



INSECURE FORMS OF WORK IN THE WA PUBLIC SECTOR

Produced by the CPSU/CSA

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Introduction

The public service was traditionally a place of permanent, secure work. In recent times, however, insecure forms of work - that is, employment that provides little social and economic security and little control for workers over their working lives¹ - have become a growing trend in the WA public sector. Fixed-term employment contracts, part-time work, casual work, higher duties, and labour hire are all forms of insecure work that are becoming more common in the public service, with fixed-term contracts being particularly ubiquitous throughout the sector.

This growing trend of insecure forms of work is not only an issue of concern for the individual workers affected, but also for the broader community. As explained by Maxine Murray, former Commissioner for Public Sector Standards, two core principles of public sector governance “...are the permanency of public servants (who do not change when the government does); and the neutrality or political impartiality of the public service.” It is in the community’s interest to have a permanent, independent public service which can provide ‘frank and fearless’ advice to the government of the day.

Insecure work undermines these fundamental Westminster principles that are the basis of the WA political system. Public servants who are insecure in their employment could be compromised or limited in their ability to give ‘frank and fearless’ advice to the government of the day, due to the tenuous nature of their employment. Additionally, the loss of knowledge and skills from the sector when workers’ contracts expire, or they seek secure work outside of the sector, is likely to have a detrimental impact on the quality of the public service as a whole. It is also particularly important that members of the Senior Executive Service (a cohort of executive officers in the WA public service with managerial responsibilities in agencies) are appointed permanently to ensure a politically neutral public service. A permanent workforce is essential for ensuring a public sector that can uphold these principles in order to best serve the community.

This submission will give an overview of the types and prevalence of insecure forms of work throughout the WA public sector, and offer some explanation for the rise in insecure work in the public sector. The most common forms of insecure work in the public sector will be examined, with particular regard to the impact of this type of work on employees, and some solutions will be offered for a way forward for employment in the WA public service.

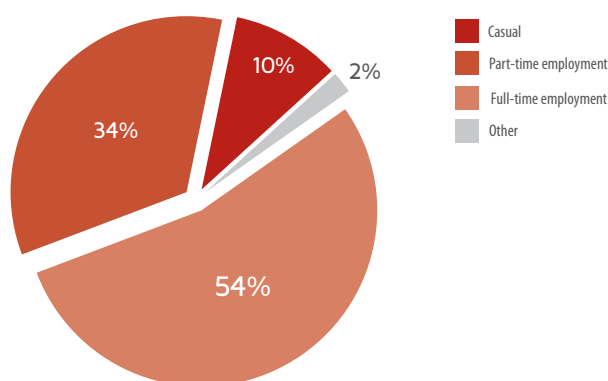
¹ ACTU, *Insecure work, anxious lives: the growing crisis of insecure work in Australia* (2011), p. 6.

² Office of the Public Sector Standards Commissioner, 10 year review No. 2, ‘Principles of Public Sector Recruitment and Employment’ (2006), p. 5

SECTION 01: Overview of employment in the WA public sector

The most recent and complete figures relating to public sector employment are from June 2009: then the WA public sector employed 147,124 employees (representing 113,850 FTE)³.

FIG. 1: Employment arrangements as percentage of total WA public sector workforce ⁴



The WA public sector gender profile is comprised of women (68%) and men (32%). Women comprise a significantly higher proportion of the public sector workforce, as compared to 46% in the total WA workforce⁵, however men are more likely to be in permanent employment, and women are more likely to be in fixed-term and casual employment.

