



**Submission**

**to the**

**Senate Select Committee on Work and Care**

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## Introduction

The Australian Education Union (“AEU”) makes this submission on behalf of over 198,000 AEU members employed in the public primary, secondary, early childhood and TAFE sectors throughout Australia.

This submission demonstrates that AEU members in all education sectors – from early education, to schools, to post-secondary education in TAFE institutions – are experiencing the most acute effects of Australia’s intersecting work and care crises.

The AEU recommends that governments take urgent action to address these crises by addressing the gendered inequities in caring obligations experienced by the predominantly female educator workforce; ending the self-defeating pay freeze and pay cap policies of education employers that disproportionately impact on women and result in circumstances that are driving educators out of their profession; and committing to fully and equitably funding public education.

Additionally, this submission provides examples of provisions in AEU workplace agreements positively affecting AEU members’ work and care responsibilities, and which the AEU encourage policymakers to more broadly adopt.

## Gendered assumptions in work and care

### *Patriarchal attitudes and institutions in Australia*

By way of introduction, this section draws attention to the historical and current social and cultural assumptions, institutional frameworks, and policy settings regarding gender, work, and care in Australia. It demonstrates that, despite women now participating in the paid workforce at similar rates to men, Australia’s institutions and culture retains two patriarchal assumptions regarding work and care: first, that the ideal worker is a male breadwinner with minimal care and cultural obligations, and that women’s work is worth less than men’s work; second, that the ideal carer is expected to be woman, and that this is an unpaid private responsibility. The AEU urges governments to acknowledge and address Australia’s deeply gendered cultural and institutional assumptions of work and care.

Australia’s early industrial institutions and norms reflected the prevailing division of labour by gender, and particularly reflected perceived gender-appropriate roles: men as paid, formal workers, and women as unpaid, informal carers. This gendered division of labour was a cultural ideal, and even during this period failed to account for the large minority of Australian women working in paid employment until the mid-20<sup>th</sup> century.<sup>1</sup> Institutional support for this ideal is demonstrated in two key early decisions of the Commonwealth Court of Conciliation and Arbitration (“CCCA”). In 1907, in the landmark “Harvester Case”, the CCCA found that a “fair and reasonable wage” was to be determined by reference to the quality of life available to family with a male breadwinner, a dependent wife, and three children.<sup>2</sup> Subsequently, in 1912 and 1919, the CCCA in the “Fruit Pickers” and “Clothing Trades Case” set a “living wage” for

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<sup>1</sup> Frane R, Kealey L, and Sangster J, ‘Women and Wage Labour in Australia and Canada, 1880-1980’, *Australia and Canada: Labour Compared*, November 1996, 71, p 54.

<sup>2</sup> *Ex parte H.V. McKay*, (1907) 2 CAR 1.

women workers – finding that a woman worker required only 54% of the wages of a male worker.<sup>3</sup>

Both CCCA decisions provided longstanding institutional support for patriarchal social attitudes, gender discrimination, and female workers’ economic inequality. Only in 1969 and 1972, in a series of equal pay cases, did Australia’s industrial institutions resile from these previous endorsements of gender pay discrimination by implementing a limited form of equal pay for equal work.<sup>4</sup> However, since the 1970s, despite women being protected from being paid less for performing *the same work* as a man, unequal pay between men and women persists, with the latest data indicating that the gender pay gap is increasing.<sup>5</sup> Australia’s equal remuneration laws, intended to address this gender pay gap, have proven ineffectual: of the 21 applications for equal remuneration orders since 1994, only one has been successful.

For most of Australia’s post-federation history its industrial institutions have codified patriarchal social attitudes and provided for explicitly gender discriminatory wages. In recent decades, despite ending formal pay discrimination against women, Australia’s industrial laws have failed to reduce the gender pay gap. Australian women have and continue to be disadvantaged by assumptions built into Australia’s industrial institutions.

#### *Women’s ‘double duty’ as workers and carers*

Over the last half-century, Australian women’s workforce participation has significantly increased, and continues to increase. Whereas in 1966 two-thirds of women in Australia were not in formal paid employment, and instead performed informal, unpaid labour at home and in providing care, today the participation of women in the paid, formal workforce is currently at approximately 62.2%.<sup>6</sup>

Despite the significant increase in women’s participation in the formal workforce, there has not been an equivalent reduction in the expectation that women will perform more informal caring and unpaid household labour than men. Instead, women still perform more informal caring and unpaid household labour than men.<sup>7</sup> This double expectation on women to perform more caring and domestic labour than men despite participating in the workforce at an increasingly similar rate to men burdens women with the dual obligations as workers and carers. Sections below provide further details regarding the significant negative social and economic effects of this ‘double duty’ on AEU members.

