Submission to the Senate Select Committee on Job Security

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March 2021

About the Centre for Future Work

The Centre for Future Work is a research institute located at the Australia Institute (Australia's leading progressive think tank). We conduct and publish research into a range of labour market, employment, and related issues. We are independent and non-partisan. This submission synthesizes some of our previous research on insecure work and related topics. Please see our website at http://www.futurework.org.au/ to read our full reports.

Contents

Introduction and Summary 3
The Nature and Extent of Insecure Work 6
COVID-19 and Increasing Precarity 8
Some Groups Are Especially at Risk From Insecure Work 15
Conclusion and Recommendations 18

Introduction and Summary

The Centre for Future Work welcomes the opportunity to make a submission to the Select Committee on Job Security. Insecure and precarious work has been a focus of our research since the Centre was formed in 2016. Unfortunately we have observed that since this time, the prevalence, problems and social costs of these forms of work have increased. This has been exacerbated by the economic and social disruption experienced due to COVID-19. The consequences of the pandemic were concentrated very harshly on workers who were in relatively insecure jobs before the pandemic, and we have also observed that the benefits of the subsequent economic rebound have not been distributed equally. The rebound in casual employment since May has constituted the fastest surge of casual job growth in Australian history – over 400,000 jobs.[1] And other forms of insecure work have also surged since the recovery began: for example, the number of 'owner-managers of unincorporated enterprises without employees' – the most precarious business structure, and which includes gig workers – has grown to record-high levels, and in February 2021 accounted for well over a million Australian workers.

Through the COVID-19 pandemic, we have now seen clearly that the prevalence of precarious employment – including, but not limited to, jobs without paid leave – presents a danger for public health. Precarious employment proved to be the virus's best friend, pressuring workers without leave to go to work even when displaying symptoms. It was only after the belated and conditional introduction of federally-funded paid pandemic leave that this issue began to be partially mitigated. Clearly a more durable and complete solution is required.

Therefore, Australia now has an historic opportunity to reshape the labour market to ensure workers and their families are better supported. While much of the government's Fair Work Act Amendment (Supporting Australia's Jobs and Economic Recovery) Bill (referred to as the IR Omnibus Bill) was recently abandoned by the government, the remaining provisions which were passed by Parliament still push the dial in precisely the wrong direction. The new legislation explicitly confirms the right of employers to define workers as casuals, even if the work they perform is regular.[2]

It is no coincidence that the expansion of precarious labour has occurred at a time of record-low wage growth. Precarity makes it more difficult for workers to organise and collectively bargain. And even on an individual basis, job precarity undermines workers' ability to ask for higher wages.

As this submission was filed, the last tranches of the JobKeeper wage subsidy program had just been cancelled. This will further damage the already-tenuous connections between many workers and their employers. We anticipate that tens of thousands of workers who currently fill permanent positions will be laid off, further shifting the risk of the still-

[1] ABS, Labour Force Australia, Detailed. Over the same period, around 233,000 jobs with paid leave entitlements were created.

[2] See Alison Pennington, Submission to Senate Inquiry into the *Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020*, (Canberra: Centre for Future Work, 2021).

uncertain recovery onto workers in insecure jobs. Ironically, this will prove to be a self-fulfilling prophecy: as workers feel that their own livelihoods are becoming less certain, they will be less inclined to spend, opting to save what they can of their incomes to insure against the possibility of job loss. This in turn will mean less income flowing to businesses in the form of consumer expenditure, and – completing the vicious cycle – less private-sector employment.

The pandemic highlighted stark fissures in Australia's labour market. The employment and income impacts of the pandemic were grossly unequal, across different groups of workers. Our submission highlights several ways in which the pandemic has increased inequality in Australia, and reinforced the dominance of insecure work in the overall labour market:

- Workers in insecure jobs lost work far more severely than those in standard, permanent positions. As the pandemic struck, casual workers lost employment eight times faster than those in permanent jobs. Part-time workers lost work three times faster than full-time. Insecure self-employed workers lost work four times faster than those in more stable small businesses.
- The rebound of employment since May has been dominated by insecure jobs. Casual jobs account for more than half (58%) of all waged jobs created since May. Part-time work accounts for 47% of all new jobs. And very insecure positions (including own-account contractors and 'gigs') account for four-fifths (80%) of the rebound in self-employment.
- Casual employment grew by over 400,000 positions in the rebound between May and November 2020 – an average of 2200 new casual jobs per day. That is by far the biggest and fastest expansion of casual employment in Australia's history. Casual employment has continued to grow, albeit more slowly, this year. Employer groups' claims that new hiring was being held back by legal 'uncertainty' related to recent casual work court decisions were never credible.
- Young people suffered much worse job losses in the initial months of the pandemic. And while workers over 35 have fully recovered pre-pandemic employment levels, younger workers are still experiencing major job losses.
- Women also suffered disproportionate job losses when the pandemic hit, and that gender gap has not been closed during the rebound. Women's employment, unemployment, underemployment, and participation all remain significantly weaker than for men.

