs the Government even more as there is an estimated 20-28 percent mark up on engaging contractors in this manner.⁴¹

The Government also spends significant amounts on legal services contracts. In 2009-10 APS agencies reported spending \$316.9 million on external legal services compared with \$255 million on internal legal services. A 2009 review of Commonwealth legal services procurement found that significant long term savings could be made by putting more resources into training and development of in-house legal services in the short term. The review found that increased professionalism of in-house legal teams would improve service delivery and lead to more informed procurement of legal services.⁴²

Impacts on work quality

Loss of corporate knowledge

As many casual and insecure employees would prefer secure jobs, employers risk losing the skills and expertise of these employees if they leave their employment to seek more secure work elsewhere.

Whilst this cost is hard to quantify, it has genuine and explicit implications for employers. In the APS, an ANAO audit of the use of non-APS employees, found that being dependant on the retained knowledge of contractors can expose agencies to risk and increase costs further.⁴³

Lack of business continuity

Related to the loss of corporate knowledge is the lack of business continuity, with a high turnover of staff there can be a lack of consistency in processes and output

⁴⁰ Gershon P (2008), 'Review of the Australian Government's Use of Information and Communication Technology', pp.48-49

⁴¹ Dr Ian Reinecke, *Independent Review of Implementation of the ICT Reform Program*, June 2010, p.22

⁴² Blunn, A. & Kriger S., Report of the review of Commonwealth legal services procurement, 2009, pp. 47-48

⁴³ The Australian National Audit Office, Audit Report No.49 2006-07, "Non-APS Workers", 2007, p 19

which will result in reduced efficiency. This is relevant in both the public and private sectors.

Inferior services

Insecure employees are likely to be with the enterprise for a shorter period of time than those in secure employment with implications for the workforce's knowledge and experience. This can result in poorer outcomes and services.

In some situations this leads to employers offering insecure employees inferior training. For example, ongoing employees in ATO Operations receive six weeks training to perform public contact work. Non-ongoing employees performing the same work only receive two to three days of training.

Other risks

Less accountability

Indirect insecure employment arrangements offer less direct accountability than secure ongoing arrangements. This is relevant in both the public and private sectors.

For example, all APS employees are bound by the APS Values and accountable through the Code of Conduct. This helps to ensure impartiality, fairness and transparency in the operation of the public service and in dealings with the public. Labour hire employees are not bound by the APS values and Code of Conduct and do not have the same level of accountability for breaches.

In the private sector, lack of accountability for service standards and provision has also been raised by staff and clients when outsourcing of Telstra services has taken place.

Security of information

This is an issue of particular importance in the public sector, but may also have implications in terms of customer personal information in the private sector including where work is outsourced to offshore locations.

Many citizens would be concerned to know that the personal details that they give to the ATO can be disclosed to a private company without their notice. In addition, the outsourcing the debt collection in DHS means that people who use the services of Centrelink and the Child Support Program, who may be in very vulnerable positions, may have their personal information, including their address, disclosed to a private company.

Security of information is important to all the people who use these services and they should be able to be sure that data security is effectively monitored in these situations.

The use and storage of this information in public sector agencies is regulated by strict procedures and accountability mechanisms. When work is outsourced to private companies, ensuring accountability and monitoring data security is much harder. While contracts may deal with these matters, it is harder for agencies to know that the terms of the contract are being met, and in the event that they are not, trying to remedy it would require legal action.

Implications for workplace cohesion

In many cases, labour hire and non-ongoing employees work alongside permanent ongoing employees performing similar tasks but receiving different remuneration and entitlement. In CPSU's experience, this can cause resentment between groups of employees and lead to morale problems and higher attrition rates.

Attempts to increase secure employment and mitigate effect of insecure work

Increasing the proportion of secure employees in an enterprise and mitigating the impact of insecure work when it is used are important objectives to CPSU members. They are not, however, easily achieved.

The CPSU has sought arrangements in enterprise agreements to address insecure employment issues particular to those workplaces. A few examples are set out below.

Transition from casual to permanent employment

Employees working for the Australian Bureau of Statistics as interviewers are employed to go door to door to gather qualitative data for the Bureau. Twenty years ago these employees had no guaranteed hours, received no superannuation, had no leave entitlements and were employed on individual contracts as the work arose.

Over the last fifteen years, the CPSU has greatly increased the job security and entitlements of these employees. This was achieved with the creation of an award for these employees in the early 1990s and then through successive enterprise agreements. The CPSU has secured a range of entitlements, including long service leave, for these employees, and in recent enterprise agreements a unique form of permanent part time employment was created. Although workloads are still allocated on an ad hoc basis, employees now have guaranteed minimum hours under the collective agreement.⁴⁴

⁴⁴ ABS Interviewers Agreement 2011-2014

The classification of ABS Interviewers as 'ongoing' since the 2009 enterprise agreement has meant that they are now also entitled to the leave and other entitlements in the National Employment Standards under the *Fair Work Act* to which they previously had no entitlement.