#### **The role of government in creating and addressing the work and care crisis**

This submission demonstrates that the crises of work and care affecting AEU members are driven by decisions and omissions of government. Accordingly, it is the role of government to take action to change its positions, and to address these crises.

Most directly, governments have the power, as funders and employers of public educators, to

<sup>3</sup> *The Rural Workers Union v Renmark Fruit Growers*, (1912) 6 CAR 61; *The Federated Clothing Trades of the Commonwealth of Australia v J.A. Archer and others*, (1919) 13 CAR 647.

<sup>4</sup> *Equal pay cases*: (1969) 127 CAR 1142; (1972) 147 CAR 172.

<sup>5</sup> Workplace Gender Equality Agency (“WGEA”), ‘Gender Pay Gap Data’ webpage, accessible [here](#).

<sup>6</sup> Parliamentary Library, *Budget Review 2018-19: Workforce Participation Index*, accessible [here](#) and Workplace Gender Equality Agency, *Gender equality workplace statistics at a glance 2022*, accessible [here](#).

<sup>7</sup> Australian Institute of Family Studies, ‘Towards COVID normal: Sharing of housework in couple families’, September 2020, accessible [here](#); and, WGEA, ‘Gender equality and caring’ webpage, accessible [here](#).

directly affect the salaries, working conditions, and professional autonomy of its educator workforce. However, the majority of state and territory governments have introduced legislative or executive-ordered pay caps and pay freezes on educators' pay and have adopted positions during collective bargaining that fail to improve teachers' working conditions and continue to impose burdensome workloads and excessive hours of work on educators.

Regarding the work and care crisis in post-secondary education, the federal government, as a key funder of post-secondary education, has over the last decade cut billions of dollars in funding from public post-secondary education – TAFE institutions. Moreover, during this time, as TAFE institutions almost entirely casualised the TAFE teaching workforce, governments failed to intervene in the affairs of TAFE institutions to ensure the secure, ongoing employment of this nationally significant teaching workforce.

Regarding the elimination of systemic sexism and racism in the workplace, governments have failed to address the gendered pay and superannuation gaps in public education workforces, educators are inadequately supported in their caring roles, and Aboriginal and Torres Strait Islander educators are not properly respected and remunerated for their cultural and community roles.

Regarding the proper funding of public education in bilateral federal, state and territory funding arrangements, almost all governments have failed to provide the funding required to meet the minimum needs of school students in public education.

Accordingly, it has been due to the actions and inaction of governments that AEU members are experiencing work and care crises, which in turn negatively affect the right of Australian children to accessible, quality public education.

### **AEU members' experiences of the work and care crises**

#### *Gender and age-based inequities in caring responsibilities*

The Productivity Commission, in an Issues Paper in a current inquiry into expanding the definition of carer leave in the National Employment Standards, recognised that carers tended to be women and older Australians.<sup>8</sup> Carers perform vital social and familial roles, yet they have reduced opportunities to perform paid work: workers with caring responsibilities experience reduced earning capacity, leave accrual, and superannuation accrual.<sup>9</sup> The AEU's membership reflects the demographics of public education workforce: predominantly female, and tending to be older than the average Australian worker.<sup>10</sup> The gender pay gap and gendered insecure work reduces the superannuation payments made to women, and increases women's financial security in retirement.<sup>11</sup> Women and older workers, due to their unpaid caring roles, are themselves more likely to be exposed to financial precarity in their old age. AEU members, due to their age and gender, are more likely to have caring responsibilities, and experience the associated financial disadvantages and precarity.

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<sup>8</sup> Productivity Commission, Carer Leave Issues Paper, July 2022, p 3-4, accessible [here](#).

<sup>9</sup> Workplace Gender Equality Agency, 'Unpaid care work and the labour market', p 5, accessible [here](#).

<sup>10</sup> The Australian Institute for Teaching and School Leadership ("AITSL"), Australian Teacher Workforce Data: National Teacher Workforce Characteristics Report December 2021, December 2021, p 46, accessible [here](#); Australian Public Service Commission, 'All employees average age by year 2001-2021' webpage, accessible [here](#).

<sup>11</sup> Workplace Gender Equality Agency, 'Women's economic security in retirement: insight paper', 2017, accessible [here](#).

Throughout their working lives, AEU members with caring responsibilities must make challenging decisions about balancing their ability to earn an income while providing care: to perform both roles, an educator must either perform their caring responsibilities in addition to their hours of remunerated work; or change their working arrangements to alter or reduce their hours of work to account for their caring responsibilities; or, where neither option is possible, leave paid employment to perform their caring role. The pressure to take time away from work to perform caring roles negatively affects women teachers' career progression – this is reflected in the disproportionately lower representation of women in educational leadership roles.<sup>12</sup>

### *The teacher shortage crisis*

The breadth and severity of Australia's teacher shortage crisis was recently acknowledged by Australia's governments when, on 12 August 2022, Australia's Education Ministers met to discuss and issued a communique acknowledging the crisis.<sup>13</sup> Teacher shortages increase the hours of work and intensify the workload of the remaining teacher workforce. For teachers with caring obligations, these pressures exacerbate the challenges of balancing work and care.

