Inquiry into the Victorian On-Demand Workforce:

ASU Submission

20 February 2019
# Inquiry into the Victorian On-Demand Workforce
ASU Submission

## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Summary</td>
<td>2</td>
</tr>
<tr>
<td>About the Australian Services Union</td>
<td>3</td>
</tr>
<tr>
<td>Part 1: ASU Approach and Primary Concerns of Membership</td>
<td>4</td>
</tr>
<tr>
<td>1. Impacted Industries</td>
<td>5</td>
</tr>
<tr>
<td>2. Aged and Disability Care</td>
<td>6</td>
</tr>
<tr>
<td>3. Public Sector Agency and Local Government Coverage</td>
<td>8</td>
</tr>
<tr>
<td>Part 2: Questions posed by the Inquiry</td>
<td>10</td>
</tr>
<tr>
<td>1. On-demand Workforce</td>
<td>10</td>
</tr>
<tr>
<td>2. Impact of on-demand work</td>
<td>13</td>
</tr>
<tr>
<td>3. What and how are on-demand workers paid?</td>
<td>14</td>
</tr>
<tr>
<td>4. Why do workers engage in on-demand work?</td>
<td>15</td>
</tr>
<tr>
<td>5. Regulatory Landscape in Australia and Internationally</td>
<td>23</td>
</tr>
<tr>
<td>Part 3: ASU Summary &amp; Recommendations</td>
<td>26</td>
</tr>
<tr>
<td>What do ASU members want?</td>
<td>26</td>
</tr>
<tr>
<td>References:</td>
<td>29</td>
</tr>
</tbody>
</table>
Executive Summary

1. The ASU views on-demand work as being positioned on a continuum of insecure work.

2. Insecure work, including on-demand forms of insecure work, has the potential for negative outcomes for worker wellbeing and the Victorian economy.

3. On-demand work impacts directly and indirectly on ASU members, causing the displacement of the traditional workforce and fewer options of secure work.

4. Insecure work, including on-demand and gig work, is contributing to the de-professionalisation of several ASU covered industries and a race to the bottom in workers’ terms and conditions.

5. As on-demand and gig work are emerging trends in the ASU’s coverage, information gaps are noted throughout this Submission. For instance, the Submission focuses largely on care work, whilst noting the more unknown quantities in other parts of the ASU’s coverage increasingly experiencing other forms of insecure work.

6. The de-professionalisation of care and disability work forces will result in a compromised quality of care available to users of these services.

7. Government funding models have a role to play as a driver of change, and as levers to arrest the spread of insecure work and to demand quality standards of care and engagement of the care workforce.

8. Government policies, such as rate capping, outsourcing of public sector agency work, and the carve-out of National Disability Insurance Scheme (NDIS) workers from the Portable Long Service Leave Benefits Scheme, disadvantage ASU members, and present opportunities for government to reverse the impact of insecure work.

9. The ASU calls on the government to invest in secure jobs that are genuinely flexible and enable workers to deliver high quality services to our communities.
About the Australian Services Union

The Australian Services Union (ASU) Victorian and Tasmanian Authorities and Services Branch strives to protect the industrial standards hard fought for by our members. We work with our members and others to continue improving working lives. We know quality jobs equate to quality services in our communities, and that is better for everyone.

Our diverse membership includes workers in roles which are blue collar, white collar, professional and semi-professionalised. The ASU covers the vast majority of roles in local government and the community sector, parts of public sector agencies, (predominantly in the water and energy industries), and parts of IT, shipping and travel industries.

The ASU Victorian and Tasmanian Authorities and Services Branch covers industries which include streams of low paid workers. Our members are frequently located in highly gender segregated areas of the Victorian workforce including outdoor workers in local government and the water industry, care work performed in local government and work in the social and community services sector.

Our members are based in metropolitan, regional and rural areas. Through the connection to our predecessor unions, the ASU has been proudly representing Victorian workers since 1885.

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[redacted text] [redacted text]
Part 1: ASU Approach and Primary Concerns of Membership

ASU approach to the Inquiry into the on-demand Workforce

The ASU welcomes the opportunity to submit to the Inquiry on behalf of our members, potential members and the workforces within the ASU’s industrial coverage areas. The ASU acknowledges the focus of the Inquiry into the Victorian On-Demand Workforce (the Inquiry) on digital platform gig work.

This ASU Submission to the Inquiry (the Submission) notes there are many definitions of gig and on-demand work. On-demand work may be any form of work that could potentially be a one-off engagement through to definitions that scope on-demand or independent work to ‘any type of short-term job or task’. Valerio De Stefano, writing for the International Labour Office, considers on-demand work as any traditional work activity which is engaged via digital platforms.

These digital platforms are managed by firms who intervene in the selection and management of the workforce and setting of minimum standards of service/care (De Stefano, 2016: 3). Some sources define on-demand work as work extending no longer than twelve months (for example Manyika, Lund et al, 2016: 2). However, the ASU view a time limit as arbitrary.

We know our members are employed in insecure, on-demand like arrangements for work undertaken which can be reasonably expected from anywhere between a one-off engagement, to last well beyond one year¹. The terms gig and on-demand work are used somewhat interchangeably in this Submission.

The Submission has an emphasis on documenting the displacement of workforces within ASU coverage from more traditional secure jobs to non-standard forms of employment, rather than an exclusive focus on workforce engagement via digital platforms. As has been noted elsewhere, the ‘extreme flexibility’, and shift of risk to workers, is not unique to the gig economy. Rather, problems with social protection and exclusion from labour have been a reality present in the overarching trend towards casualisation of labour (De Stefano, 2016: 6). The ASU’s Submission therefore views on-demand work as a subset of insecure work more broadly.

Gig work, in all its forms, appears the most precarious and least regulated of work arrangements, with a total lack of job security, and, in many cases, an absolute departure from minimum industrial standards (for example Prassl & Risak: 2016:3,7; Stewart & Stanford, 2017: 2).

Digital platforms are instrumental to the gig economy, and can be used to effectively bypass “...many of the regular responsibilities and costs of employment” (Minter, 2017: 1).

¹ For instance, in home community support work previously subject to government block funding and typically permanent employment in local councils.
Insecure work, including gig and on-demand work, can lead to a range of negative outcomes for workers. The outcomes include, but are not limited to:

- Unpaid overtime and wage theft
- Unsociable hours of work, which in turn may impact on family life
- Fluctuating working hours and unstable income
- Unavailability of National Employment Standards like annual and sick leave
- Limited or no employment protection
- Constrained ability to enact rights to freedom of association and collective bargaining (ACTU, 2018: 6).

The ACTU notes that the share of income allocated to labour has undergone a steep decline. At the same time, with the support of public policy and legislative frameworks, privately held profit is increasing. The poor worker outcomes listed above illustrate the way income distribution issues can result from economic risk being transferred away from big business and onto the workforce.

The ASU’s position is that these impacts on workers are unacceptable. Taxpayers’ money should not be leveraged for private profit at any time, but particularly in the provision of essential services, care and social assistance provided by members in ASU’s coverage areas.

1. Impacted Industries

A breadth of ASU member experience has informed this Submission. We solicited input from across our diverse industries and received contributions from in home community support workers and other local government workers, workers in public sector agencies and those in caring roles across the social and community services sector.