Severance benefits for fixed term employees

In some agencies we have been able to include clauses in enterprise agreements to mitigate the impact of insecure employment, by creating entitlements comparable to those that apply to ongoing workers.

For example, the Commonwealth Members of Parliaments Staff Agreement covers Ministerial staff whose job may cease with a change of Government. To compensate for this insecurity and the possible short term nature of the work, the agreement provides severance benefits which apply when employment is terminated after an election.⁴⁵

Similarly, the ABC Agreement provides severance benefits for employees engaged on a run of show basis for more than two years, who are not reengaged⁴⁶.

Removing the link between funding and non-ongoing employment

In the CSIRO the CPSU has sought provisions that decouple funding decisions and the use of insecure employment. The clause relating to fixed term employment in the CSIRO Enterprise Agreement now states:

*There will be no link between funding source and the decision to appoint a person on a term. These criteria shall also apply to the reappointment of an employee to a further term appointment.*⁴⁷

Extending award coverage

In 2002 CPSU was instrumental in moves to regulate employment in the telecommunications industry and call centres through the Telecommunications Services Industry (TSI) Award and the Contract Call Centre (CCC) Award.

In the late 1990s, following the deregulation of the telecommunications industry, there was a rise in independent telecommunications companies. These new telecommunications companies employed staff as casuals or on individual contracts. Employment was insecure and wages and conditions were poor with little training or career progression available to employees.

⁴⁵ Commonwealth Members of Parliaments Staff Agreement 2010-12, CI 70

⁴⁶ However, this does not fully compensate for the negative impact of run of show engagement. The biggest problem is that run of show contracts typically only last for eight or nine months leaving the employees to find other work for the remaining months and making it hard to have a career in television or radio alone.

⁴⁷ CSIRO Enterprise Agreement 2011-2014

The TSI Award, which was made in 2002, provided more incentive for permanent employment with better hours of work and loadings for working unsocial hours, as well as a skill based career path for employees in the industry. Following the making of the TSI Award in 2002, unions applied the award to many of the labour hire companies which had mushroomed to provide labour to the industry. This ensured that all employees in the industry enjoyed the same award protections. The award has become the Telecommunications Services Modern Award 2010.

Similarly the establishment of the CCC Award helped mitigate the impact of the emergence of call centres which contracted with employers to avoid the need for a business to maintain an internal call centre with wages and conditions aligned to the enterprise agreement applying to the permanent employees of the business.

Conclusion

Insecure employment, through both directly and indirectly engaged arrangements, is a feature of both the public service and private sector. In many areas the use of insecure employment arrangements is growing; motivated by budget cuts and a failure to properly appreciate the long term implications for the effectiveness and efficiency of the enterprise.

Not only do these workers receive fewer entitlements, they are most likely to be engaged at lower classifications, and more likely to be women, Aboriginal and Torres Strait Islander or younger workers. In addition, our research shows that these workers are dissatisfied with their job security.