The AEU has long campaigned for a recognition and addressal of the teacher shortage crisis: the profession is becoming less attractive to prospective teachers, and more teachers are leaving the profession.<sup>14</sup> This has precipitated both current and looming teacher shortage crises: in NSW alone, significant teacher shortages exist in key subject areas and in particular geographic locations,<sup>15</sup> and it is projected that by 2030 11,000 new teachers are required just to meet the number of public school enrolments.<sup>16</sup>

A mutually reinforcing cause and effect of the teacher shortage is the excessive workloads and hours of work performed by teachers. Teachers report performing significantly more than their contracted hours of work – working between 50 and 60 hours per week for a teacher in full-time employment,<sup>17</sup> and the AEU's 'State of our Schools 2021' survey found that the majority of teachers report that their mental health suffers as a result of high workloads; and most teachers report that they never or rarely have a satisfactory work-life balance.<sup>18</sup> Consistent with AEU survey findings relating to excessive workload and hours of work, a 2021 teaching workforce report found that teachers worked over 140% more hours of work than their contracted hours of work.<sup>19</sup> These deteriorating work conditions are further exacerbated for an older and feminised teaching workforce with disproportionately higher caring obligations who must, in addition to their work obligations, perform 'double duty' as carers in their family and community lives.

The teacher shortage is driven by continuing the erosion of teachers' working conditions. Nationally, teachers' average weekly hours of work has now reached 57 hours – far beyond the

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<sup>12</sup> Above n 10, AITSL, p 167, accessible [here](#).

<sup>13</sup> Education Ministers Meeting Communique, 'National Action Plan on Teacher Shortage', 12 August 2022, accessible [here](#).

<sup>14</sup> Gallop G. AC (Chair), *Valuing the Teaching Profession: an Independent Inquiry*, February 2021, p 90, accessible [here](#).

<sup>15</sup> *Ibid*, p 91.

<sup>16</sup> Rorris A., 'Impact of Enrolment Growth on Demand for Teachers', NSWTF, June 2021, accessible [here](#).

<sup>17</sup> Above n 10, p 22, accessible [here](#).

<sup>18</sup> Australian Education Union, *State of Our Schools Survey 2021*.

<sup>19</sup> Above n 10, p 22.

national maximum 38 hours of work per week.<sup>20</sup> Workload and work intensification are equally extreme, with hours, range of tasks, and work complexity increasing.<sup>21</sup> The 2021 Gallop Report, the outcome of an independent inquiry into the state of the teaching profession in NSW public schools, found that new work processes and tasks include: higher administration workloads; increased contact with parents and students; increased mandated accreditation and professional learning; significant workload increases related to the National Assessment Program – Literacy and Numeracy (NAPLAN); increased provision of increasingly personalised learning plans for students; increased work expectations caused by rapid changes in technology (particularly during the COVID-19 pandemic); increased provision of student welfare and behaviour support; increased ongoing assessment reporting and data collection; and increased pace of policy and curriculum changes.<sup>22</sup> Reflecting the even higher demands on teachers in school leadership positions, the Gallop Report found that on average school principals work 62 hours per week.<sup>23</sup> Crucially, despite the significant increase in workloads, the Gallop Report found that teachers’ salaries did not proportionally increase.<sup>24</sup>

The undervaluing of teachers’ work and the increase in teachers’ workloads was recently recognised in a significant decision of a Full Bench of the Fair Work Commission regarding the historical and current undervaluing of early childhood teachers’ work.<sup>25</sup> The Commission held that the rates of pay for such teachers were never properly set, with the rates of pay failing to reflect teachers’ work value as degree-qualified professionals.<sup>26</sup> In addition to recognising this historic injustice, the Commission went on to detail the increased work value of teachers in the sector since 1996, highlighting the increase in training requirements required to enter the profession; the increasing professional accountability (particularly greatly increased expectations regarding reporting and being accessible to parents and families); the increasing complexity of the work (e.g. outcomes-based education and differentiated teaching, with associated increases in documentation and analysis of students’ individual educational progress); and the teaching and caring for a more diverse student population (particularly for children with additional needs).<sup>27</sup>

Teacher shortages amplify the crises of work and care for the remaining teacher cohort. The overworking and undervaluing of the teaching profession is a key driver of the teacher shortage. Accordingly, to address the work and care crises affecting teachers, teachers’ work must be properly valued, and they must be provided with reasonable workloads. In line with the Gallop Report’s recommendation of significant increases to teacher salaries, the AEU recommends urgent and significant improvements to teachers’ wages and conditions to properly respect, reward and value teachers’ work.<sup>28</sup> Unfortunately, many state and territory governments continue to pursue public sector-wide pay freeze or pay cap policies. Such policies amplify the crisis of the undervalued work of teachers and are self-defeating and unsustainable, particularly considering the ongoing and significant increases to the cost of living. The AEU calls for state and territory pay freeze and pay cap policies to be abandoned.