The spread of responses from across ASU coverage is indicative of the trends noted elsewhere, that although gig work engages a small portion of the total workforce the rapid expansion anticipated includes disability and aged care, amongst other parts of the service industry (ACTU, 2018: 24).

Accordingly, the majority of the Submission focuses on care work within the ASU’s coverage, with references to other forms of insecure work that have the potential to both drive terms and conditions down, and mask the potential use of on-demand workers.

Member consultations, together with knowledge gained from lengthy experience held by the ASU, confirm that workers in our coverage have seen a steady increase and normalisation of insecure working arrangements. These include outsourcing, shared services, labour hire, fixed-term contracts, casualisation, agency work and zero-hour contracts.

While the use of digital platforms to engage labour is still an emerging trend in ASU covered industries, ASU members and officials are concerned that the trajectory towards more insecure forms of work, along with other structural enablers, signal imminent growth in gig and on-demand work in our coverage areas.
We note that the experiences of current ASU membership shared here are unlikely to be a representative sample of the broader on-demand workforce. Rather ASU members’ experiences highlight the costs to a workforce in flux. For the reasons outlined throughout this Submission, and in further detail below, ASU members are a cohort at risk of being lost to the industry. Members articulate repeatedly the likelihood they will leave these workforces as the industry-wide trajectory towards on-demand work continues.

The ASU notes that the subsequent risk of these shifts is the creation of an underclass of workers with little real choice, as change is driven by the sharp increase required in workforce size, paired with a drop-in regulation of employment standards.

The further economic impact of these factors includes a downward pressure on the Victorian economy. Social care is one of our fastest growing industries. If the jobs created are insecure and underpaid the knock-on effect will be less spending capacity in the economy. Workers will carry more risk and have less disposable income. This drives the Victorian economic outlook down.

2. Aged and Disability Care

The aged and disability care workforce is one of the fastest growing work areas in Australia\(^2\). In 2016 the aged and disability care workforce stood at 132,324 after a growth of 24,109 workers between 2011 and 2016. This represents the third highest growth in any job type in that time period (ABS statistics, cited by Grieve, 2019: retrieved from online version).

Further growth is anticipated, between now and 2023 this workforce is expected to grow by 39%. The Pollaers Report (Aged Care Workforce Strategy Taskforce, 2018: 1) notes that “there are 3,223 aged care providers, ranging from micro-businesses to large national enterprises, with a current workforce of more than 366,000 people, approximately 3 per cent of Australia’s total workforce.”

Ongoing increases in demand for these services means the workforce will have to keep up a high pace of growth. The Productivity Commission (2011) predicted that 3.5 million Australians will be accessing aged care services every year by 2050, requiring a workforce of almost one million direct care workers (Ibid). This equates to anticipated growth of over twenty thousand extra workers being added to the aged care workforce annually over the next thirty years.

Victorian councils are a key provider of in home community support services. In the transition from the previous Victorian Home and Community Care (HACC) program to the new Commonwealth Home Support Program (CHSP), funding change has occurred and at this stage further change appears inevitable. The exact nature of future funding arrangements for the CHSP is not yet clear, many important features are yet to be determined.

The CHSP currently provides block funding for entry level home and community care\(^3\). This funding model offers stability and certainty, and is familiar to long term providers of the former HACC system. There is a good deal of speculation that there will be further extensions to current CHSP funding arrangements.

\(^2\) ASU does not have coverage of aged and disability care workers across all settings.

\(^3\) The program objective is to support older residents to remain living independently and fostering capacity. Eligible clients are 65 years or older (50 years or older and identify as an Aboriginal or Torres Strait Islander person) who require support or care to remain living independently at home.
In the meanwhile councils are significant providers of CHSP, other providers include a diverse range of aged care agencies and ethnic specific services. Until the roll out of the National Disability Insurance Scheme (NDIS) local government-based programs also provided assistance to people with a disability.4

These services have traditionally received block funding from Commonwealth and State Governments, with local councils being the largest providers of in home community support to the aged and people with disability in Victoria5. Services previously ‘charged’ to the Commonwealth and State Governments are becoming subject to consumer directed care models, with individualised packages. (Fourth report into rate capping policy, Parliament of Victoria, Environment and Planning Committee, 2017: 22).

Charlesworth & Malone (2017: 5) note the increased demand for aged and disability in home community support, being met by a workforce engaged via “increasingly diverse and non-standard array of working relationships, including labour hire, casual, part-time work and self-employment such as via online web platforms.”

With the anticipated growth in service demand and required workforce, urgent attention is required due to the “…rapidly changing context in which the employment conditions of many home care workers are arguably shifting backwards along the informalisation/formalisation continuum, though marketisation and privatisation, more distanced from a protective employment regime that remains constructed around the SER [Standard Employment Relationship] (Ibid: 13).

The introduction of the NDIS has also precipitated a large upswing in workforce demand as an estimated additional 100,000 workers are needed to support people accessing disability supports under the NDIS by roll out completion in July 2019 (ASU, 2018: 4).

The pressure for fast paced sector and workforce growth is driven by significant government funding model, service delivery and sectoral reform in the aged and disability care areas, including community mental health. Whilst digital platforms currently have a relatively low profile in labour engagement across ASU covered aged and disability Victorian workforces6, the drive for growth and cost-cutting leaves these sectors highly vulnerable to transition to increasingly insecure on-demand like work arrangements.

Flanagan notes this potential highlighting how digital platforms are “…woven into the fabric of Australia’s national infrastructure for home-based aged care and disability care through public subsidies to platforms and the structure of the National Disability Insurance Scheme (NDIS)...” through design “…that enables only ‘lean’, platform-based businesses to operate profitably” (McKinsey & Company, 2018: 5, cited in Flanagan, 2018: 3).

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4 In home community support services (previously known as HACC) and disability work (now within the scope of the NDIS) have typically included nursing, domestic assistance, personal care, respite care, meal preparation, shopping, delivered meals, allied health and social support.

5 Home and community care, as it was formerly known, is referred to contemporaneously in this Submission as in home community support work. Sources referenced herein may use slightly different terminology including home care, domestic service and the like.

6 The scope of this Submission is confined to Victoria, however the ASU are aware of UberCare operating in South Australia. Whilst this has not yet taken a hold in our jurisdiction, this is absolutely the gig work that is at risk of permeating in Victoria if we do not intervene first.
Independent workers\(^7\) may be told ‘think like a business’ (McKinsey, 2016: v), yet will concurrently experience a downward external pressure on worth and income. As insecure work spreads the ASU anticipates increased reports from workers with concerns of:

- Lack of certainty and capacity to plan, for work and life
- Increased risk and cost borne by the worker for example training, indemnity, tools and resources, travel time, overtime
- Unpaid time
- Lower wages and no leave
- Low or no superannuation
- Fear of turning down work
- Less job satisfaction and increased financial and psychological stress
- Increased isolation
- Working more for less
- Short shifts, spread over more time, having to be more available
- Concern re ratings and feedback
- Barriers to collectively bargain or organise
- Little acknowledgment of the increase in individual bearing risks typically born by employer, including implications of consumer complaints/concerns.

A range of these concerns are documented elsewhere as already occurring or inevitable in care or domestic work, for example Flanagan (2018), Macdonald, Bentham & Malone (2018).