Improving the security of the labour market for workers should be a key component of a longer-term, sustained strategy for inclusive economic recovery, including expanded public investment, increased spending power for workers to lift aggregate demand, and improved labour and social standards to improve job stability and equity. In addition to supporting the recovery in overall economic conditions (including through continued income supports), government must also work to improve the quality and stability of new jobs – to offset the terribly unequal impacts of the pandemic. The portion of the government's industrial relations omnibus bill that has now passed the Senate and House of Representatives will liberalise casual work (allowing its use in any position deemed casual by the employer). This

will accelerate the surge of insecure work – and ensure that the next economic shock will have even more unequal effects than this one did.

The final section of our submission makes several recommendations that would help to reduce the incidence and consequences of insecure work, and enhance the access of Australian workers to better, more secure jobs. These include recommendations dealing with:

1. The importance of governments' commitment to a macroeconomic vision of full employment, such that workers would have more secure job opportunities to choose from.
2. Governments must enable platform (or 'gig') workers to access the same rights, entitlements and income and safety protections as permanent, conventionally-employed workers.
3. Casual employment status should be limited to situations that are truly 'casual' (for example: job roles based on seasonal, fluctuating or peak demand).
4. Employees of any employment status who do not have regular hours should be notified of their hours at least two weeks in advance.
5. Governments should commit, wherever practicable, to employ staff in permanent and direct positions, rather than temporarily and/or through third parties such as labour hire companies.
6. Governments should preferentially procure from Australian firms that demonstrate adherence to norms of secure employment, including permanency and adequate working hours to support a living wage.

Collective voice, representation, and access to collective bargaining are essential to give workers a better chance of demanding and receiving more stable jobs, entitlements, and working conditions. Several specific reforms are proposed to strengthen the possibility that workers could use collective bargaining mechanisms to negotiate more stable jobs. A thorough, multidimensional commitment by the Australian government to improving both the quantity and the quality of work, limiting the spread of precarious employment practices and strengthening the ability of workers to demand better jobs, will be essential to achieving a strong, inclusive recovery from the COVID-19 pandemic, and ensuring that Australian workers can share more fully in the future benefits of economic growth.

The Nature and Extent of Insecure Work

Australia's labour market continues to become a more challenging place, for two main reasons: the inadequate *quantity* of work, and the reduced *quality* of work.[3] The traditional employment relationship, based on full-time work with normal entitlements such as paid leave and superannuation, continues to be eroded. Only around half of employed Australians work in a permanent full-time job with paid leave entitlements.[4]. The mutually reinforcing relationship between inadequate quantity and declining quality of work is obvious: when employers realise there are more workers seeking work than jobs available, they are able to reduce the wages, entitlements, and conditions of employment while still attracting and retaining the employees needed to run their businesses.

Insecure work is not limited to workers employed under casual tenure (i.e. workers without normal paid leave entitlements, and with no expectation of permanency or stability in working hours). Many part-time workers who may be employed on a permanent basis do not have week-to-week income security: their hours and pay fluctuate, and/or are unpredictable. These workers fall outside the traditional understanding of 'casual' labour, yet their underemployment and week-to-week uncertainty may mean very much the same thing from the viewpoint of precarity and living standards.

The steady growth of insecure work in various forms reflects efforts by employers to shift the costs and risks associated with fluctuations in their business onto the backs of their workers. Being able to access labour as a just-in-time, fully flexible input, with few if any obligations to provide ongoing employment, secure incomes, or normal entitlements, has encouraged employers to expand the full range of these insecure employment practices: including casual jobs, part-time work, temporary jobs, labour hire, contracting out (including various forms of 'sham' contracting), various forms of dependent or marginal self-employment, gig work, and others.

An increasingly prevalent source of precarious work is the so-called 'gig-economy', where work is performed for a business by a worker, but that relationship is mediated by a third party. The worker is an employee in all practical senses, but is treated by the employer as if they are an independent contractor. This opens those workers up to the possibility of below-award wages, makes them responsible for the provision of their own tools and equipment (e.g. passenger and delivery vehicles), and removes the expectation of an ongoing working relationship. However, these workers can't usually delegate or subcontract work (as would be typical of a contracted business). They do not set the price for their services, and experience other forms of direct control from the platforms they work for. This form of work is expressly designed to shift financial risk from employers to workers.