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<sup>20</sup> Gavin M., Stavey M. ‘Why we never want to be in Kansas’, Australian Association for Research in Education, 18 January 2022, accessible [here](#), summarising findings in Gavin M. et al, *Teacher Workload in Australia: National Reports Of Intensification And Its Threats To Democracy* (Routledge, 2021).

<sup>21</sup> Ibid.

<sup>22</sup> Gallop Inquiry Factsheet: Workload, February 2021, accessible [here](#). The full Gallop Report is accessible [here](#).

<sup>23</sup> Ibid, Gallop Report, p 103.

<sup>24</sup> Ibid, p 126.

<sup>25</sup> ‘*Equal Remuneration and Work Value Decision*’ [2021] FWCFB 2051, accessible [here](#).

<sup>26</sup> Ibid, at [645].

<sup>27</sup> Ibid, at [604]-[644].

<sup>28</sup> Above n 31, p 14.

*Educators' occupational safety, workers' compensation, and the impact of Covid-19*

Teachers and education support personnel are exposed to significant risk of occupational violence, gendered violence, harassment, and vicarious trauma, with the education workforce having among the highest mental health-related workers compensation claim rates in Australia.<sup>29</sup> The risk of violence, burnout, and overwork has profound impacts on the teaching workforce: a recent survey of teachers found that more than half of the respondents found their job extremely stressful, and that almost 60% of teachers were considering leaving the profession.<sup>30</sup> Illustrating the significant risks teachers experience at work, a recent decision by WorkSafe ACT found that due to high risk of occupational violence, teacher shortages, and fire risks a secondary school was ordered to prevent all students from multiple year levels from attending school, forcing the school into remote learning pending the safety issues being addressed.<sup>31</sup>

Covid-19 has exacerbated the pre-existing mental health risks to educators. During the pandemic, the education workforce has been exposed to increased risk of stress, exhaustion, and anxiety.<sup>32</sup> Indeed, in Victoria in 2020, teachers were the most likely workers to lodge mental health-related workers' compensation claims due to the impact of the pandemic.<sup>33</sup> The high risk to educators is amplified by the gendered harms of the pandemic – international research indicating that women experienced higher mental health risks during the pandemic due to, among other factors, increased domestic and caring obligations.<sup>34</sup> Women in Australian households with children reported spending approximately 43 more hours per week on childcare during the pandemic than men.<sup>35</sup> This inequity was further exacerbated for women teachers who were often simultaneously attempting to teach online whilst also managing the care and remote learning of their own children. The COVID-19 pandemic has amplified the risks of workplace injuries to teachers and has amplified the health and safety risks experienced by teachers at work prior to the pandemic. The cost of these risks is evident in the results of the *State of our Schools* survey. Nearly nine in 10 teachers (87%) said that the pandemic had impacted on their home or family life over the last 18 months and 83% said that it impacted on their personal morale at work, mirroring teacher's views on overall workforce morale as presented above. 84% of teachers said that teacher wellbeing has declined and 84% also said that teacher morale has declined, with 41% saying morale has significantly declined.

*A properly funded, securely employed TAFE workforce is needed to train Australia's growing early childhood education and aged care workforces*

Australia's work and care crises can only be addressed by supporting AEU members in TAFE

<sup>29</sup> Productivity Commission, Report: Mental Health (Overview), June 2020, p 51, accessible [here](#).

<sup>30</sup> Carroll A, et al, 'Teacher stress and burnout in Australia: examining the role', *Social Psychology of Education*, February 2022, accessible [here](#).

<sup>31</sup> ABC News, 'Students at Calwell High School forced into remote learning after WorkSafe ACT details fighting, assaults on campus', 6 April 2022, accessible [here](#).

<sup>32</sup> Beames J, Christensen H and Werner-Seidler A, 'School Teachers: The Forgotten Frontline Workers of COVID-19', *Australian Psychiatry*, April 2021, accessible [here](#).

<sup>33</sup> ABC News, 'Victorian teachers lodge more workcover claims for impacts of coronavirus pandemic than any other profession', 10 August 2020, accessible [here](#).