3. Public Sector Agency and Local Government Coverage

The ASU covers workers within state water authorities responsible with providing Victorians with safe drinking water and sewage services. These workers are employed in both ‘white collar’ office based roles and ‘blue collar’ maintenance and other roles. The ASU also cover staff who work for employers engaged in water meter reading.

Workers employed within the water sector in Victoria are not usually employed in on-demand type arrangements. However as successive state governments have allowed outsourcing within the sector some cohorts of ASU members have seen their wages, working conditions and job security deteriorate, as the link to public sector wage and industrial relations policy is severed.

\(^7\) Independent work in this context is defined as having three defining features: a high degree of autonomy; payment by task, assignment, or sales; and a short-term relationship between worker and client. This definition encompasses people who provide labour services as well as those who sell goods or rent assets. (McKinsey, 2016: viii)
Many state-owned water enterprises have outsourced their maintenance staff, over many years and successive contracts to different providers. As water authorities re-tender their maintenance contracts out they invariably award the contracts to the lowest cost bid. Over time this has led to workers within the sector losing out on pay, conditions and job security. These workers play crucial roles to ensure the delivery of essential services. There is a high risk of loss of knowledge about how these vital systems operate, due to the successive turnover of contracts and workers, and ownership by a series of for-profit, often foreign owned, multi-national companies.

ASU members working in local government report an increasing employer appetite to engage reliance on agency, labour hire and to contract out. In some councils, members report plummeting permanent staffing accompanied by increased casualisation and flexible forms of employee arrangements, such as permanent part time irregular hours.

Rate capping in local government is an additional driver for some of these trends, with associated financial pressure, service reduction and outsourcing concerns reported by the Municipal Association of Victoria (Fourth report into rate capping policy, Parliament of Victoria, Environment and Planning Committee, 2017: 15, 22-23). The nett effect is a drop-in standard of employment in an area traditionally known for quality secure local jobs.

In both industry settings – public sector agencies and local government – the more distant the labour engagement arrangement is from the entity in which work is actually being undertaken, the harder to track forms of labour engagement. In the context of this Submission, the harder it is also to truly know whether on-demand forms of work are present or the extent to which they are emerging in these workplace settings.
Part 2: Questions posed by the Inquiry

This section addresses questions posed by the Inquiry not already covered in Part 1.

1. On-demand Workforce

The drivers behind its uptake

The majority of ASU covered industries are funded directly or indirectly by various levels of government. Changes in government funding approaches have been instrumental in facilitating the decline of secure work and providing the impetus for the growing gig economy.

Successive state and federal governments have directed the shift of essential public services first to the not-for-profit sector and increasingly to private for-profit ventures, under the guise of competition leading to innovation. In reality, the ASU argues the impacts on the workforce and service quality are likely to undermine any efficiency and innovation gains driven by competition.

Marketisation of care has been integral in consumer-driven care policy. As care providers have responded to transitioning funding from recurrent block funding to models that are underpinned by consumer choice, there has been a shift from central coordination to more reflexive care arrangements. The pendulum has swung away from the objective of effective coordination of labour to being entirely responsive to client demand.

The National Disability Insurance Scheme (NDIS) is a good example of government stewardship over casualisation of work. Individualised models of social care and accompanying social service marketisation mean governments become the more distant purchasers rather than direct or quasi-providers of care.

Such policy mandates and the resulting governance arrangements compel for-profit and for-purpose providers to drive down aged and disability care workers’ terms and conditions. This could be perceived as an arms-length approach to corporate avoidance by governments, as government policy facilitates third parties to do the dirty work of selling out workers, by proxy.

The entry of large companies into the care industry sees for-profits engaging in undercutting on a scale bigger than Bunnings to gain a monopoly share of the market. In Care.com’s nine-year history, 2016 was the first year that the company was profitable; experiencing net losses of $US 80.3 million and $US 28.4 million in the fiscal years 2014 and 2013 respectively (Care.com, 2015: 3 cited in Flanagan, 2018: 8). The same company prompts well below Award rates on their Australian platform (Ibid: 7).

Do on-demand worker have other jobs and what are the nature of those other jobs?

In home community support workers are often under employed. ASU members and union officials report an increase of in home community support workers working for multiple employers to secure enough work to earn a reasonably reliable income. Those with little experience or few qualifications looking to establish themselves are even more likely to work for several employers out of necessity. In home community support workers were formerly typically engaged in traditional work arrangements by local government employers with above award wages and conditions and guaranteed hours.
As a result of the steady undermining of this workforce through Federal Government aged care reform, the trajectory towards on-demand service provision is apparent. The nature of these roles tends to be additional forms of insecure work. Multiple sources of income may increase carers’ capacity to refuse jobs that involve excessive travel time, however it is still not uncommon for carers to be asked to travel to as much as an hour or more for an hour of paid work, compared to work all within the one municipality.

An ASU member working in a large outer urban council we will call Sue, shared her experience. Sue described working for up to four providers simultaneously, including council. As council work has declined due to the loss of NDIS work and higher-level care work is being delivered by other providers under packages, council carers are taking up work under multiple employers.

An experienced carer with many years of experience and considerable training Sue is comfortable working for three employers, but she described a time when she was having difficulties making ends meet and took work on from four employers. As an experienced carer Sue is in demand, she has been able to enjoy long term caring relationships and familial carers trust her and will extend her some flexibility. It was not however until Sue secured a boarder to assist her with her rent that she felt secure that she could survive with work from only three care providers.

For disability support workers employed within the NDIS, under-pricing of supports and the resulting low pay, combined with casual, unreliable income leads us to anticipate workers will be also be compelled to work for multiple providers.

**Legal status of on-demand workers. How are on-demand workers recruited and engaged to perform work? Why and how are these arrangements being put in place?**

As has already been highlighted, consumer-based models of funding for care through NDIS and My Aged Care has led to a rapid proliferation of new providers and a growth in the demand for carers. A wide spectrum of traditional employment search companies and labour agencies advertise care jobs.

There are also platforms available where carers advertised themselves for on-demand caring through sites such as MyCarer. Carers provide a head shot and indicate whether they are available for aged care, child care or disability care. They provide their qualifications, experience and availability in order that clients can select the appropriate carer.

Under employed local government in home community support workers are turning to new providers and platforms to access sufficient hours of work to ensure their economic security. This labour force transition has been hastened by the ongoing funding instability malaise of the Commonwealth Home Support Program (CHSP). Since the commencement of My Aged Care there has been a view that block funding will cease and so too will council care under the CHSP. Long term funding arrangements are not certain, creating added insecurity and stress. The Commonwealth has extended funding several times and at the time of writing it seems almost certainly to do so again to secure funding beyond the life of the Aged Care Royal Commission.

**What is the nature of the negotiations over the arrangements between platforms, workers and consumers?**
Increasing in home community support work is offered as casual work in short stints. In an industry where underemployment is commonplace workers with no secure employment and hungry for additional hours lends itself to workers becoming ever more flexible and available to compete for work. This open and unregulated care market is adapting quickly to a gig economy where workers are now seen advertising themselves with personal photos and phone numbers and their hours of availability to be matched with clients.

Secure employment with a reliable income is increasingly rare to find. While there are some experienced carers employed on a permanent part-time basis with confirmed minimum hours in local government, these are legacy work arrangements for long term employees, and it appears these roles will not be available into the future.