Increasingly, legislatures and courts are discovering that indeed employers and intermediaries do have obligations to the so-called 'private contractors' in the gig economy

[3] Dr Tanya Carney and Dr Jim Stanford, The Dimensions of Insecure Work: A Factbook (Canberra: Centre for Future Work, 2018).
[4] ABS (2021, February) Labour Force Australia, Detailed, Table EQ04

– in essence, finding that these workers are in fact employees. This has been borne out in many instances internationally,[5] and challenges are being launched in Australia, too.

Similar to platforms such as Uber, private labour hire firms position themselves in a triangular relationship aimed at minimising financial risk to the employer, and shifting that risk onto the worker. These intermediaries then charge employers a premium for this 'service,' financed by creaming off a significant portion of the income generated by the workers' labour.

All these precarious employment configurations also make it difficult for workers to take part in industrial organising – further weakening worker demands for improved wages and conditions (affecting all kinds of workers, in both secure and insecure jobs). Only 4% of workers without leave entitlements belong to a union, compared with 14% of employees overall.[6] In practice, only half or even fewer casual workers are paid their full casual loading[7]; the casual loading penalty (equal to 25% of 'normal' wages under most Awards) is not effectively paid in many situations, for a variety of reasons.[8]

And where employment is precarious, it becomes more difficult for workers to report wage theft. This is because it is harder to organise in many precarious contexts, making industrial support and advocacy less available, and because casual workers can be let go more readily, discouraging workers from speaking up. So the ongoing and increasing prevalence of insecure and precarious work creates a dynamic in which a semi-hidden form of wage suppression takes place. This wage theft has negative effects from a macroeconomic perspective: less spending power in the hands of wage earners, translating into less consumer expenditure and reduced business income. The effect is amplified by the fact that those experiencing wage theft are more likely to be at the lower end of the income scale to begin with, which is to say they have a greater propensity to spend (rather than save) any income they earn.

This casualisation and precarity extends beyond the private sector. Since governments are major employers, this has the pernicious spillover effect of encouraging private sector employers to further undermine wages and conditions.[9]

Similarly, as major customers for privately produced goods and services, governments that preferentially procure from businesses that tangibly support secure, standard employment will support the wider adoption of higher labour standards across the economy.

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[5] See, for example Davies 'Uber to pay drivers a minimum wage, holiday pay and pensions', BBC News, 18 March 2021.
[6] ABS (2020, August) 'Trade union membership', https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/trade-union-membership/latest-release
[7] Peetz, D. (2021) Submission to the Senate Inquiry Into the Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020, Griffith Business School, Griffith University.
[8] See Australian Council of Trade Unions (2018) *The Myth of the Casual Wage Premium*.
[9] See Nahum (2020, October), *Public Service in Challenging Times: The Economic and Social Value of Public Sector Work in Queensland* (Canberra: Centre for Future Work, 2020).

COVID-19 and Increasing Precarity

During the downturn in employment that resulted from the initial spread of COVID-19, workers in less secure jobs bore the brunt of initial losses in jobs, hours and incomes.[10]

Customer-facing workers in industries like hospitality, retail, arts and recreation, and personal services felt the immediate effects of health restrictions on economic activity. Those sectors disproportionately rely on workers in insecure jobs – women and young workers are especially over-represented. At the same time, many Australians were able to shift their work to home as the pandemic took hold: but working from home is most common among professionals, managers, and others who perform most of their work on computers.[11] Those workers earn, on average, higher incomes – yet they were most likely to maintain their jobs and incomes through the pandemic. For these reasons, the pandemic has had strongly disequalising effects on employment and income – in a labour market that was already very unequal before COVID-19 hit.

Making matters worse, the Commonwealth government's employment policy responses in many ways exacerbated this inequality. Many workers in insecure jobs were arbitrarily excluded from important income support measures: like JobKeeper, which excluded 1.1 million short-tenure casual workers, and JobSeeker, which excluded foreign migrant workers.[12]

The economic hardship caused by the pandemic was all the worse because of the weak initial state of Australia's labour market. Even before the pandemic (and the unprecedented 2019-20 bushfires), Australia's macroeconomic and employment trajectory was shaky. Economic commentators warned that labour market conditions were too soft, and urged government to do more to support economic growth (with expansionary, jobs-oriented fiscal policy). Then, in response to COVID-19, it was necessary to shut down large sections of the economy entirely to stop infection and protect public health. This caused an unprecedented drop-off in production, employment, and income – which subsequently flowed into depressed consumer spending and business investment.

There has been a recovery in employment since May, thanks to strong public health measures which limited the virus, combined with massive and ongoing fiscal injections by government – focusing mostly on major income supports like the JobKeeper and JobSeeker programs. These fiscal injections supported incomes and purchasing power, prevented bankruptcies of businesses and households, and stimulated renewed spending.

Nevertheless, workers in insecure jobs – disproportionately including women, young workers, and low-wage workers – experienced both the worst of the crisis, and the least complete recovery. The incidence of insecure work is now surging again, and this sets the

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[10] Nahum, D. and Stanford, J., *Year-End Labour Market Review: The Pandemic and Insecure Work* (Canberra: Centre for Future Work, 2020).