<sup>34</sup> Di Blasi, et al, 'Factors Related to Women's Psychological Distress during the COVID-19 Pandemic: Evidence from a Two-Wave Longitudinal Study', *International Journal of Environmental Research and Public Health*, November 2021, accessible [here](#).

<sup>35</sup> Johnston R, Mohammed A, and van der Linden C, 'Evidence of Exacerbated Gender Inequality in Child Care Obligations in Canada and Australia during the COVID-19 Pandemic', December 2020, *Politics & Gender*, 16:4, p 1131, accessible [here](#).

to train our future caring workforces. In addition to the above-discussed teacher and education support personnel shortages, the National Skills Priority List 2022 identifies early childhood educators and aged carers in its 10 most in-demand professions over the next five years.<sup>36</sup> The Australian Children’s Education & Care Quality Authority estimates that the early childhood sector will require an additional 16,000 educators by November 2025.<sup>37</sup>

Only properly funded, securely employed TAFE teachers can provide quality, accessible education to the diverse communities needed to join these education and caring workforces. TAFE is the centrepiece of Australian vocational education and training system, and TAFE makes broad, significant contributions to Australia’s broad social and economic development, particularly in response to the effects of the Covid-19 pandemic. TAFE promotes regional labour market outcomes, bridges access to jobs pathways, promotes social cohesion, reduces income inequality, and compared to other VET providers, provides greater access to and better supported education for Aboriginal and Torres Strait Islander students and students with disability.<sup>38</sup>

Unfortunately, TAFE has experienced significant funding cuts and the casualisation of its workforce. In the past decade, billions of dollars of federal funding has been cut from TAFE institutions, intensifying in the period of 2018-2021, when the federal government cut \$438 million from TAFE funding.<sup>39</sup> During this period TAFE institutions have casualised their TAFE teacher workforce: for example, in 2010, in TAFE NSW, 73% of its teaching workforce was engaged in casual or sessional employment,<sup>40</sup> and employer demand for casual and temporary forms of employment in the TAFE sector is increasing.<sup>41</sup> TAFE teachers report exceedingly long duration of casual contracts, with reports of workers engaged for 10, even 20 years in casual employment arrangements.

Nevertheless, in its significant 2020 report regarding the contribution of TAFE to Australia’s national wealth and wellbeing, the Centre for Future Work at the Australia Institute found that, despite years of significant funding cuts and “policy vandalism”, the TAFE system continues to make a strong and disproportionate economic and social contribution to Australia.<sup>42</sup> The AEU supports the restoring of the billions of dollars of cut funding to TAFE, and urges action to move the TAFE teacher workforce into secure employment. Unless governments commit to ensuring TAFE can meet the growing need for early childhood educators and aged carers, the same patterns and implications of the current teacher shortage will be replicated in the early education and care sectors.

### *The work and care crises affecting Aboriginal and Torres Strait Islander educators*

Aboriginal and Torres Strait Islander educators make significant contributions to public education, including bringing cultural and historical knowledge, proficiencies in languages

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<sup>36</sup> Women’s Agenda, ‘Australia’s top 10 most ‘in demand’ professions tell story of care work being undervalued’, 22 August 2022, accessible [here](#).

<sup>37</sup> Australian Children’s Education & Care Quality Authority, National Children’s Education and Care Workforce Strategy (2022-2031), September 2021, p 11, accessible [here](#).

<sup>38</sup> Pennington A., ‘The Economic and Social Benefits of the TAFE System’, *The Australian TAFE Teacher*, Spring 2020, accessible [here](#).

<sup>39</sup> ‘Decade of neglect leaves TAFE with fewer courses and demoralised teachers — how will it lead the coronavirus recovery?’, ABC News, 9 July 2020, accessible [here](#).

<sup>40</sup> Submission by the NSW Teachers Federation to the Productivity Commission Vocational Education and Training Workforce, July 2010, p 5, accessible [here](#).

<sup>41</sup> ‘Safe and secure?’, *AEU News*, 6 November 2020, accessible [here](#).

<sup>42</sup> Above n 38, p 8.



other than English, an understanding of cultural and community context to the classroom, and improving the learning outcomes of Aboriginal and Torres Strait Islander students.<sup>43</sup> However, despite Aboriginal and Torres Strait Islander peoples making up approximately 3.2% of the Australian population,<sup>44</sup> Aboriginal and Torres Strait Islander peoples make up only 2% of the teaching profession.<sup>45</sup> A systematic action plan to increase the number of Aboriginal and Torres Strait Islander educators is urgently required. Disappointingly, the Education Ministers Meeting Communique of 12 August 2022 failed to mention Aboriginal and Torres Strait Islander peoples, students, or educators.