Unpaid travel time is a consistent source of tension in negotiations between in home community support workers and their employers. Workers are rarely paid travel time, while those who work for councils in standard employment relationships are often paid between jobs in recognition of their travel time. In contrast some non-local government providers pay nothing or a flat fifty cents between each job.

Experienced and sought-after carers who have established a reputation for reliability and commitment have reported some increased capacity to refuse unattractive or inconvenient jobs. However, it was noted that this may only have been possible once they have diversified their employment arrangements, are working for as many as three or four care providers and have built a reputation in each setting.

We are still learning about the negotiations between workers and consumers, in this new industrial culture. However, it is clear that workers have less power to negotiate their hours of work to manage their own caring responsibilities and lives.

Those that are able will find more secure and respectful work, sometimes in other industries. Developing and maintaining trained, experienced workers in the in home community support industry is a central theme of the many aged care enquiries and reviews and will no doubt be a central consideration of the Aged Care Royal Commission.

**Does an on-demand worker control the manner and the location in which they perform the service or work?**

The nature and location of in home community support work currently is usually fixed and subject to the needs of the client and stipulated by the provider. New, inexperienced carers with no other sources of income are more likely to have to accept all work offered to gain experience, establish ongoing care relationships and build a reputation with the providers, consumers and platform, where relevant.

Inevitably this will include significant travel beyond their communities, a prohibition for those with their own caring responsibilities and dependents. The lack of central and logical coordination of travel to and between jobs is a significant loss for workers. Control of the manner and location of work may also be subject to the length of the caring relationship and the trust between worker and clients and/or worker and provider, and workers’ capacity to negotiate in this individual employment.

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8 Jobs may be unappealing to a carer due to a range of work design factors including unpaid travel time, short length of the job, lengthy gaps between paid work over the course of the day.
relationship. The latter dynamic will become increasingly triangular with a rise in online platforms acting as both a potential connection and barrier to work.

As with the previous question regarding nature of negotiations, there is a phenomenon of perceived freedom, in reality gig and on-demand workers are dependent on ratings on digital platforms (Flanagan, 2018: 15-16). To maintain their presence on the platform, workers must adhere to strict expectations, and once connected to a particular platform or provider have a potential dependency on that platform to maintain continuity and keep finding future work (Minter, 2017: 6). The impact on the worker in reality can equate to taking work at irregular times, unsafe conditions and in a nature the platform has a high degree of control over.

2. Impact of on-demand work

Feminised labour and insecure income.

Several work areas covered by the ASU are female dominated. A recent national survey reported that of the 72,495 direct home care employees in Australia, almost 90% are female (Mavromaras et al. 2017, 74, cited in Charlesworth & Malone, 2017: 4). Victorian state census data on the community mental health workforce indicates around 70% of the psychosocial disability workforce is likely to be female. The devaluing of feminised labour and resulting underpayment in industries like the in home community support work and disability support sectors is already a well-documented issue, even within traditional forms of employment. The use of digital platforms to engage this work into the future threatens to widen the gender pay gap in these industries even further (Flanagan, 2018: 7). Job insecurity too is historically a gendered issue (Stanford, 2018: 8)

Discrimination maybe exercised through algorithms and ratings and exacerbated due to lack of dispute mechanisms to address experiences of direct and indirect discrimination, particularly for platform work carried out on location (Eurofound, 2018: 61). Furthermore, as women continue to carry a higher burden of care and household labour, they are more likely to be forced to take on on-demand work to accommodate these other responsibilities.

While on-demand, gig type work is often heralded as being a flexible option for workers with other responsibilities, this is not always the case. As De Stefano (2016: 6) points out, jobs may need to be carried out at a very specific time of the day. Also, high competition between workers may require workers to take on long hours at unsociable times to ensure sufficient earnings, an issue which may especially impact service work which involves relationship building and maintenance as is the case in the care industry.

In overseas samples, whilst gender parity has been found in participation rates in independent work, it is noted that men are more likely to be free agents and women are more likely to be supplemental earners; around 60 percent of female participants are supplemental earners compared with the 52 percent of men who supplement their income (McKinsey, 2016: 43). The writers posit that this may reflect the higher burden of household and dependent care work being undertaken by women engaged in independent work. They further note that of the 30 percent of their respondents turning to independent work out of economic necessity, these financially strapped workers are disproportionately women (Ibid: 91).

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10 As defined in McKinsey, 2016: viii
In home community support work has historically been undervalued, as reflected by the low level of current and former industry minimum standards set by the Award system. Current standards fail to acknowledge the full gamut of work and skills required in the provision of in home community support services. Trends toward the marketisation of social services, driven by the consumer-directed care imperative, suggest the in home community support workforce is likely to become increasingly precarious as service providers seek to drive down terms and conditions for workers in order to minimise operating costs and maximise profit. (Charlesworth & Malone, 2017: 13)

The emergence of care work engaged via digital platforms not only degrades pay and conditions for these workers, but also risks exacerbating the impacts of care work on workers’ personal lives. Charlesworth & Malone (2017: 10) describe the porous boundaries between work and life typical of in home community support work. They highlight the unpaid ‘time out of life’ where workers are on-call or standby, leaving them unable to fully pursue their own needs and obligations. It is not a difficult stretch to imagine the added impact of increased scrutiny via digital platforms, and the capacity to track worker availability, acceptance or refusal of jobs, rankings and ratings.

Flanagan (2018: 11) connects increased skill levels in the care workforce over time, to work being better remunerated, classifications reflecting increased skills and experience, payment of penalty and casual rates in accordance with relevant Award standards, along with better regulation of standards of care.

These recent shifts in labour arrangements force the existing workforce to make difficult choices. They can stay and accept lower pay and conditions and less job security, or leave work for which they are highly skilled, trained and dedicated to. Accordingly, the ASU expects to see a reversal of professionalisation and semi-professionalisation of the care workforce as the marketisation of care, driven by consumer directed models, progresses.

The disability workforce faces similar issues under the impact of the NDIS. The ASU has coverage of workers providing psychosocial disability support, and community mental health workers have also long been under recognised and under remunerated.

3. What and how are on-demand workers paid?

Public Sector Agency Employees

As a potential precursor to on-demand work, ASU members who work in outsourced areas within the state water sector have seen their wages and conditions drastically reduced. At the time of contracts being awarded a familiar pattern of behaviour is exhibited by companies. During the bidding period, prior to take over of the contract, companies meet with workers staff and assure them that they will not lose pay and conditions. Not long after they have the ability to reduce pay and conditions they inevitably do so. This causes resentment amongst staff who know that they have been lied to by their new employers but have little alternatives as their old roles no longer exist within the boundaries of the public sector. This has particularly negative impact in regional areas.

Disability Support Workers

As has already been highlighted, severe constraints imposed by NDIS pricing of disability support services have implications for the quality of work available in community mental health. The current
Inquiry into the Victorian On-Demand Workforce - ASU Submission

NDIS pricing does not provide for secure, fairly remunerated jobs. As agencies have a reduced ability to predict how many consumers they will have at any one time, many agencies are now employing staff as casuals where they were previously employed on a permanent basis. We consider that a number of key assumptions underpinning the NDIS unit price are flawed, in particular:

- Classification and pay level of disability support workers: NDIS pricing assumes that disability support workers are employed at a Social and Community Services Employee (SACS) Level 2.3 under the *Social, Community, Home Care and Disability Services Industry Award 2010* (the Award). However, this is, even in the eyes of the National Disability Insurance Agency (NDIA), the rate that reflects the minimum level of experience and qualifications required of a disability support worker.