[11] The uneven distributional effects of work from home are explored by Alison Pennington and Jim Stanford, *Working from Home: Opportunities and Risks* (Canberra: Centre for Future Work, 2020).

[12] Professionals and clerical workers are the only occupational categories to enjoy increased employment since the pandemic hit.

stage for future volatility in employment and income for workers in non-standard jobs. The Commonwealth government has now withdrawn the wage subsidies and extra income supports that were crucial in sparking the rebound in employment after last May. That poses unnecessary risks to the future course of the recovery.

It should now be a priority of government policy to focus continued support and stimulus measures to help the same workers who experienced the worst effects of the crisis in 2020. And instead of accelerating the trend toward insecure jobs with its labour law amendments (and its new, expansive definition of casual work in particular), government should work to stabilise employment relationships and provide more Australians with the benefits of stable, decent work.

Even before the recession, only about half of employed Australians worked in a 'standard' job: full-time permanent waged positions with normal entitlements (like sick leave, annual leave, severance benefits, and superannuation).[13] Half of employed Australians worked in positions characterised by one or more dimensions of insecurity: including casual and temporary jobs, part-time work, independent contractors, other forms of self-employment, and 'gigs'.

When the COVID-19 pandemic hit, it was workers in insecure jobs who bore the immediate brunt of the resulting downturn in employment. This should not be surprising: after all, the core rationale for insecure employment systems is precisely to allow employers to recruit and shed labour quickly and costlessly in line with fluctuations in business conditions. And that is exactly how they responded to the sudden and severe downturn in economic activity required by public health orders as the pandemic unfolded. In this regard, insecure work systems fulfilled their 'purpose'. For workers in those insecure positions, this resulted in highly disproportionate losses of work and income. Making matters worse, many of those same workers were then excluded from government emergency income programs (like JobKeeper and JobSeeker).

Figure 1 illustrates the decline in employment during the first, painful months of the pandemic (February through May) for workers with different employment statuses. Employment in casual waged jobs fell by over 20% in those three months, compared to a decline in employment of just 2.6% in permanent positions. Casual workers were thus eight times more likely to lose their jobs than workers in permanent positions as the pandemic took hold.

[13] See discussion in Tanya Carney and Jim Stanford, *The Dimensions of Insecure Work: A Factbook* (Canberra: Centre for Future Work, 2018).

Figure 1. Employment Losses by Status, February to May 2020

Source: Author's calculations from ABS Labour Force, Table 1, and Labour Force, Detailed, Table EQ04. Seasonally adjusted data for part-time/full-time; original data for other series.

Sharp dichotomies are also visible in the impacts of the pandemic on other categories of insecure work, also illustrated in Figure 1. Almost 13% of part-time workers lost their jobs in the first three months of the pandemic, compared to 4% of full-time workers.[14] The incidence of job loss was thus more than three times more severe for part-time workers. Among self-employed workers, as well, there was a clear concentration of job loss among those in more insecure, contingent positions. We define relatively 'secure' self-employed workers as those who have incorporated their businesses, and employ workers other than themselves.[15] Just 1.3% of those self-employed workers lost their jobs between February and May. In contrast, over 6% of less secure self-employed workers (those without incorporation, without employees, or both) lost their employment. Their incidence of job loss was more than four times worse than for more secure self-employed Australians.

It is clear that the initial force of the COVID-19 shutdowns and resulting recession was felt most severely by workers in insecure jobs, disproportionately young and women workers. They entered the crisis with relatively low and variable incomes – but they were the ones that then experienced the worst losses of work and income. On top of that, many were excluded from government income supports. For example, JobKeeper wage subsidies were not available to workers in casual positions with less than 12 months' tenure with their

[14] Over half of all part-time waged workers were employed on a casual basis before the pandemic hit, so these workers faced a dual degree of insecurity.
[15] Incorporated owner-managers with employees constitute about one-quarter of all self-employed Australians.

current employer; this excluded an estimated 1.1 million workers in casual positions (almost half of all casuals at the time) from qualifying for the subsidy.[16] This deliberate design feature of the government's policy response thus encouraged employers to sever shorter-term casual staff, and use the government wage subsidy to retain workers in permanent positions. The vast difference in incidence of job loss between casual and permanent staff reflected government policy as well as the inherent nature of casual employment contracts.

Figure 2. Composition of Employment Recovery Since May 2020

Source: Author's calculations from ABS Labour Force Table 1, Labour Force Detailed Table EQ04. Part-time/Full-time split is seasonally adjusted.

