

Tuesday 4 October 2022

**Senate Select Committee on Work and Care**  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

By Email: [workandcare.sen@aph.gov.au](mailto:workandcare.sen@aph.gov.au)

Dear Committee Secretariat,

**RE: Responses to Questions on Notice**

The Health Services Union (HSU) was pleased to give evidence at the Senate Select Committee on Work and Care's public hearing in Melbourne on Tuesday 20 September 2022. At the conclusion of that evidence, the HSU took on notice a question from Senator O'Neill. We write today to provide our response to the question on notice.

**Question on notice**

*Can I put one question on notice. Ms de Plater, you said in the middle of your evidence that the situation is so bad now that workers are 'afraid to take time off to attend to their children's needs', which is one very alarming sentence. Could you get from your members some examples of what's happened when they have been in that situation, what they've had to do to try and make up the ground, and the risk that's embedded in that now becoming the practice because of insecure work in this sector.*

**HSU response**

The reference to '*the situation [being] so bad now that workers are afraid to take time off to attend to their children's needs*' was made in the context of a discussion of rostering practices in the care sectors, in particular the aged care and disability services sectors.

As noted, workers in these sectors are most often engaged on a casual or permanent part-time basis. While workers in the latter category have access to accruable leave entitlements and *some* guaranteed minimum hours, in reality they have little more certainty or security insofar as rostering arrangements are concerned compared to workers in the former category.



This is because the Modern Awards which cover the aged care and disability services sectors (the *Aged Care Award 2010* and the *Social, Community, Home Care and Disability Services Industry Award 2010*) – which provide that (in theory) a permanent part time worker’s days and hours of work each week will be agreed at the commencement of employment – also provide that those hours can be varied or added to without penalty in that employers are not required to pay overtime rates unless and until a worker exceeds 38 hours of work across the week. This is in direct contrast to the industrial arrangements in many male-dominated Modern Awards – take, for example, the *Manufacturing and Associated Industries and Occupations Award 2020* and the *Road Transport and Distribution Award 2020* – which require overtime rates to be paid for *any* time worked in excess of *the agreed hours* (whether they exceed 38 hours across a week or not). In this way, these male-dominated awards disincentivise employers from offering their employees a low number of guaranteed hours per week and then flexing them up and down as needed on a week-to-week basis, and rather incentivise the provision of a stable and certain roster to avoid having to pay excessive overtime rates. It follows that workers covered by those awards have a greater ability to structure their lives through receiving a reliable weekly wage and having more certainty of hours allowing them to meet other responsibilities such as caregiving.

In contrast, in the absence of any like disincentive in the aged care and disability services sector awards, workers are routinely engaged on low (or even zero) hour contracts (that is, they are guaranteed by contract a low number of hours per week or fortnight – for example, 15 hours per fortnight). This underemployment makes it more likely that part time workers will agree to work additional hours over their agreed minimum hours when called to do so. The capacity of employers to flex part time workers’ hours up and down to their contracted hours at ordinary rates creates an effectively casualised or ‘on-demand’ workforce. Workers’ rosters can be filled up entirely with ‘additional hours’ at no overtime pay, there is no regular agreed pattern of those additional hours, and in the result weekly hours and wages become variable.

This creates a high level of insecurity and uncertainty. Members routinely and consistently report feeling worried about their rosters – whether they’ll get enough hours, how they’ll juggle other responsibilities with hours that can vary week-to-week, and the fact that their shifts can change unexpectedly. They report feeling reluctant to utilise accrued entitlements or request flexibility to attend to personal or caring responsibilities for fear they will be ‘punished’ – for example, returning to work to find a regular shift has been removed from their roster without explanation and having to manage the financial implications of this.

Given the insecurity rife in the care sectors, members are, understandably, often reluctant to complain about these matters or be critical of their employer ‘on the record’ for fear of reprisal. However, the HSU can provide the following examples from members which may help to illustrate the real-world impacts of these issues.

**Example one – Catherine**  
Catherine is an aged care home care worker. She is employed on a 15-hour per fortnight contract despite working, on average, 40 hours per fortnight. She is a single mother living in regional Victoria without a lot of support. One of her children has autism. Catherine also suffers from regular migraines.



Catherine recently gave evidence in the HSU's aged care work value case before the Fair Work Commission. In her evidence, she discussed the difficulties she faces balancing work with her caring responsibilities and her own health due to unpredictable rostering arrangements. She talks about being constantly hopeful of picking up more shifts and anxious to keep the ones she has, and how this often means she feels like she does not have a choice but to put work before her health and her kids. See, for example:

*104. Not only is the pay low and the expenses great, but our hours are also so variable and there is no real financial consistency from week to week. It is unpredictable – you can be short staffed and called in every day of the week to work for a period. But then you might lose a client, or the client moves into care – and suddenly you lose shifts and income. When wages are so low – there is no wriggle room. It makes it really difficult to manage financially.*

*105. There is a high expectation on home service workers at my workplace to be available at all times, and not to take any time off. I suffer from chronic migraines. This is something I have always been up front with my employers about.*

*106. My migraines have become slightly more under control in recent years; however, I still suffer a migraine usually once a month. Often my migraines will induce vomiting and impact on my vision.*

*107. I feel guilty asking for time off when I need it as we are short of staff, so my usual practice is to push through when I can. I only take a sick day if I am completely incapacitated, however I otherwise dose up on painkillers and push on.*

*108. As a single mum I am used to having to get up and get things done even when I am not well. I consider myself to have a strong constitution.*

*109. However, when I put pressure on myself to get better or deal with it so I don't have to call in sick, I find this adds extra stress and while the work is hard enough in and of itself, I become drained even further.*

*110. I want to pick up more shifts, and am anxious to keep the ones I have, so I feel like I don't have a choice but to push myself to work even when I am not well.*

*111. This extends to my kids too. I came to Mildura with no family or friends, so I didn't have a lot of support. I am a single mum with four kids. My daughter has autism. I often have to prioritise work over my kids, because I need to pay the bills. At one point, my son injured his back and was bedridden for three weeks. I felt as though I couldn't take time off to care for him because there were no other carers to fill in, and because, frankly, I couldn't afford to. My daughter has an operation coming up in just a few weeks but won't let me try to take any time off for it because she's worried about my job.*

A copy of Catherine's full statement to the Commission can be found [here](#).