  Not only does this mean the price does not allow for any career advancement for employees who are employed at this minimum, but many disability support workers are required to have skills and experience well above the minimum, and many support workers are presently employed at SACS Level 3 or above. Additionally, NDIS pricing does not take into account the higher minimum rates of pay required to be paid by in excess of 300 organisations in QLD as a consequence of the 2008 QLD pay equity case (known as the ‘Fisher’ rates).

- ASU members in Victoria have not traditionally been employed at a SACS Level 2.3 for their work given the type of work they do and their qualifications. With the price paid under the NDIS we are increasingly seeing agencies trying to pay staff at a Level 2.3 disability support worker rate when workers are performing work of such a complex nature that they would have been paid as a *Social, Community, Home Care and Disability Services Industry Award 2010* rate of a SACS Level 4 or 5.

  The low prices under the NDIS and the funding model itself are driving down wages. ASU members who work within community mental health services are particularly exposed to the impact of current NDIS pricing.

This correlates with a brief analysis undertaken by the ASU National Office in 2017-18 of disability and care work engagement via online platforms. These showed a range of arrangements, from sole traders with suggested platform rates or setting their own for one-off tasks, to casual employees on Award-like wages of approximately a SACS Level 3.2.

4. **Why do workers engage in on-demand work?**

This question implies workers have a free choice between secure employment and on-demand work. In reality, many workers will be forced into the on-demand workforce because they have developed skills and experience in a sector which has been structurally transformed to preclude secure employment.

ASU members who work within the more insecure parts of the water industry do not choose to work in precarious work. Decisions by state governments and the management and boards of state-owned water authorities mean that they have their employment “sold” to the lowest bidder by agents of the state government.

ASU members who work within social and community services do not typically opt for on-demand work. They have traditionally chosen to work in the sector because they are dedicated to the work they do and have a passion to work with the consumers of their services to improve lives. This
commitment and passion has more often than not been exploited by both state and federal governments who have funded agencies at a point where wages are kept low.

With social and community services sector work becoming less secure, ASU members work within on-demand as a last resort. Typically, they started to work within their sector when the employment model was more secure. Disability support work under the NDIS is the obvious example of this. ASU members who have gone from block funded community mental health services to working within the NDIS system have been moved into an insecure working environment rather than choosing to start to work in that way.

Increasingly experienced, well trained staff are, quite rightly, not prepared to make this ‘choice’ and are leaving the social and community services sector entirely. On-demand work therefore reduces security of employment and ensures that consumers have access to less qualified workers.

Structural issues with this mode of service delivery are being masked during the transition. Some workers are attempting to bring the experience and skills with them and try to make the system work for their consumers. However, given the poor pay and conditions available in on-demand disability support work, workers who are more mobile, because of family status, financial security or availability of transferable skills, are likely to choose to leave these sectors entirely. This is when the structural failings of the on-demand sector will be truly exposed. Building a workforce with the skills and experience to perform safe, high quality disability support work will be time and resource intensive.

The unattractive nature of on-demand work in psychosocial disability was made clear through responses to a 2018 ASU survey. Survey respondents were skilled, experienced community mental health workers, reflecting on the work available under the NDIS. As various respondents said:

“The sector has spent years building up its professional capacity and investing in a well-qualified, skilled and experienced workforce. The casualisation of the workforce will see this disappear with low pay attracting low skilled and experienced staff a massive risk not to mention duty of care to both the worker and the participants”

“Lower skilled workers are being employed. Qualified professionals are not being valued. NDIS causing pay-cuts.”

“The sector has spent years building up its professional capacity and investing in a well-qualified, skilled and experienced workforce. The casualisation of the workforce will see this disappear with low pay attracting low skilled and experienced staff a massive risk not to mention duty of care to both the worker and the participants…”

“Most of my former colleagues are no longer in the sector. Clients and families will ultimately pay the price, and then there is the ripple effect as people have to try and access other services (hospitals, GPs, clinical services).”

“So many good people leaving the sector. We’re all exhausted and spinning from so much change. It’s not the job we signed up for originally. Worry over future secure job prospects.”

How often do workers participate in on-demand work as opposed to ‘traditional’ arrangements?
ASU members working in local government in home community support and via other providers report increasing expectations on them to be “flexible”. As shifts to client driven care further evolve, greater responsibility for all aspects of the care relationship is placed on the carer with less mediation through the provider. Providers act as brokers, either allocating carers to jobs or carers utilise platforms to sell their labour.

With a reduction of hours in traditional arrangements, due to compounded impact of NDIS and aged care reform, some ASU members report secondary jobs via less secure and/or on-demand arrangements. This may be to augment lost income or to maintain connection, on request of long-term clients with whom they have professional caring relationships. Secondary jobs are fraught and some carers report the need to be very discrete. Not all traditional arrangement employers are agreeable to workers seeking secondary jobs, even where there has been a loss of hours and income.

One member experiencing loss of hours under standard employment, reported impacts as below:

- Travelling for 2 hours (unpaid), to complete a one-hour job, out of desperation
- “Incentives” of $22.00 being offered for two hours of unpaid travel time
- Taking a boarder to cover income lost due to council and other work hours dropping, when mortgage was at risk
- Clients seeking personal contact details to make direct contact. This worker was able to say no, where a platform worker may not have that choice due to the need to retain high satisfaction ratings. There is an assumption that all contact will occur via the platform, in reality this is not the case.

It is difficult to comment on the extent to which this is prevalent in other industries due to lack of information.

What differences do people experience between working under on-demand arrangements and ‘traditional’ arrangements?

In in home community support work, an example of a difference is that clients can be provided with carers contact details to vary arrangements such as length of appointment. Employees are effectively expected to provide their clients with a higher level of flexibility than would be expected in a standard ordinary employment relationship.

An in home community support worker recently reported that it was not uncommon for a familial carer to request her private number to contact her while she was caring for a disability client. Able to contact the worker directly, the family could ask her to extend her stay due to family members been caught up or having other commitments.

Responsible for the client and unable to leave, the worker had little choice but to agree regardless of commitments in her own life. Her only means of negotiating this situation was to withhold her personal number from the family of clients so that there was no capacity to contact her to vary the engagement. The worker felt that it had not been possible for her to resist access to her personal contact details when she was less experienced and had insufficient secure work, due to pressure to be available and the likelihood that resistance to this would lead to less work.
While this occurred in a ‘traditional’ paid time role, the impact of the on-demand culture has decreased her capacity to control her hours of engagement and negotiate flexibility.

Workers in the state-owned water sector who have had their jobs outsourced have seen their wages, conditions and job security slashed. They are also no longer subject to state government wages policy and bargain with companies who are driven almost entirely by profit. Companies such as Lend Lease (Coliban Water contractor) have repeatedly forced their staff into a position of taking protracted industrial action just to get a better offer, albeit one that still sees them behind the conditions that are a standard in public sector coverage.

Workers in the social and community services sector experience differences between traditional and on-demand work in many ways. Compared with the traditional block funded sector, the on-demand sector offers less secure employment, often casual, lower wages, fewer conditions, little to no training and the loss of conditions like travel time.