As described above, aggregate employment in Australia bottomed out in May, and began to recover afterwards. And the dominant role of insecure work, in all its forms, as a 'buffer' for employers' fluctuating labour requirements is just as evident in the upswing as it was in the initial downturn. Figure 2 illustrates the composition of jobs created since May, according to the same indicators of precarity described in Figure 1 above. From May 2020 through February 2021, almost 60 percent of all new waged jobs were casual positions: lacking predictability in rosters and tenure, and denied normal entitlements, such as sick pay, annual leave, and severance protections.

The rapid rebound in casual employment strongly contradicts the claims of government and business leaders that 'uncertainty' regarding the legal status of casual work (in the wake of

[16] Alexis Carey, "Coronavirus stimulus: JobKeeper loophole means casual staff may not get $1500," *News.com.au*, 6 April 2020.

recent court decisions[17]) was somehow discouraging employers from hiring workers back after the pandemic. Former Industrial Relations Minister Christian Porter claimed that "employers are delaying making hiring decisions because of ongoing confusion about the legal status of casual employment."[18] In fact, the 419,000 new casual positions created since May represent the biggest and fastest expansion in casual employment in Australia's history.[19] It is not credible to argue that the pre-Omnibus legal framework (which already provided extremely broad scope for employers to use casual employment contracts) somehow prevented new hiring after the pandemic.

The dominance of precarious work arrangements in the post-pandemic employment rebound is also visible in the other indicators portrayed in Figure 2. For example, almost 60% of all new jobs created since the recession bottomed-out in May are part-time positions. Part-time employment (both waged and self-employment) increased by over 518,000 positions from May 2020 through February of 2021 – compared to 358,000 full-time positions created in the same period.

Finally, Figure 2 also indicates the extreme and growing precarity typical of most new self-employed positions. Self-employment increased by over 145,000 positions between May 2020 and February 2021, as the economy began opening up following the lifting of health restrictions. That more than offset the decline in total self-employment during the first three months of the pandemic (a loss of just over 100,000 positions). However, about 80% of those new self-employed positions created since May consist of owner-managers in relatively insecure situations: without incorporation, without any employees, or both.[20] This growth of insecure self-employment represents a continuing shift in business practices toward nominally 'independent' contractors and sole providers (including people working through digital 'gig' platforms), who have little infrastructure, support, or security in their jobs.

Figure 3 illustrates the part-time share of total employment since the turn of the century. The part-time share grew from 27% in 2000, to nearly 32% when the pandemic hit. The ratio plunged temporarily during the pandemic – due to the disproportionate concentration of initial job losses among part-time, largely casual workers. Since May, however, the part-time share has bounced back just as fast – and in fact reached a new all-time high of 32.3% in October, before subsiding somewhat in subsequent months. At almost one worker in three, Australia has the third-highest reliance on part-time work of any industrial country (behind only the Netherlands and Switzerland).[21]

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[17] Decisions since 2016 in repeated Federal Court and High Court cases have confirmed that employers who engage workers on 'casual' status but with regular shift patterns may still be liable for statutory entitlements like sick pay and annual leave; see "Workpac seeks to take Rossato to High Court," *Workplace Express* (no author), 17 June 2020.
[18] Cited in "IR Bill to offer definition of casual work," *Workplace Express* (no author), 7 December 2020.
[19] Previous surges in casual employment in Australia occurred in 1996, 2015, and 2016 – each of which added less than 150,000 new casual positions.
[20] Of the 145,500 new self-employed positions, 116,300 were owner-managers without incorporated status or any other employees – or both.
[21] See OECD, "Part-time Employment Rate," https://data.oecd.org/emp/part-time-employment-rate.htm.

Both on the way down, and on the way back up, therefore, this pandemic has highlighted the vulnerability faced by workers in non-standard jobs, and accelerated the trend toward insecure work.

Figure 3. Part-time Share of Total Employment

Source: Author's calculations from ABS Labour Force data, Table 1.

It is clear that the pandemic has thus reinforced both the unusual role, and the significant risks, of part-time work in Australia's labour market – and it is likely that the share of part-time work will be still higher in 2021.

In sum, this evidence confirms that the brunt of the employment downturn associated with the COVID-19 pandemic was borne by workers in various forms of insecure work: casual jobs, part-time positions, and insecure forms of self-employment. Now, as the labour force regains some of the ground it lost in 2020, employment is being restructured to reflect an even more intense degree of insecurity. Since the economic recovery began last May, the majority of new work has been concentrated in casual jobs, part-time positions, and highly insecure forms of self-employment. Those trends seem likely to continue through 2021 and beyond – accelerated by policy changes which will facilitate still-greater use of insecure hiring practices by employers.