In addition to their positive contributions in the classroom, Aboriginal and Torres Strait Islander educators have diverse and additional cultural, community and caring responsibilities. These roles and obligations must be recognised, respected, and supported by employers of Aboriginal and Torres Strait Islander educators. For example, the concept of family in Aboriginal and Torres Strait Islander society, and the related caring roles and responsibilities, are broader than in Western cultures. Among other actions, Aboriginal and Torres Strait Islander educators can be better supported in their caring and community roles by increasing access to cultural, community and bereavement leave, properly remunerating and adjusting workloads to take into account the cultural labour performed and load borne by Aboriginal and Torres Strait Islander educators; providing allowances for educators teaching in Aboriginal and Torres Strait Islander languages; and training staff in eliminating racism and promoting cultural awareness.

#### *The crisis of underfunded public education*

In addition to educators confronting crises in their pay and conditions, public educators' ability to deliver quality education within reasonable working hours and levels of workload intensity, and thus their ability to adequately maintain both their careers and their caring responsibilities is intrinsically linked to and threatened by the systematic failure of federal, state, and territory governments to properly fund public schools. This funding shortfall is demonstrated by reference to the Schooling Resource Standard (SRS) benchmark for assessing equitable school funding: the SRS – a concept introduced in the 2011 Review of Funding for Schooling known as the 'Gonski Report' – provides an estimate of the minimum public funding a school needs to meet its students' minimal educational needs.<sup>46</sup>

Australia's public education system is significantly underfunded: by 2023, with the exception of schools in the Australian Capital Territory, all other states and territories' public schools will be 5-20% below the minimum funding required by the SRS.<sup>47</sup> By 2023 only 1.3% of public schools will receive funding which meets the SRS from combined federal, state and territory government contributions – this contrasts with over 90% of private schools predicted to meet minimum funding standards.<sup>48</sup> The combination of *almost all private schools* and *almost no public schools* meeting minimum funding standards perpetuates and increases the effect of socio-economic status on educational outcomes.<sup>49</sup>

<sup>43</sup> AITSL, 'Spotlight: The impact of Aboriginal and Torres Strait Islander educators', June 2021, accessible [here](#).

<sup>44</sup> Australian Bureau of Statistics, 'Aboriginal and Torres Strait Islander Peoples', July 2022, accessible [here](#).

<sup>45</sup> Above n 43, AITSL, 'Spotlight'.

<sup>46</sup> Gosnki D. AC (Chair), Review of Funding for Schooling, December 2011, accessible [here](#).

<sup>47</sup> Rorris A., The Schooling Resource Standard in Australia 2020-23, September 2020, p 5, accessible [here](#).

<sup>48</sup> AEU, Pre-Budget submission to the Department of Treasury on priorities for the 2019-2020 Budget, February 2019, p 2, accessible [here](#).

<sup>49</sup> Mitchell Institute, 'Factsheet: a persistent link between socio-economic status and educational opportunity', 2020, p 1, accessible [here](#).

In addition to SRS funding shortfalls, recent bilateral schools funding agreements made between the federal, state and territory governments in 2018 and 2019, apart from the ACT, include an accounting practice that deprives public schools of significant funding. The agreements permit “additional expenditure items” such as capital depreciation charges and transport costs to be accounted for within SRS calculations *for public schools only*. These items have never previously been included in SRS calculations and are not included in national SRS calculations. This narrows the gap between actual spending and the SRS goals by an additional four percentage points and further reduces the actual effective SRS contribution made by each state or territory.

The total effect of SRS funding shortfalls including the “additional expenditure items” provisions – in the 2018 and 2019 bilateral funding agreements, is that, over 2020-23, public schools will be underfunded by \$19 billion.<sup>50</sup>

Currently, the Productivity Commission is reviewing the National Schools Reform Agreement (NSRA) – the NSRA is the foundation for bi-lateral agreements between the Commonwealth and the states and territories, setting out goals for student performance and outcomes for students with additional needs, and minimum funding contributions. However, the terms of reference for this review exclude any analysis of funding arrangements or the impact of funding on the work and non-work lives of teachers. The AEU urges the Senate Select Committee on Work and Care to consider that the way in which these funding arrangements are and public-school funding shortfalls impact on the work and care responsibilities of teachers. To ensure that public schools are adequately resourced, all governments must commit to fully funding public schools in accordance with the SRS.

*The crisis of insecure work in public education amplifies educators’ work and care crises*

Preschools and TAFE are all increasingly experiencing a crisis of precarious, insecure work. The insecure work crisis amplifies the work and care crises experienced by AEU members. Casual employees are unable to access paid carer and other forms of leave, and casual and fixed term employees lacking a secure job around which to plan their lives including securing regular and reliably accessible childcare.