One of the biggest impacts is workers’ inability to plan their private and family lives. Because workers in the on-demand sector often need to take every shift they are offered they frequently get little notice about when the work. They also often have to work split shifts. This has an impact for the highly feminised workforce, made up of about 80% women.

As has been already highlighted, the introduction of the NDIS is seeing a large-scale structural transformation of work arrangements for disability support professionals. NDIS, being a marketised model for social care, is driven by consumer demand. The value of flexible, responsive person-centred service delivery for NDIS participants cannot be overstated. However, this marketised model drives competition for services.

Competition combined with fixed under-pricing of disability supports requires lean operating models which are systemically undermining the possibility for secure work in the sector. As providers shift risks associated with flexible service delivery onto the workforce, a rise in the casualisation of workforce is inevitable.

The roll-on effects for quality of service for NDIS participants will be discussed in a later section, but the impacts on workers are substantial. More traditional arrangements of employment in psychosocial disability or community mental health were underpinned by block funding. This meant organisations were funded for a range of work activities not involving ‘face-to-face’ time with clients, but essential for supporting the employee, and hence the quality of their work with consumers. Workers in more traditional arrangements had access to training and professional development opportunities, regular supervision to discuss their practice, paid travel time when performing outreach to clients in the community and time for cross-sector relationship building.

NDIS pricing assumes that only 5% of time excluding leave (which works out to just 3 minutes an hour) is not directly with participants or travelling between clients. This simply does not adequately allow for the necessary administration, training, peer support, team meetings, and supervision that is required in the role of a disability support worker. The experience of the emerging on-demand NDIS workforce involves fragmented working hours, unpaid travel time, little to no professional development or training, and little to no supervision and support from line management.

This experience will be disproportionality felt by women who make up the majority of the current disability support workforce. It will also create a further barrier to employment for people with disability themselves who could utilise their skills and expertise to increase their economic participation and strengthen their economic security by working in the sector. Disability support workers are likely to be compelled to seek employment across multiple disability service providers as
workers try to earn an adequate and stable income in the face of provider hesitancy to embrace permanent full-time work under the NDIS.

**Does this vary between metropolitan, regional and rural locations?**

Australia’s unique challenges of building social inclusion in a country with a relatively small population spread over a large landmass is well illustrated by issues facing community service workers in rural, regional and remote areas. Workers in rural and regional areas face particular challenges due to the lack of geographical pay parity already existing in traditional work arrangements. Changes like the NDIS and aged care reform threaten to exacerbate these challenges. While there is an NDIS loading for work conducted in regional areas, issues such as the burden of unpaid travel time are likely to be transferred onto the worker.

Severe disadvantage in many indigenous communities also poses particular challenges for the recruitment and retention of workers in remote areas. These factors result in a lower population base to recruit workers, a lower skills base as people in these areas tend to have lower levels of relevant post-school education and higher unemployment and greater turnover of staff, who frequently travel long distances or relocate for employment in community services in rural, regional and remote areas.

**What training or development opportunities are available to on-demand workers?**

Under block funded arrangements in disability services, agencies were able to afford to employ qualified staff and to provide them with ongoing training and supervision. With the rise of on-demand type employment arrangements and less secure funding models, employers now are more inclined to shy away from employing qualified staff because they know they cannot attract and retain them with the pay they are offering. The skills gap is then compounded by the fact that staff are not able to access ongoing training and if they do seek training opportunities, they have to pay for it themselves in their own time.

The in home community support workforce also will have variable access to training and development opportunities, often subject to which service provider they are employed with. Generally, the expectation is that carers arrive with all the necessary training and experience. A carer, who has worked for up to 3-4 agencies at a time, including local government, not-for-private, for-purpose and private agencies, provided a comparison of her experience of different types of employers:

“Council carers would meet monthly or at least several times a year and receive training periodically. Staff meetings functioned as providing professional in service, peer supervision and provided carers with the opportunity to raise issues and seek support. Other providers provided training once a year and a further example provided no in-service time for staff beyond CPR and First Aid training.”

In 2017 the ASU, in conjunction with Health Services Union and United Voice conducted a survey of 1522 union members who work supporting people with disability.

As part of that survey, ASU members told us the NDIS does not allow funding for staff development or team meetings. It seems all training and further skill development costs will be placed on the worker. This will reduce the high level quality of care that can be provided to clients as wages not
increase to cover these increased costs. Communication will be affected as team meetings will not be funded.

One respondent stated:

“There are no longer many opportunities for training, staff meetings. There is more admin and not enough time. Managers don’t cover staff when they are sick. The budget has become very tight. We are doing more work than ever.”

And another:

“The NDIS does not allow funding for staff development or team meetings. It seems all training and further skill development costs will be placed on the worker. This will reduce the high level of care that can be provided to our clients as our wages will not increase to cover these costs. Communication will be affected as team meetings won’t be funded. There are a lot of things that will not be funded through the NDIS. Higher expectations of care with less training.”

How and where do on-demand workers raise issues or concerns about their workplace arrangements? How confident do they feel to do this?

On-demand workers are often fearful to contact a union do this because if they are seen as “trouble makers” employers will simply not engage them again. The fear of reprisal workers feel to enforce the application of what are often minimum award wages and conditions means that wages and conditions across the entire sector are reduced below minimum levels.

Enforcement and appeal tribunals and authorities such as the Fair Work Ombudsman and the Fair Work Commission are under-funded and have weak legislation governing employer behaviour. This compounds workers’ disincentive to seek redress from such bodies, where they have jurisdiction.

This has not occurred by accident. A series of decisions by governments has created the environment in which workers rights have been reduced to the point where even asking for the minimum wages and conditions for the work you perform can lead to you not being rehired.

Within the ASU’s coverage we know there are lower levels of unionisation and union activity between council employed in home community support workers, and those in less regulated industries. In home community support is a fragmented workforce by virtue of the service they provide to the community, with little opportunity to gather and meet and share experiences or stories. In the ASU’s experience, lower levels of unionisation contribute to fewer workplace concerns being raised by workers, and lower confidence levels of workers to do so.

Physical or psychological injury or illness, workplace injuries, superannuation and tax.

The ASU does not have direct evidence of these arrangements for on-demand workers. We note the likelihood of earnings being below the superannuation threshold for employer to pay. With multiple and fragmented sources of income, and low rates of pay it is unlikely for workers to make self-contributions.
We note in home community support work to be a high injury industry. Being casual or otherwise precariously employed, means workers are far less likely to report injuries or seek compensation (where the right exists to do so). The nett effect will be employer avoidance of workplace health and safety, and compensation obligations.

In local government, occupational health and safety standards have been well recognised over many years. Consumer driven marketisation of care will undermine standards achieved through generational gains of unionised workplaces. Marketisation forces individual workers to bear the systemic risks of injury and retirement savings rather than ensuring standard employment relationships for workers. The likely result of this is a tax payer-funded system of substandard employment.

**What impact has the growth of on-demand work had on those working under ‘traditional’ arrangements?**

Social and community service workers employed under traditional arrangements such as enterprise agreements, note that as funding and employment models become less secure, some agencies are taking steps to avoid these obligations. This includes creating new companies to employ staff on lower wages and then moving their consumers across to these new low wage providers.