One additional dimension of the labour market shock resulting from the COVID-19 pandemic must also be emphasised. There was a clear overlap between the widespread existence of insecure and precarious jobs, and the enhanced risk of community spread of the virus. For several reasons, precarious work practices directly contributed to the exposure of Australian communities to this devastating disease. For example, workers in insecure jobs often must balance multiple jobs, each providing limited and irregular hours of

work, in order to cover their living costs. But during a pandemic, this means that workers in these situations are more likely to spread the virus to multiple workplaces – threatening the health of their colleagues, customers, or clients. Secondly, because they lack access to basic paid sick leave, casual workers and those in various forms of self-employment face economic pressure to continue working even if they should isolate. The negative relationship between precarious work and community spread of COVID was demonstrated on multiple occasions – most terribly through the outbreak in Victoria that was associated with precarious employment practices in the security industry, but to lesser degrees in many other community outbreaks. This history shows that insecure work is not just a danger to the well-being of those workers in these positions; it also poses a significant threat to public health.

Some Groups Are Especially at Risk From Insecure Work

Young workers were hit especially hard during the initial downturn in employment from February through May. There are several reasons for the disproportionate impact experienced by young workers, which was directly related to the intense insecurity in employment which they experience:

- Many of the workers in the hardest-hit consumer-facing industries (including hospitality, retail, and arts and recreation) are young people.
- Most young workers are employed in casual and/or part-time positions; these jobs were easiest for employers to eliminate when the pandemic struck.
- Many young workers were excluded from government programs (such as JobKeeper) intended to protect jobs.
- In workplaces where redundancies are managed according to seniority, young workers are generally the first to be let go.

The concentration of job losses among young workers is not unique to this recession: in any business cycle, young workers are typically 'the last hired, and the first fired.' The uneven distribution of job losses across age groups has not been redressed in the subsequent employment recovery. Workers above 35 years of age have recovered all of the jobs lost in the pandemic. Employment for 35-65 year-old Australians has broadly recovered to pre-pandemic levels (see Figure 4). And for older Australians (over 65), even though they experienced severe job losses in the initial months of the pandemic, they have since enjoyed the biggest cumulative gain in employment (comparing February 2021 to February 2020, before the pandemic began): total employment for 65+ Australians was almost 10% higher in February 2021 than in February 2020.

Figure 4. Cumulative Change in Employment by Age Group

Source: Author's calculations from ABS Labour Force data, Table 22.

Workers under 35 years of age are still experiencing net job losses from the pandemic. Employment for workers aged 20-24 was 7% lower in February than it was in February 2020. For workers aged 25-34, employment is still more than 2% lower than before the pandemic. At this point, therefore, since aggregate employment for those aged over 35 has completely recovered, younger workers are bearing *all* of the remaining burden of post-COVID job loss. Underemployment is also particularly severe for young workers: almost a fifth (19%) of workers aged 15-24 were working fewer hours than desired in February 2021, and 8% of workers aged 25-34. Whether experienced through outright job loss, or through reduced hours of work, it is clear that the effects of the pandemic have been especially severe for young workers.

The pandemic and resulting economic crisis also affected women especially severely, also reflecting the extreme insecurity which many women workers face in their jobs. Women are disproportionately employed in the service sectors hit hardest by the initial shutdowns: including retail, hospitality, and personal services. They are heavily concentrated in casual and part-time roles, which were more easily eliminated by employers as the pandemic struck. Women always face an unfair 'double burden' of balancing paid work with the disproportionate share of unpaid caring responsibilities they perform in their homes. But that double burden became particularly intense (and impossible) during the pandemic, when normal schooling and child care arrangements were disrupted or cancelled entirely.[22] Even when work could be relocated to the home, it was practically impossible for many women to continue their paid jobs while caring for children at the same time, in the same place. This forced many women to reduce their hours of work, or to give up paid work altogether.

For all these reasons, the initial impact of pandemic job losses was more severe for women. Employment for women declined almost 8% between February and May – more than two percentage points worse than the corresponding drop for men. It is grimly ironic that as women's employment recovered after May, the gender pay gap actually *worsened*, as casual and underemployment affected women workers disproportionately.[23]

Fully rebuilding women's employment and participation will require ambitious, targeted responses by government that acknowledge the uneven gender impacts of the pandemic, and respond with appropriate and effective supports for women – in both their workplaces and their homes.[24] Improving the security and stability of women's jobs, and supporting

[22] More details on changes in work hours during the pandemic, and the challenges for women in balancing paid work with caring responsibilities, are provided in Dan Nahum, *Work and Life in a Pandemic: An Update on Hours of Work and Unpaid Overtime Under Covid-19* (Canberra: Centre for Future Work, 2020); and Australian Council of Trade Unions, *Leaving Women Behind: The Real Cost of the Covid Recovery* (Melbourne: ACTU, 2020).

[23] Alison Pennington, *Women's Casual Job Surge Widens Gender Pay Gap* (Canberra: Centre for Future Work, 2021).