TABLE 1: Employment arrangements as percentage of total WA public sector workforce by gender⁶

GENDER	PERMANENT	FIXED TERM	CASUAL	OTHER
Female	68.3%	19.2%	11.3%	1.3%
Male	77.2%	14.0%	6.2%	2.6%

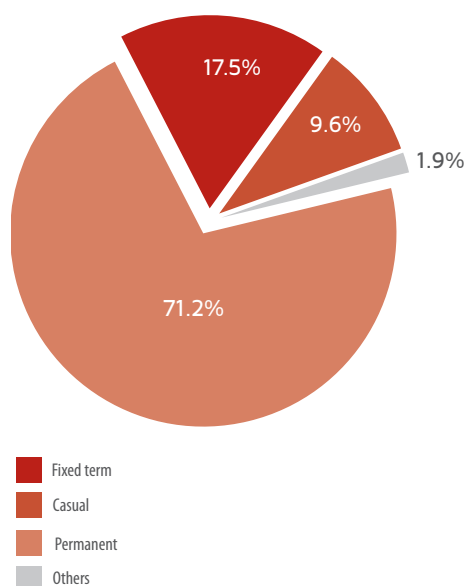
³ Public Sector Commission, 'Public Sector Workforce Profile 2009' (2009), p. 6.

⁴ Ibid., p. 9. NB: All percentages are rounded to the nearest decimal place

⁵ Public Sector Commission, 'Public Sector Workforce Profile 2009' (2009), p. 12.

⁶ Ibid., p. 13.

FIG. 2: Employment arrangements as percentage of total WA public sector workforce



Figures that show the current overall level of permanent, fixed-term and casual employment across the WA public sector are not readily available. By extrapolating from the figures in Table 2 (p2) and based on the 2009 figure of 147,124 employees in the WA public sector, however, Fig. 2 (above) shows the approximate levels of various modes of employment in the public sector.

The level of permanent employment in the WA public sector has declined significantly – in 1994 85% of employees were permanent; compared with 71.2% in 2009⁷ – the levels of permanency in the WA public sector have reduced almost 14% within a 15 year period.

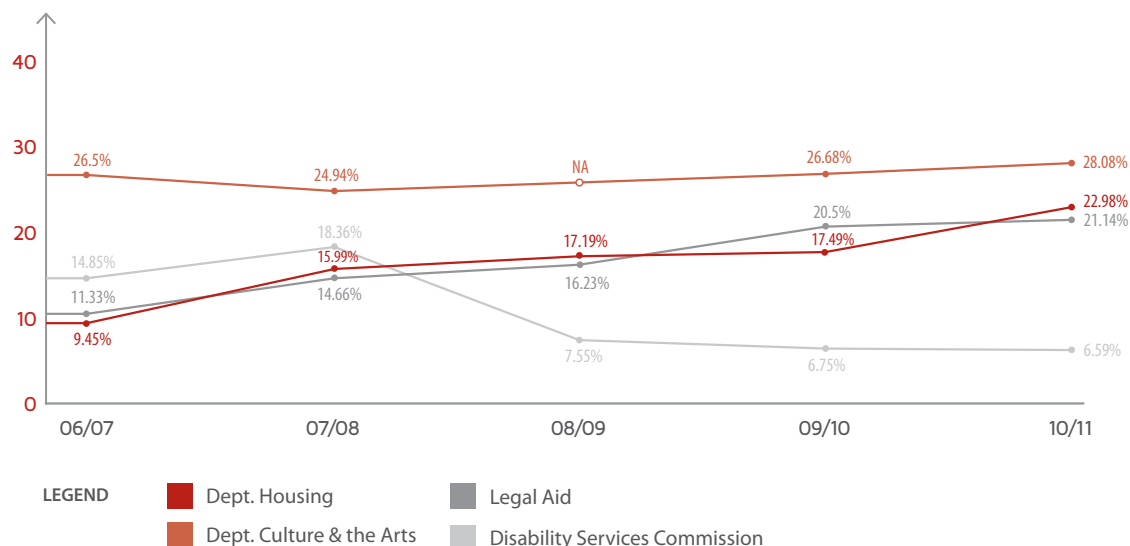
A report released by the Public Sector Commission in November 2011 also supports the assertion that

fixed-term contracts are on the rise in the public sector, while the number of permanent positions advertised is declining. The report noted that in 2010–11 permanent positions represented 47.5% of all advertised vacancies in the WA public sector, compared with 51% for 2009–10. This corresponded with an increase in the proportion of fixed-term positions which represented 33.7% of vacancies in 2010–11, compared with 31% in 2009–10.⁸