A recent example of this is NEAMI National, a community mental health provider, with an enterprise agreement and a skilled, well qualified and experienced workforce. NEAMI created a wholly owned subsidiary called Me Well to service NDIS consumers. Wages and conditions for workers at Me Well were on the Award and not covered by the NEAMI enterprise agreement.

In 2018 the ASU surveyed workers across the Victorian community mental health sector. This sector is undergoing rapid change due to de-funding by the state government and the NDIS now covering only about 10% of consumers who were previously provided with block funded services.

Funding and structural change has seen the Victorian community mental health sector go from what was accepted as the best in Australia to being a shell of its former self. Workers are leaving in droves due to the insecure work that is now the norm.

Below are some of the responses members provided when asked how they felt about the changes within the sector.

- **Loss of skilled workers! Mental health support workers with great skill and from varied disciplines are being forced to move into other sectors as there are no jobs!**

- **It has ruined it. It is simply not possible to have a career in community mental health now. All of the support positions are casual/part time and poorly paid. There is no job security. I have seen some many wonderful knowledgeable workers leave the sector and they will never return.**

- **Overwhelming and stressful for workers to learn vast amounts of knowledge required to transition consumers across -frustrating for workers to deal with inconsistencies -lack of reliable information for workers re transition -not enough support for workers/ career guidance who need to transition to new roles -spent great deal of personal time educating self-outside of work hours about NDIS in order to strive for best outcomes for consumers -I worked across 3 NDIS work related roles transitioning clients across to NDIS as community mental health worker, NDIS support coordinator once transition had occurred and NDIS Appeals & Reviews officer-finally decided to leave the sector as was so disillusioned with the changes since implementation of NDIS**
Burnout. Onset of mental health issues for workers is at epidemic proportions. There is a strong lack of support and no job security. People are quitting in droves creating even more pressure for those left behind leading to employment of new grads or people with lower level qualifications and experience which returns us back to burnout and damage to consumers.

Impact on the community and consumers.

The risk in falling quality of services to the community must be considered, with the loss of skill and experience accompanying the drop in job security, pay and conditions.

Flanagan calls the short-termism and fungibility of worker in the gig economy model “inherently corrosive to quality caring relationships” (Flanagan, 2018: 1). The care, concern and connection at the centre of quality care work is impossible to translate via digital platform models (Ibid: 4). Care work has delivered better outcomes for workers and services users through attracting a more skilled work with semi-professionalisation.

Flanagan notes that consumer models of service delivery are at odds with quality outcomes, as they become entrepreneurial and driven by markets and competition (Ibid: 10,11). These models fail to recognise emotional labour performed by carers, and experiences of vulnerability by service users by placing notions of choice and responsibility as primary and reducing worker-service user interaction to short term transactions, rather than the potential for long term care relationships.

Other transactions occurring via gig platforms (such as ride sharing) do not share the interpersonal dynamic of in home community support or disability care work, and are not impacted in the same way by the short-termism of the worker-client interaction (Ibid: 3-4).

On-demand work does not account well for service factors such as the client-worker relationship. Local government in home community support workers frequently report that their clients go to some lengths to preserve their client-worker relationship. For example, ASU members have reported instances of clients deferring taking up Aged Care packages to delay the loss of their carer or asking the carer to follow them and take on additional work through their chosen provider. This might occur when a client’s care needs change, and as a result their funding shifts from basic care under the Commonwealth Home Support Program to higher care under My Aged Care packages.

Due to the marketisation of care and promotion of choice as best practise, consumers actually have little other choice than to access services they require in whatever manner funders make them available. Currently in local government there are comprehensive complaints mechanisms. Local councils act as both responsible providers of service and advocates for rate payers or those in their municipality. Under a different model of service provision, and loss of councils’ role as care providers, these options for recourse will be non-existent.

The ASU is aware of high-risk scenarios where carers have been engaged without any face to face contact with the employer and of agencies employing workers who have no training and limited understanding of what their caring role might involve.
A recent example of this involved a carer being employed with little pre-screening. On arriving at the job, the carer found the client required assistance with a hoist. The carer had no experience or knowledge of how to operate a hoist and had to do so without instruction or supervision. It was 12 months before the provider required the carer to undertake hoist training.

Carers are not directly supervised whilst performing their duties and have no on-the-job training. Platforms and other brokers will require carers to be highly flexible and highly responsive. There is a real danger that flexibility this will be prioritised over quality of care and client outcomes.

5. Regulatory Landscape in Australia and Internationally

Existing mechanisms and their adequacy.

On-demand workers are the least likely workers to be unionised and the capacity for unions to organise this workforce is limited. Labour arrangements are outside the regulation of traditional tools available to workers engaged via other forms of labour arrangements (that is collective agreements, Awards etc), making access to dispute resolution unlikely. This is inadequate.

New strategies must be developed to organise these workers. Resourcing of investigating and trialling of new strategies is required in order for unions to adapt to this changed organising environment. Unions are uniquely placed to engage with the workforce and work in tandem to ensure better quality and more sustainable community and essential service delivery.

Further regulatory frameworks for the Inquiry to consider, are those intended to safeguard clients/consumers from potential misconduct by care workers. Whilst the ASU does not have evidence of impacts on on-demand workers, we note relevant trends in other parts of our coverage. Out of Home Care residential services increasingly rely upon casual and agency workers. This sub-sector of health and social assistance workforce has one of the most sustained and highest incidence rates of workers compensation claims. It is also an area highly prone to workers being stood down due to Reportable Conduct obligations.

The ASU is aware of many instances of casual workers being stood down pending departmental investigation, with no pay and with no capacity to work whilst under investigation. This appears to be a deliberate strategy undertaken by a number of employers. By engaging increasing numbers of casual and/or agency staff, they avoid obligations when inevitable Reportable Conduct issues arise, and extended periods of unpaid stand down of employees while matters are investigated. In the ASU’s experience it is not uncommon for workers to be stood down for many months, in a number of cases this has extended to over a year before workers are cleared and enabled to return to the workplace.

A further impact of insecure work, and interaction with regulatory matters, is exemplified by the exclusion of NDIS workers from the Victorian Portable Long Service Leave scheme set to commence min 2019. This cohort will be already disadvantaged on job security, pay and conditions, their exclusion adds insult to injury. This being at a time sharp workforce growth is required, hamstrings attempt to attract additional workers, and replace those opting to leaving the industry for the aforementioned changes in terms and conditions, service delivery modes and client engagement frameworks.
Regulatory approaches in other Australian states and internationally.

The ASU looked to the efforts made by Unions NSW with AirTasker (Minter, 2018: 11) in relation to dispute resolution, safety and minimum rates. Whilst achieving some outcomes, the limitations in these approaches are noted by the author, and the need for more comprehensive and enforceable rights for gig workers.

A fundamental tension exists in the marketisation of care in placing two vulnerable groups’ interests in direct competition (Hayes, 2017: 1-29). Clients of care are often invisible, voiceless and inherently vulnerable. Their carers are frequently under employed, under non-standard employment arrangements and in exploitative employment relationships. Inherent sexism in understandings of care and work in the domestic sphere creates the perfect environment for non-standard and suboptimal employment conditions.

The on-demand economy further undermines standard and secure employment conditions. Care workers’ capacity to negotiate control or flexibility that recognises their right to care for their own families is jeopardised. The introduction of a regulatory framework that provides care workers with access to supervision and a point of mediation between clients’ and workers’ needs and rights is critical to ensure employees’ rights are respected in the employment relationship.