[24] More detail on the needed measures to address the unequal gender effects of the pandemic are provided in Australian Council of Trade Unions, *Leaving Women Behind: The Real Cost of the Covid Recovery* (Melbourne: ACTU, 2020).

women's paid work with a stronger set of supports for caring and family responsibilities (including especially access to high-quality public early child education), will be necessary for ensuring that Australia's post-COVID recovery fully includes women.

Conclusion and Recommendations

The increasing precarity of the Australian labour market has had significant negative economic and social consequences. These were exacerbated by the COVID-19 crisis, which had dramatic, severe, and disequalising impacts. COVID-19 highlighted pre-existing fractures in the world of work, exposing the dominance of precarious work in Australia's labour market. That precarity explains why the impacts of the downturn were so concentrated and uneven – imposing the greatest burden on those (including young people, women, newcomers, and workers in precarious jobs) who could least afford it. This precarity will also ensure that future fluctuations and shocks will continue to impose severe and unequal consequences on the growing proportion of Australian workers for whom traditional employment benefits (including stable hours and incomes, and normal entitlements like paid sick leave and holidays) are increasingly out of reach.

In response both to the acute crisis and overarching macroeconomic weakness, improving the security of the labour market for workers needs to be a key priority for governments, led by the Commonwealth, as we recover from this pandemic. Building a stronger, more resilient labour market will require ambitious, active policies: both to support a rebound in the quantity of employment, and also to support improvements in the quality of jobs. In particular, the surge in insecure work (casual jobs, part-time positions, and very insecure forms of self-employment) which has dominated the employment rebound since May must be addressed with strong measures to produce more stable, decent jobs.

To this end, we make the following specific policy recommendations for addressing the economic and social consequences of precarious work, and building a more stable, prosperous, and fair labour market:

1. The viability of precarious employment is contingent on the existence of a large pool of underutilised, desperate labour, and the passivity of labour market regulators who are willing to accept (or at least overlook) violations of conventional fair treatment. Governments committing to a macroeconomic vision of full employment, with job-creation as the top priority, would help to limit the growth of precarious jobs – because workers would have many better alternatives to choose from. So would the provision of targeted skills programs and employment services to the groups of workers most likely to be recruited into precarious employment: displaced workers, young workers who can't break into conventional jobs, international migrants, students and others.
2. As the definition of 'employee' is expanded and clarified, employees, regardless of their employment status (but as distinct from genuine contractors with their own businesses), should be given access to annual leave and sick leave as standard entitlements. As part of this, governments must enable platform (or 'gig') workers to access the same rights, entitlements and income and safety protections as permanent, conventionally-employed workers – in other words, clarifying that workers in productive activities which are managed and effectively controlled by a lead business are, in effect, employees of that business.
3. Casual employment status should be limited to situations that are truly 'casual' (for example: job roles based on seasonal, fluctuating or peak demand). The definition of

casual work built into the recent amendments to the Fair Work Act should be replaced by one that limits casual employment to genuine situations of irregular or fluctuating demand. Stronger casual conversion rights are also necessary, including clear and durable arbitration processes in cases when employers refuse. Additionally, stronger measures are needed to ensure casual workers actually receive their casual loading, including on the basis of wage comparisons to permanent employees doing the same jobs.

4. Employees of any employment status who do not have regular hours should be notified of their hours as early as is practicable – we propose a minimum of two weeks in advance. This is in addition to current legal requirements that changes to rosters be (typically, depending on the specific Award) notified seven days in advance, and that casuals be paid for a minimum shift if their shift has been cancelled without adequate notice.
5. Governments should commit, wherever practicable, to employ staff in permanent and direct positions, rather than temporarily and/or through third parties such as labour hire companies. Doing so will have several positive effects:
    a. It will improve the ongoing capacity and resilience of government service delivery.
    b. As governments are such large employers, an improvement in the quality of employment offered by governments would mean that other employers would have to lift employment standards to respond to the additional upwards pressure placed on conditions, especially wage certainty, by government.
    c. This 'demonstration effect' is an important lever for government to improve wages and conditions across the economy.
    d. Additionally, the confidence engendered by a significant cohort of government workers being employed under more stable conditions means that consumer spending by these workers, and hence business revenues and activity, will increase.

    Administration costs paid by the government to keep their workforce casualised are in essence a subsidy paid by the public to labour hire firms, with the function of keeping the labour market more precarious than it would otherwise be.
6. Governments are especially large and influential economic actors and should preferentially procure from Australian firms that demonstrate adherence to norms of secure employment, including permanency and adequate working hours to support a living wage. Governments should make a clear policy statement that they commit to use their economic resources and spending power to reinforce rising wages and stronger labour standards across Australia's economy.
    a. This should be operationalised through various procurement guidelines (such as the Commonwealth Procurement Rules at the federal level), to provide space for procurement decisions which are consistent with an overarching goal of lifting labour standards economy-wide. Government purchasers will be directed to take into account labour and employment factors in allocating contracts, including adherence to specified labour standards and practices, suppliers' commitments

to training and apprenticeships, OH&S and industrial compliance experience, and others.

b. In opening public procurement contracts (above a certain threshold) to bid by private and non-profit suppliers, governments should require in advance a full and transparent reporting by prospective suppliers regarding their adherence to minimum labour standards (including the principle of paying living wages), and the nature of their own sub-contracting and supply chain relationships with other suppliers.