Despite of the permanent nature of most educators’ work, increasingly, teachers and education support personnel are employed on casual and fixed-term contracts. Most acutely, 72 per cent of new teachers are beginning their careers in temporary positions,<sup>51</sup> and recent media and academic coverage has documented employers’ inappropriate engagement of teachers in ongoing casual and ‘rolling’ fixed-term employment to perform what are effectively permanent roles.<sup>52</sup>

The Gallop Report made numerous findings and recommendations regarding the misuse of casual and fixed term employment in schools, and its particularly negative impact on new teacher accreditation and retention. Regarding the challenges of transitioning from provisional

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<sup>50</sup> Above n 47 p 8.

<sup>51</sup> Sullivan A, Johnson B., Simons M, *Attracting and Keeping the Best Teachers: Issues and Opportunities*, (Springer, 2019), p 171.

<sup>52</sup> Stacey M et al, ‘Teachers, fixed-term contracts and school leadership: Toeing the line and jumping through hoops’, 29 March 2021, *Journal of Educational Administration and History*, accessible [here](#), and ‘‘Everyone’s bailing’: Australian teachers speak on stress and uncertainty of increasing casual contracts’, *The Guardian*, 4 July 2021, accessible [here](#), and ‘‘It is unsustainable’’: Guardian readers on the crisis of Australian teacher shortages’, *The Guardian*, 30 June 2021, accessible [here](#).

to proficient accreditation as a new teacher when engaged as casual or fixed-term employee, the Report found that: “[M]any casual and temporary teachers struggle to have their teaching practice considered by busy principals when they are only present for limited periods of time”.<sup>53</sup> The Report recommended the restriction of insecure work in teaching: “In respect of staffing matters the Department of Education should address as a matter of priority staffing levels and processes that address the excessive use of temporary teacher employment, in particular of beginning teachers”.<sup>54</sup>

In early childhood education, teachers tend to be more precariously employed than in schools. For example, in South Australia, whereas 81% of teachers in schools are employed in secure work arrangements, only 66% of preschool and children’s services teachers have secure work.<sup>55</sup>

It is unfair that educators, despite performing substantively permanent roles, are engaged in casual and fixed term employment, and deprived of the benefits of permanent employment. Moreover, the COVID-19 pandemic has demonstrated the public health-related effects of insecure work: educators in casual employment are financially disadvantaged when staying home sick without paid personal leave and are more likely to be compelled to attend the workplace, and more likely to spread the virus.<sup>56</sup>

To address insecure work in public education and its impact on all aspects of insecurely employed educators’ lives including their ability to manage both their work and caring responsibilities, the AEU recommends that federal, state and territory governments: create meaningful conversion entitlements for the public education workforce; impose stronger obligations on employers to offer conversion to employees inappropriately engaged in casual and fixed-term employment; amend the definition of ‘casual employee’ in the FW Act to better take into account the substance of employment relationships, not just how the relationship is labelled by the employer; and oblige employers to regularly review the use of casual and fixed-term employment in their education workforces, and to consult with the relevant unions when doing so.

### **AEU advocacy for carers’ rights at work**

This section provides examples of AEU members’ successful bargaining and campaigning for improvements to carers’ rights at work.

#### *Improving personal and carer leave entitlements*

AEU members have successfully negotiated with state and territory governments and public education employers for improved carer leave provisions. For example, the Western Australia *School Education Act Employees’ (Teachers and Administrators) General Agreement 2021* provides for 15 days paid personal leave (which may be used to take carer leave).<sup>57</sup> The same agreement also provides for the payment of up to 12 weeks’ superannuation during unpaid parental leave, reducing the gendered financial harm of women disproportionately taking

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<sup>53</sup> Above n 22, p 15.

<sup>54</sup> Ibid, p 11.

<sup>55</sup> Department of Education, ‘Workforce Profile Issue 10 – June 2020’, p 4, accessible [here](#).

<sup>56</sup> Stanford J., *Shock Troops of the Pandemic: Casual and Insecure Work in COVID and Beyond*, Centre for Future Work at the Australia Institute, October 2021, p 5, accessible [here](#).