#### Example two – Disability support workers



In 2020, the HSU commissioned a survey of our membership working in disability support. The survey captured information on, amongst other things, rostering practices in the sector and the difficulties faced by members as a result. A full copy of the report containing the results of the survey is available [here](#). Some responses of particular note are set out below.

Several comments articulated serious concerns relating to work time arrangements. For example, a home-based support worker explained:

*"I expect to work up to 3 separate runs per day, work can be added or removed at any time without notice or explanation. I am expected to carry my workphone (and answer) at all times, which can be hugely inconvenient if I have made plans or appointments. I live 20 mins away from most of my clients and my breaks are often an hour or two at a time, if I went home in those breaks I would only have to immediately return which means that instead of family time I am sitting in my car alone between shifts (with no pay) or wasting my low income in cafes or takeaway places."*

The difficulties experienced when workers are expected or required to work unstable, uncertain hours were evidenced in responses. Some disability workers, especially those employed on a casual basis, described fluctuations in the total number of working hours each week, or said they were routinely unsure about how many hours they would work, for example:

*"My hours can vary from 7 to 45 hours per week."*

*"I am a casual so until fairly recently I had no idea how many hours I would be working in the next week."*

*"Inconsistent, sometimes not enough hours, sometimes too many hours, heavy workload during holidays time, expected to work non-stop, favouritism."*

Many disability workers reported that unexpected changes in working hours and times of work made it difficult for them to organise their lives, and undermined reliability of income and financial security. Typical comments included:

*"Our rosters are a nightmare – changed, swapped, taken off, added on, without asking us."*

*"I am unable to plan my free time. I get very stressed when my roster changes overnight without consultation."*

*"Working hours are made up of many small shifts. Rosters are not flexible for workers or easy for workers to change without two weeks notice. However employers can change rosters at short notice and as they need to."*

Workers' comments on working time also focused on how shift times were organised and the lack of control they had over them. Shifts at inconvenient times, and split shifts, were particularly difficult to manage, for example:

*"Causes stress and makes the work/family very difficult to balance. Long hours with large amounts of unproductive time between shifts."*

In their comments, workers explained how they receive inadequate notice of their working hours, preventing them from effectively organising their non-work lives:

*"It is put up less than a week in advance and only one week at a time. I would prefer a fortnightly roster and at least 2 weeks in advance. Sometimes shifts change and it is impossible to make plans."*



*“Never enough regular shifts. Always put my day on hold waiting for shifts. Often cancel/rearrange appointments to fit in with call ins. Not able to have any structure to working life or personal life. Barely survive financially.”*

### **Example three – Michael**

Michael is an aged care home care worker employed on a part time basis. He recently gave evidence in the HSU’s aged care work value case before the Fair Work Commission. In his evidence, he highlighted the practice in the sector of employers expecting a high level of availability from employees while only guaranteeing a small number of hours per week. Workers often feel pressure to be constantly available in order to secure enough hours. This makes it difficult for workers to structure and organise their lives and responsibilities around work. Michael described his rostering situation as follows:

*17. In my first home care job with [my previous employer], I struggled to get enough shifts to make ends meet.*

*18. Because of this, when I commenced work with [my current employer] on a permanent part-time basis and was asked what my availability was, I told them I could work anytime.*

*19. In the result, I have been mostly rostered to work six days per week. I have recently tried to have a Saturday off, however my employer would not allow me because I had told them when I started, I was available to work anytime.*

...

*212. [My current employer is] always understaffed, so there are always shifts to fill. At any minute I may be asked to pick up another client, sometimes at very late notice. There is a lot of pressure and expectation on employees, including myself, to accept extra clients when asked. It is very difficult to say no.*

A copy of Michael’s full statement to the Commission can be found [here](#).

Clearly, the insecure and uncertain rostering and working time arrangements embedded in the care sectors and legitimised by the industrial settings set in the relevant ‘safety net’ Modern Awards are not conducive to balancing work and caring responsibilities. This combined with low pay and the highly physically and emotionally taxing nature of the work often, sadly, see workers decide to leave the sector. This contributes to the well-documented attraction and retention issues facing the aged care and disability support sectors.



Not only do the industrial arrangements applying to the care sectors need to be improved to ensure the (predominantly) women who work in them can have the flexibility needed to balance caring responsibilities in the home (which they, as women, also tend to be predominantly responsible for) and to improve women's financial security both during and at the end of their working lives, they must also be addressed in order for the sectors to attract and retain sufficient numbers of workers to meet critical current and future demand.

### Contact

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### Authorised by Lloyd Williams, National Secretary

This response has been prepared by HSU National but is made on behalf of our branches and members Australia-wide. HSU National is the trading name for the Health Services Union, a trade union registered under the *Fair Work (Registered Organisations) Act 2009*. The HSU has registered branches for New South Wales/Queensland/Australian Capital Territory; Victoria (4); Tasmania; South Australia/Northern Territory; Western Australia.