7. Individual workers have little bargaining power to win better wages and conditions – especially as work has become more insecure and fragmented in recent years (marked by more casual and temporary jobs, more independent contracting, and digitally-mediated gigs). Collective voice, genuine representation, and ability to exercise bargaining power (including through collective bargaining and collective action) are essential to give workers a better chance of demanding and receiving more stable jobs, entitlements, and working conditions. The following reforms would strengthen the possibility that workers could use collective bargaining mechanisms to negotiate more stable jobs:[25]
    a. The Better Off Overall Test (BOOT) must be maintained under any bargaining framework, to ensure that Award minimums are strengthened rather than undercut.
    b. Capital-intensive sectors like construction, mining and resources should not be exempt from the standard rules mandating regular renegotiation of EAs – rules that apply to all other industries in the economy. Regular collective bargaining throughout the lifetime of resource projects is a legitimate avenue for employees to secure a fair portion of the wealth they help to create. Greenfields are currently the only agreement form that ensures rights of employees to union representation in bargaining; this practice should not be weakened by 'whole of life' greenfields proposals.
    c. Agreements must be subject to the genuine review and approval of workers. This must be demonstrated under the Fair Work Commission's (FWC) 'genuine agreement' test. And this test must be strengthened to require employers to demonstrate genuine negotiation with their workforce.
    d. The legitimacy of collective bargaining would be improved by phasing out or converting non-union workplace agreements into authentic enterprise agreements, founded on democratic representation for affected workers and actual negotiations on their behalf. This could be achieved by introducing a simple notification system alerting the FWC and relevant unions of agreement expiry; provision of institutional supports to allow unions to initiate consultations with affected employees and negotiations with employers; and FWC resourcing to provide bargaining facilitation services to achieve more genuine agreements.

[25] For more background on reforms required to strengthen collective bargaining in Australia, see Alison Pennington, *Collective Bargaining "Reform": What Does Business Want? And What Would Actually Fix the System?* (Canberra: Centre for Future Work, 2019).

e. Sectoral or industry bargaining is a necessity for resolving worker bargaining imbalances created by increased contracting out (including of government-funded social services), corporate franchising, and employer use of subsidiary holding companies – all of which work to fragment a workforce within larger firms or operations. An economy comprised of smaller firms, fragmented workplaces, and insecure work arrangements demands bargaining scope be expanded to re-aggregate workers across sectors or industries, and allow them to fairly bargain for pay increases and other improvements. By fixing wages across similar businesses, sectoral bargaining can also drive new employer incentives toward real productivity-enhancing investments (such as new technologies and workforce skills), rather than just reducing labour costs.
f. Australia's enterprise bargaining system is almost entirely dependent on the voluntary engagement of employers. The Fair Work Act has only weak provisions to facilitate parties coming to the table for bargaining, with the final decision to negotiate or not resting exclusively with the employer. Statutory obligations on employers to bargain must be strengthened as an expression of the key object of the *Fair Work Act*: namely, to encourage and facilitate collective bargaining.
g. Widespread instances of wage theft within Australian businesses demands employment law and minimum standards compliance systems be strengthened. An accessible dispute-resolution function within the FWC could clarify employer responsibilities through precedent, establishing better and more permanent employer behavioural standards. Similarly, the value of collective bargaining would be enhanced by extending the authority of the FWC to arbitrate outcomes in protracted industrial disputes and other challenging situations. Moreover, the integrity of collective bargaining also requires a more effective, timely, and well-resourced industrial umpire function, to enhance confidence that the agreed terms of EAs will indeed be implemented and respected in practice.

In sum, government needs to restrain the use of insecure work practices – including the misuse of casual contracts, sham contracting and other forms of outsourcing, and on-demand 'gig' workers. Instead, unfortunately, the Commonwealth government's recent legislation will accelerate and reinforce the dominance of insecure work. These changes liberalise and cement the use of casual employment contracts, in essence, allowing casual positions to be used in any circumstances which employers desire. This ignores a crucial lesson of the pandemic: namely that economic shocks and recessions typically impose the greatest costs on those who already worked in relatively low-paid and insecure roles. The goal of policy should be to support a sustained recovery in quality, reliable jobs: an economy and society which Australians can rely on to build stable lives.