

# United Workers Union submission in response to the Review of the Long Service Benefits Portability Interim Regulations 2019

June 2020

## About UWU

The United Workers Union (**UWU**) is a powerful new union with 150,000 workers across the country from more than 45 industries and all walks of life, standing together to make a difference. Our work reaches millions of people every single day of their lives – we feed you, educate you, provide care for you, keep your communities safe and get you the goods you need. Without us, everything stops.

We are proud of the work we do – our paramedic members work around the clock to save lives; our early childhood educator members are shaping the future of the nation one child at a time; our supermarket logistics members are packing food for your local supermarket and our farms members are putting food on Australian tables; our hospitality members are serving you a drink on your night off; our aged care members are providing quality care for our elderly and our cleaning and security members are making the buildings you work, travel and educate yourself in safe and clean.

## Executive Summary

UWU supports the Victorian Portable Long Service Leave (**PLSL**) scheme that has been in operation since July 2019. UWU has long been advocating for PLSL for workers in a myriad of industries across all Australian jurisdictions. The Victorian legislation addresses some of the long-held workforce inequities that have resulted in thousands of workers being denied access to long service leave (**LSL**) entitlements due solely to the nature of their industry.

The case for portability of LSL is based on equity grounds. Employees should not be disadvantaged because of their occupation, the nature of their employment, where they work, the size of their employer or whether their employment is in the public or private sector. PLSL legislation recognises the systemic issues of workers in industries such as security and cleaning who are subject to a contracting cycle which denies them access to LSL entitlements. Further, it recognises the high labour mobility within some industries, particularly those characterised by high levels of casual and female workers and such as community services and early childhood education and care (**ECEC**).

While the Victorian PLSL legislation is a win for many low paid workers in the security, cleaning and not-for-profit ECEC sectors, UWU does not support the exclusion of workers in the for-profit ECEC sector from accessing PLSL. This exclusion is inconsistent with the underlying policy drivers for PLSL and will cause confusion and division throughout the sector. We urge the Victorian Government to immediately remove this exclusion and provide access to PLSL for all ECEC workers.

We acknowledge that the Regulatory Impact Statement for the Draft Regulations seek to exclude this specific coverage issue from the purview of this review. However, this is an issue which goes to the underlying principal of such legislation; to make it fairer and easier for Victorians working in low paid, insecure industries to access the entitlements they deserve. This issue of coverage must be amended by the Victorian Government as a matter of priority. The alternative is a further devaluing of the ECEC sector at the hands of a State Labor Government.

## **Why PLSL is important**

As noted above, UWU strongly supports PLSL for workers in cleaning, security and community services and we commend the Victorian Labor Government for addressing long held inequities for workers in these industries.

Access to long service leave is a basic entitlement that UWU members have been fighting for over many years and is grounded in policy advantages for both workers and business alike. Workers benefit from having paid time away from their employment to improve health, work-life balance and their ability to productively contribute to work when they return. Business benefits from improved retention of experienced workers, higher productivity and improvements to employee health and safety.

As has been clearly established, many workers, through no fault of their own, are unable to work with the same employer long enough to qualify for LSL. This often occurs in industries that are project based (cleaning and security), where work is highly transient (care sector) or where the organisation is reliant on government funding (community). Further, labour mobility is highest in industries characterised by high rates of contract and casual labour, such as the security services and contract cleaning industries and highly feminised industries such as the care sector. Without a PLSL scheme these workers are denied practical access to LSL.

This PLSL scheme will restore an entitlement, intended to apply to all Victorian workers, to groups of workers who are currently missing out. It will further act to address particular disadvantages which arise when low paid workers are deprived of this entitlement. Access to LSL will address the resultant negative impact on health and families, meet best practice standards set by other jurisdictions and deliver economic benefits to business. However, in order to successfully deliver these benefits, the scheme must be inclusive for all workers in specified industries and must not seek to arbitrarily carve out parts of the sector.

## **The ECEC Sector**

As the union for ECEC workers we represent early childhood directors, teachers and educators across Australia. We have members in every state and territory working in both for-profit and not-for-profit organisations. Our members are fighting for a sector that ensures every child can access the early education and care they need and that every educator is properly valued for their work.