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

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

Table 7: Non-ongoing staff: agency by non-ongoing category and sex, 30 June 2010

Agency	Men				Women				Total			
	Specified term	Specified task	Irregular/Intermittent	Total	Specified term	Specified task	Irregular/Intermittent	Total	Specified term	Specified task	Irregular/Intermittent	Total
Agriculture, Fisheries & Forestry	36		59	95	69	1	45	115	105	1	104	210
- AFMA	6	2	19	27	2	1		3	8	3	19	30
- APVMA	7	2		9	14	1		15	21	3		24
- Wheat Exports Australia	1			1	1	1		2	2	1		3
Attorney-General's	54	3	19	76	68			89	122	3	40	165
- Administrative Appeals Tribunal	8		8	16	23		12	35	31		20	51
- ACLEI			1	1	2		1	3	2		2	4
- AUSTRAC	2			2	1			1	3			3
- Australian Crime Commission	32			32	25			25	57			57
- Customs	25		56	81	15		71	86	40		127	167
- CrimTrac Agency	5			5	8			8	13			13
- Family Court of Australia	15		15	30	67	2	21	90	82	2	36	120
- Federal Court of Australia	27		28	55	40		32	72	67		60	127
- Federal Magistrates Court	11		7	18	33		18	51	44		25	69
- Human Rights Commission	6		1	7	26		3	29	32		4	36
- ITSA	21			21	27			27	48			48
- National Capital Authority	1		2	3			6	6	1		8	9
- National Native Title Tribunal	17			17	39			39	56			56
- Commonwealth DPP	11			11	38			38	49			49
- Office of the Parl. Counsel					1			1	1			1
DBCDE	23	4	2	29	42	4		46	65	8	2	75
- ACMA	14		7	21	13	1		14	27	1	7	35
Climate Change and Energy Efficiency	80		5	85	150		4	154	230		9	239
- ORER	3			3	3			3	6			6
Defence	228	20	25	273	283	17	18	318	511	37	43	591
- Defence Housing Australia	33			33	59			59	92			92
DEEWR	119	4		123	161	1		162	280	5		285
- ABC	2			2	37		2	39	52	2	2	54
- Comcare	15	2		17	37			37	57			57
- Fair Work Australia	23			23	34			34	57			57
- Office of the Fair Work Ombudsman	67			67	112	1		113	179	1		180
- Safe Work Australia	2			2	4			4	6			6
Environment, Water, Heritage and the Arts	133	85	120	338	181	21	101	303	314	106	221	641
- Aust. National Maritime Museum	4			4	20	2		22	24	2		26
- Bureau of Meteorology	89	79	6	174	51	35	3	89	140	114	9	263
- GBRMPA	15		8	23	19		23	42	34		31	65
- Murray Darling Basin Authority	23	3		26	32	2		34	55	5		60
- National Library of Australia	20		17	37	45		12	57	65		29	94
- National Museum of Australia	18	2	3	23	41	1	2	44	59	3	5	67
- National Film and Sound Archive	13		2	15	19	2	1	22	32	2	3	37
- National Water Commission	5		1	6	6			6	11		1	12
- Screen Australia	3			3	13		2	15	16		2	18
FaHCSIA	98	8	1	107	128	13	4	145	228	21	5	252
- Aboriginal Hostels Ltd.	46		11	57	87		43	130	133		54	187
- EOWA					18		1	19	18		1	19
- Torres Strait Regional Authority	17	1	1	19	22		2	24	39	1	3	43
Finance & Deregulation	27		185	212	30		38	68	57		223	280
- Australian Electoral Commission	33		1	34	77		1	78	110		2	112
- ComSuper	40	1	1	42	49		1	50	89	1	2	92
- Future Fund Management Agency	1			1	1		1	2	2		1	3
Foreign Affairs & Trade	43	2	7	52	72	3	6	81	115	5	13	133
- ACIAR	6	5		11	6			6	12	5		17

Agency	Men			Women			Total		
	Specified term	Specified task	Irregular/Intermittent	Specified term	Specified task	Irregular/Intermittent	Specified term	Specified task	Irregular/Intermittent
- AusAID	27	1	4	25	3	4	32	52	4
- AUSTRADE	19			35		1	38	54	
- Health & Ageing	163		24	308		38	346	471	62
- Aust. Institute of Health & Welfare	8		3	34		3	37	43	6
- AOTDTA	3			10			10	13	
- ASDA	5			11			11	16	
- ARPANSA	4			6		2	8	10	2
- Cancer Australia				1			1	1	
- FSANZ	6			11			11	17	
- National Blood Authority	4			2		2	4	6	2
- NHMRC	20			28	1		29	48	1
- Private Health Insurance Ombudsman	1							1	
- Professional Services Review	1							1	
- Human Services	75	1	8	279		62	341	354	70
- Centrefix	348	8	13	979	8	53	1040	1327	17
- Medicare Australia	55	1		218	5		223	273	6
- Immigration & Citizenship	165		1	290			290	455	1
- MRT & RRT	2			5		1	6	7	1
- Infrastructure	19			18			18	37	
- Australian Transport Safety Bureau				1			1	1	
- DIISR	117	31	4	107	3		110	224	34
- AIATSIS	31		3	48			48	79	3
- Australian Research Council	9			10			10	19	
- IP AUSTRALIA	14			15			15	28	
- Questacon	10		45	15		42	57	25	87
- Prime Minister & Cabinet	8	2	18	18	1	7	26	26	25
- Aust. Institute of Family Studies	9		2	15	1	2	18	24	4
- ANAO	9	1		12	1		13	21	2
- Australian Public Service Commission	8	19		15	33		48	23	52
- Commonwealth Ombudsman	2		1	3			3	5	
- National Archives of Australia	25		15	44		28	70	69	41
- Office of the Privacy Commissioner	1			2			2	3	
- OIGIS				1			1	1	
- Office of National Assessments	10	2	5	19	1		20	29	5
- Old Parliament House	9		4	10		6	16	19	10
- Resources, Energy and Tourism	15			12		1	13	27	1
- Geoscience Australia	115			35			35	150	
- NPSA	1			1			1	1	
- Treasury	27			13			13	40	
- Australian Bureau of Statistics	278			270			270	548	
- AOCOC	22		5	35		2	37	57	7
- AOFM	1							1	
- ASIC	76	7		133	15		148	209	
- Australian Taxation Office	177	2	715	244	2	1719	1865	421	2434
- Commonwealth Grants Commission	3			3			3	6	
- National Competition Council	1							1	
- Productivity Commission	3	1		4			4	7	
- Royal Australian Mint	11		2	10			10	21	2
- Veterans Affairs	23	2		58	1	2	61	81	2
- Australian War Memorial	27		5	38		14	52	65	19
Total	3496	302	1497	5764	184	2482	8430	9260	3979
				5295			486		13725

Source: APSED