<sup>57</sup> *School Education Act Employees’ (Teachers and Administrators) General Agreement 2021*, cl 33, accessible [here](#).

unpaid parental leave.<sup>58</sup>

*Improving Aboriginal and Torres Strait Islander educator entitlements*

AEU members in Victoria successfully bargained for improved cultural, community, and ceremonial leave for Aboriginal and Torres Strait Islander educators in the *Victorian Government Schools Agreement 2022*, including the provision of paid leave to attend National Aboriginal and Islander Day Observance Committee (NAIDOC) week events; paid leave to attend Aboriginal and Torres Strait Islander community meetings; paid leave to attend general meetings of Aboriginal and Torres Strait Islander community organisations; paid leave to attend bereavement and other ceremonial obligations; and paid leave to attend the First Peoples’ Assembly of Victoria, the body representing Aboriginal and Torres Strait Islander people in negotiations for a treaty with Victoria.<sup>59</sup> This agreement also accounts for Aboriginal and Torres Strait Islander educators’ cultural labour and load by providing for reduced workloads or increased pay where an Aboriginal and Torres Strait Islander educator performs work requiring a cultural responsibility.<sup>60</sup> This agreement provides for paid “Aboriginal Kinship Leave” where an employee provides temporary care for and is a friend or relative of an Aboriginal child, and “where Aboriginal family/community/culture are valued as central to child’s safety”.<sup>61</sup>

AEU members employed in Charles Darwin University secured agreement with their employer to create an Aboriginal and Torres Strait Islander Workforce Strategy, with detailed employment targets, consultation principles, and provision for a dedicated role in senior management – the occupier of which role must be an Aboriginal or Torres Strait Islander employee – responsible for its implementation.<sup>62</sup> This agreement also provides for a multi-tiered language allowance for employees teaching Aboriginal and Torres Strait Islander languages.<sup>63</sup>

*Reforming pro rata-based yearly pay progression to better support part-time employees*

In workplace arrangements where an employee’s salary classification increases according to years of service, such progression may be caveated that part-time employees have a pro rata reduction in progression, due to their reduced hours of work. These pro rata reduction in part-time employees’ progression disproportionately affects women teachers, who are more likely to work part-time due to gender caring obligations. To address this inequity, AEU members in Queensland have successfully bargained for the elimination of pro rata salary progression.<sup>64</sup> Accordingly, in Queensland state schools, part-time teachers progress through the time-based salary scales at the same speed as full-time teachers.

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<sup>58</sup> Ibid, cl 27.

<sup>59</sup> *Victorian Government Schools Agreement 2022*, cl 26, accessible [here](#).

<sup>60</sup> Ibid, cl 14.

<sup>61</sup> Ibid, cl 26.

<sup>62</sup> *Charles Darwin University and Union Enterprise Agreement 2018*, cl 5, accessible [here](#).

<sup>63</sup> Ibid, cl 27.

<sup>64</sup> *Department of Education State School Teachers’ Certified Agreement 2019*, cl 5.9.2, accessible [here](#).

### *Improving access to secure employment*

AEU members in South Australia successfully bargained for the creation of Personnel Advisory Committees, school-based human resources committees with identified AEU representation, which make recommendations as to whether to convert a temporary teacher to permanency.<sup>65</sup>

In Western Australia, AEU members in schools and TAFE have promoted secure employment by successfully imposing obligations on public education employers to disclose information to fixed-term employees about the nature of their employment and the reason why their engagement was on a fixed-term basis.<sup>66</sup> The greater level of transparency encourages secure employment practices and allowed members and the union greater capacity to identify and resolve potential misuses of casual or fixed-term employment.

Also in Western Australia, AEU members successfully campaigned for the publishing of the Public Sector Commissioner's Instruction 23. This document outlines the WA Government's commitment to permanent employment for public sector employees, including requiring agencies to adopt practices and processes that supported permanent employment wherever possible, limiting the use of fixed term contract and casual arrangements only for limited and specific reasons, and creating reporting requirements for how the conversion processes are conducted.<sup>67</sup>

### **Conclusion**

AEU members in all sectors of public education experience various, significant work and care crises. These crises particularly affect women and Aboriginal and Torres Strait Islander educators, who are structurally disadvantaged by outdated yet broad social norms and industrial laws that operate on the false premise that a typical worker is a male breadwinner with minimal care and cultural obligations. The Australia-wide teacher and education support personnel shortages are driven by government decisions and omissions that cap educators' wages, increase workloads and hours of work, fail to provide secure employment, and fail to properly fund public education. These shortages amplify the workloads of and health and safety risks to the remaining public sector education workforce.

The AEU urges governments to fully fund public education by restoring the billions of dollars in funding cut to TAFE institutions in the past decade, and by fully funding public schools in accordance with the SRS. To address the teacher shortage crisis, governments must take action to improve the pay and conditions of public educators, including by removing state and territory governments' pay cap and pay freeze policies, and tackling insecure work by providing secure employment offers and conversion options to educators, particularly to new teachers and to the TAFE teaching workforce.

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<sup>65</sup> *South Australian School and Preschool Education Staff Enterprise Agreement 2020*, cl 3.5, accessible [here](#).

<sup>66</sup> For example, *TAFE General Agreement 2019*, see cl 18 and cl 19, accessible [here](#).

<sup>67</sup> Public Sector Commissioner's Instructions 23, August 2018, various documents, accessible [here](#).