The United Kingdom’s experience of marketisation and deregulation of their care industry is far more advanced and has occurred in an environment of cost cutting. The gendered undervaluation of care work has meant that in home community support work has existed at the margins of the formal economy and standard employment arrangements. UK Labour Lawyer and academic Dr. Lydia Hayes argues that complex skills and increasing complexity of care work must be recognised, that care work must receive industry recognition and that quality care is dependent on quality employment conditions.

Collective bargaining coverage in Britain has fallen drastically from a high point of 82 per cent of the workforce in 1976, to 23 per cent of the workforce in 2015 (Hayes and Novitz, 2014). Cultural, social and economic power imbalances create barriers to bargaining strategies achieving fulsome outcomes, however Hayes states that conditions are only adequate in employment relationships where collective bargaining has been possible.

In the Victorian context, we need to take heed of the UK experience before it is too late, by keeping our in-home community support services in the hands of local authorities, in settings capable of achieving robust collective bargaining outcomes.

Advocacy to the Commonwealth to ratify ILO Convention 189.

Charlesworth and Malone draw attention to the International Labour Organisation (ILO) Convention 189 (C189) as a starting point to think about what principles and provisions might underpin the legal regulation of in home community support work in the Australian context (2017: 13). The ASU support this recognising it provides a basis for in home community support workers to be treated equally with other workers (Ibid: 8).

More specifically, C189 asserts that workers be appropriately informed of their employment terms and conditions, preferably in a written contract; have right to freedom of association and the right to collective bargaining; right to a safe and healthy working environment workplace and labour inspection, enforcement and penalties; effective access to courts, tribunals or other dispute
resolution mechanisms as available to other workers. (Ibid: 8-9) These measures go some way to ensuring workers have genuine choice over pay, conditions and when work is performed, while allowing for the flexibility required by service users.

The results in countries who have ratified C189 to date are good for the workforce:

- collective bargaining between union and associations representing private households in France, Germany and Italy;
- increased protections for various kinds of domestic workers, including labour inspections in private homes and other measures in Ireland;

in non-ratifying jurisdictions varying levels of success as a lobbying tool such as recognition of publicly funded social care in the Netherlands, and Domestic Workers’ Bill of Rights adopted in seven USA states (Ibid: 12).

In the Australian context C189 has the potential to protect conditions that will otherwise be lost by the increase in on-demand and other forms of insecure work.
Part 3. ASU Summary & Recommendations

What do ASU members want?

ASU members want quality secure jobs, with protections, fair pay and conditions so they can maintain the high-quality service they provide to our communities. The ACTU states the following as a broader workforce expectation “workers do not desire the “flexibility” of non-standard work regardless of what employers and conservative groups may say. Workers want continuity in employment so that they know when they will be paid next. They want work that allows them to balance their professional and personal life...a decent income...equal pay for equal work...protection in the event of illness, accident, unemployment or old age...safe and health workplaces...opportunities for training so they can develop their skills and further their careers...the right to be represented at the workplace...paid holidays” (ACTU, 2018: 10-11).

To achieve this, we should not tolerate the expansion of regressive work practices common to the first industrial revolution or in the least developed nations currently (ACTU, 2018: 25). The “basic premise of labour law is that a power imbalance exists between the individual worker and the employer. The imbalance is particularly pronounced for the vast majority of non-standard workers...labour laws and labour market institutions, should be reformed to assist this vast majority on non-standard workers who face a very dramatic power deficit in their employment relationship.” (Ibid: 6).

The design of these laws and institutions, whilst for everyone’s protection, should bear the most vulnerable in mind. Governments have a decision to make about the balance they wish to strike between risk and reward, labour market flexibility and security. When this balance falls too far in favour of flexibility for employers and rewards for business, with workers carrying an increasing amount of risk, broader society and the economy will experience negative impacts, low productivity and are unlikely to invest in training. (Ibid: 8) The flow on effect of broader economic stagnation has been noted earlier, and the social justice element of creating starker groups of haves and have-nots is a potential the ASU does not want to see come to fruition.

Gig / On-Demand Work.

In relation to gig work specifically, the ASU echoes the recommendations United Voice submitted to the Parliamentary Inquiry on the Future of Work and Workers, as highly relevant to our most exposed areas of workforce coverage:

- *Gig workers should have the right to contest ratings and be able to take their work records with them when they leave;*

- *Gig economy workers should not be barred by anti-competition laws from collective bargaining;*

- *A broader definition of employment and a presumption in favour of an employment relationship should be introduced to reduce the capacity of digital platforms to avoid their responsibilities to workers;*

- *Platforms should be required to carry statements of relevant Award rates, and include calculators to enable users to assess whether the relationship they propose to enter, in legal terms, likely to be an employment or independent contracting one; and*

- *Public funds should not be used to subsidise the use of independent contracting gig economy*
platforms in aged and disability care, where continuity and security of employment relationship is fundamental to quality care.

United Voice further calls for increased accountability and protection against data mining and use of algorithms, to minimise the undermining of democratic control and growth of inequality. (United Voice, 2018: 17)

Aspects of these points are supported elsewhere, such as joint employment laws, enabling workers avenues of redress in instances of exploitation and wage theft from the enterprise in which they perform work (ACTU, 2018: 21).

Role of Government

The Victorian Government has been an advocate to the Commonwealth on a range of matters, and with an impending Federal election has an opportunity to shape workplace matters further. State regulations are welcome, such as Labour Hire, and the ASU hopes to see a strong stance taken by our state, to demonstrate a standard and shift the tone nationally.

There is increased responsibility on governments to set an acceptable standard as a purchaser or quasi provider. Procurement policies must protect workers’ rights and communities from exposure to low quality, compromised services. Government funded activities are financed by taxpayers’ contributions, and include essential and social assistance services the community expects to be of high quality and engender trust. These are services meeting society’s basic human needs, and used by members of our communities to retain dignity at vulnerable points in their lives. Governments need to cease distancing themselves by portraying the public sector as a passive third-party entity who merely puts funding out to market, with no relationship to the resultant terms and conditions of workers engaged in such service provision.

Community concern regarding the quality of care is high. There is particular concern for the inappropriateness of profit-driven decision making, and the risk of impacts of vertical integration. There is an obvious tension of the same profit-driven services providing the full spectrum of (lower profit base) home care and (higher profit base) residential care.

Flanagan (2018: 18) makes some specific calls in the context of care work, which the ASU supports in relation to disability and in home community support work, including:

- For platforms to be subject to democratic regulation
- That “governments and policy makers contest platforms’ own claims that flexibility, choice, communicative facility and speed can only ever come at the price of adequate worker protections and career paths”
- That governments and communities should exercise their power to truly examine whether on-line platforms should be allowed to conduct business and make profit in industries where the “incompatibility between quality work and an ethos of short-termism and worker fungibility” is so high

We wholeheartedly support the author’s stance that unions are supported and encouraged to diversify their approaches to enable engagement with workers caught in the power imbalance of on-demand arrangements.
Accordingly the ASU calls on the Victorian Government to invest in secure jobs that are “that are genuinely flexible, facilitate choice on the part of those requiring care and ensure that workers have the time and support they need to perform high-quality caring work over the course of their careers.”
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