While there is a consensus across the sector that quality matters in ECEC, a gap still exists between theory and practice when it comes to how we value early education and the people who provide it. Early childhood educators are a qualified, highly skilled workforce whose professionalism remains under-recognised. The difficulty in attracting and retaining qualified and experienced staff poses a critical barrier to ensuring a qualified, highly skilled, and sustainable workforce in the ECEC sector.

Policy intervention in this sector by Government must acknowledge that this is a low paid, insecure highly feminised workforce and must address these issues, not further entrench them.

## **Low pay**

Although ECEC is recognised as an essential service that provides over one million children with the best possible start in life, the work of early childhood educators remains underpaid. Early childhood educators deserve professional wages for professional work, but they earn about one third less than

those educating children just a few years older. Like other education sectors, early education involves the creation of individualised, developmentally appropriate learning programs and requires qualified educators and teachers to develop, deliver, and evaluate these programs.

Most educators in Australia meet the official OECD and Fair Work Commission definition of 'low-pay workers', in that their wages are less than two-thirds of the median wage.<sup>1</sup> Certificate III qualified educators only earn around \$21 an hour, half the average workforce wage.<sup>2</sup> Moreover, in male-dominated industries, electricians and metal workers, most of whom have equivalent Certificate III qualifications earn \$15 more per hour than Certificate III qualified educators.<sup>3</sup>

Recent research by the University of Queensland revealed that 20 per cent of the workforce intends to leave the sector in the next 12 months because survival on current wages is too hard, and many can only afford to stay in the sector because they are financially supported by their partner's wage.<sup>4</sup>

Professional pay is key to raising quality across the system; arresting existing levels of employee turnover; attracting the best and the brightest new recruits to the sector; offering educators rewarding career paths; and developing the potential of our children. It is key to a world-class ECEC system.

### *Female workforce*

Australia's labour market is one of the most gender-segregated in the world, and ECEC is one of the most gender segregated industries in our economy. In long day care, 96.1 per cent of the workforce is female.<sup>5</sup> Ensuring professional wages for educators is also a crucial step in redressing the imbalance between women and men's earnings in Australia and improving the quality and status of jobs in female-dominated fields.

The Federal Government must recognise the endemic low pay that characterises gender-segregated occupations like ECEC and assume a proportionate role in addressing this inequity. For too long ECEC has been economically and socially undervalued due to its historical association with unpaid 'women's work'. While such attitudes have been largely removed from policy debate in recent years, it is important to acknowledge that award dependency and generally low base rates of pay in the sector are attributable to this historical legacy of gender inequity. Understanding this legacy is crucial to explaining why the vast bulk of the workforce continues to remain at (or barely above) award level rates of pay. The social undervaluation of work performed by ECEC professionals persists, a situation reflected in the continued segmentation of labour markets along gender lines.

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<sup>1</sup> Broadway, B. & R. Wilkins (2015) *Low-paid women's workforce participation decisions and pay equity*, Melbourne Institute of Applied Economic and Social Research, Fair Work Commission, p. 9. Accessible at: <https://www.fwc.gov.au/documents/documents/payequity/low-paid-womens-workforce-participation-18dec2015.pdf>; OECD (n.d.) *Wage levels*, accessible at: <https://data.oecd.org/earnwage/wage-levels.html>

<sup>2</sup> Full-time adult average weekly ordinary time earnings' <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6302>.

<sup>3</sup> Government Jobs Outlook data here <http://joboutlook.gov.au/occupation>.

<sup>4</sup> Irvine, S., K. Thorpe, P. McDonald, J. Lunn and J. Sumsion (2016) *Money, Love and Identity: Initial findings from the National ECEC Workforce Study*. Summary report from the national ECEC Workforce Development Policy Workshop, Brisbane, Queensland: QUT.

<sup>5</sup> 2016 Early Childhood Education and Care National Workforce Census.

### *Insecure work*

In addition to low wages, many educators are employed on an insecure basis. Over 58 per cent of educators work under part-time or casual arrangements that are not necessarily of their own choosing.<sup>6</sup>

### *Turn over*

Anecdotally, members have a high level of professional satisfaction with their jobs, seeing value in their work as educators and taking pride in their strong relationships with children, parents and colleagues. Yet, there is a consensus that a stable and lasting career in the sector is made difficult by the low pay and lack of status and recognition in the broader community. This can lead to stress and make a career in ECEC undesirable for many in the medium to long-term, thus leading to high turnover in the workforce as many workers 'burn out'. Turnover in the sector is estimated to be approximately 37 per cent per annum, roughly double the national average turnover rate.<sup>7</sup>

Employee turnover represents an unnecessary loss of skill and experience and movement between centres, and ultimately out of the sector, has a damaging impact on the quality of ECEC.<sup>8</sup> Every time an educator leaves their position, or the sector altogether, the impact is felt by dozens of children. The departure of an educator similarly affects their colleagues. Those who remain must modify their roles or take on new tasks to make up for the staffing disruption; this can disturb centre routines and cause unnecessary stress to children.

Research suggests that while some educators leave the sector altogether, some qualified educators move around providers looking for marginal gains in pay and conditions.<sup>9</sup> This is enabled by a significant under-supply of qualified educators and the vast number of providers in operation in Victoria. Victoria currently has 4,264 registered services, 1,639 of which are long day care centres.<sup>10</sup> Every time an educator leaves a provider, they lose their continuity of service and any access to LSL entitlement.

### **The Victorian PLSL Legislation**

The current Victorian PLSL legislation is failing all ECEC workers. UWU does not support the exclusion of ECEC workers who are employed in for-profit organisations from accessing PLSL benefits.

Approximately 49 per cent of all long day care centres in Australia are private for-profit organisations.<sup>11</sup> Similarly in Victoria, 47 per cent of long day care centres are run by private for-profit

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<sup>6</sup> 2016 Early Childhood Education and Care National Workforce Census.

<sup>7</sup> Irvine, S., Thorpe, K., McDonald, P., Lunn, J., & Sumsion, J., (2016, May). *Money, Love and Identity: Initial findings from the National ECEC Workforce Study*. Summary report from the national ECEC Workforce Development Policy Workshop, Brisbane, Queensland: QUT.

<sup>8</sup> Whitebook, M., D. Phillips and C. Howes (2014), *Worthy Work, STILL Unlivable Wages: The Early Childhood Workforce 25 Years after the National Child Care Staffing Study*. Centre for the Study of Child Care Employment, University of California, Berkeley, p. 6.

<sup>9</sup> Irvine, S., Thorpe, K., McDonald, P., Lunn, J., & Sumsion, J., (2016, May). *Money, Love and Identity: Initial findings from the National ECEC Workforce Study*. Summary report from the national ECEC Workforce Development Policy Workshop, Brisbane, Queensland: QUT.

<sup>10</sup> ACECQA, NQF Snapshot, March 2020.

<sup>11</sup> Ibid.

providers.<sup>12</sup> By excluding this proportion of sector, as a result, almost half of the Victorian ECEC sector will be denied access to PLSL under the Victorian legislation.

Further, it must be acknowledged that this policy, as drafted, will have the effect of driving up costs for the not-for-profit sector without any corresponding increase for for-profit providers. For-profit providers will become comparatively cheaper to operate causing division within the sector which may result in downward pressure on working conditions and quality. In order to stay financially competitive, not-for-profit providers will likely be forced to increase fees for parents or lower wages for educators.

Dividing the sector in this way means that while some educators may gain access to PLSL their existing working conditions may be at risk as a result, and excluded educators (almost half the workforce) are no better off. As noted above, Government policy intervention in this sector must improve existing workforce issues, not further entrench them.

### **Conclusion**

Access to PLSL for all educators in the ECEC sector will go some way to addressing some of the inequities of the sector. However, this will only be so if it applies to all workers. No other industry is subject to such a harsh carve out, similarly the ECEC sector should not.

We know that lost long service leave is worst felt by low-income earners. Low rates of pay mean that most low paid workers are unable to meet essential needs for themselves and their families such as health care and education. Without entitlements like long service leave these workers are placed under a heightened financial burden, impacting their physical and mental health.

We urge the Victorian Government to amend the legislation to give all ECEC workers the access to PLSL that they deserve.

Please contact Megan Berry if you have any further question regarding this submission on [Megan.Berry@unitedworkers.org.au](mailto:Megan.Berry@unitedworkers.org.au)



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<sup>12</sup> Ibid.