An examination of the level of contract employment of four government agencies over the last five years generally supports the assertion that contract employment is on the rise (Fig. 3). The cases where contract employment appears to have decreased slightly can be explained by the implementation of “FTE ceilings” on employment in many government agencies. In 2009 the newly elected Liberal-National Coalition government led by Premier Colin Barnett implemented an “efficiency dividend”, which meant that each agency had to cut 3% from its budget, and many agencies had to impose arbitrary FTE ceilings. Due to the FTE ceilings, many agencies simply did not renew the contracts of fixed-term workers. This policy can account for the slight dip in contract use in some government agencies.

The analysis provided thus far is based on the WA public service as a whole. The CPSU/CSA represents a significant number of employees across all WA government agencies. As of June 2009, there were 42,282 workers in the WA public sector under CPSU/CSA coverage, with an equivalent FTE of 35,538.03⁹

FIG. 3: Workers on contract (%) across 4 public sector Departments/Agencies 2006-2011¹⁰



⁷ Ministry of the Premier and Cabinet, ‘Profile of the Western Australian State Government Workforce’ (1998), p. 20.

⁸ Public Sector Commission, ‘State of the Sector Report’ (2011), p. 88.

⁹ Based on a statistical analysis provided to the CPSU/CSA by the PSC in June 2009 relating to employees covered by CPSU/CSA agreements.

¹⁰ Figures provided sourced from agency annual reports

One group of workers not mentioned below is labour hire workers. The government does not collect data on the engagement of labour hire workers throughout the public sector; anecdotally, however, we know that labour hire is widely used throughout the public sector. For more information on labour hire workers, see section 3.5.

TABLE 2: Employment arrangements of WA public sector workers under CPSU/CSA coverage¹¹

EMPLOYMENT ARRANGEMENT	# OF EMPLOYEES	% OF EMPLOYEES
Permanent Full Time	24,628	58.2%
Permanent Part Time	8,684	20.5%
Fixed-Term Full Time	4,278	10.1%
Fixed-Term Part Time	2,591	6.1%
Casuals	1,446	3.4%
Trainees	150	0.3%
Sessionals	311	0.7%
Others	194	0.4%

TABLE 3: A comparison of employment arrangements between workers in the WA public sector as a whole and workers under CPSU/CSA coverage

	PERMANENT	FIXED TERM	CASUAL	OTHER (includes Trainees & Sessionals)
WA Public Sector	71.2%	17.5%	9.6%	1.7%
CPSU/CSA	78.7%	16.2%	3.4%	1.4%



SECTION 02: Factors leading to the increase in insecure work arrangements for CPSU/CSA Members in the WA public sector

There are a number of reasons why insecure work arrangements are increasing and permanent jobs are decreasing in the WA public sector. In general, a workforce of employees in insecure forms of work is a more compliant, passive workforce than workers who are secure in their employment. As noted in ACTU’s report *Insecure work, anxious lives: the growing crisis of insecure work in Australia*, workers in insecure work are less likely to join unions and to speak out on issues in their workplace such as occupational health and safety, pay, and conditions.¹² So the move towards insecure work can be seen as an erosion of worker power in the workplace.

¹¹ Based on a statistical analysis provided to the CPSU/CSA by the PSC in June 2009 relating to employees covered by CPSU/CSA agreements. NB: Percentages are rounded to the nearest decimal place, and so do not add up to 100%.

¹² ACTU, *Insecure work, anxious lives: the growing crisis of insecure work in Australia* (2011), p. 12.

In terms of the WA environment, the Barnett government has a clear agenda to privatise and outsource public service functions to not-for-profit organisations and private companies. On being elected in 2008 one of the first actions of the Barnett government was to establish the Economic Audit Committee to conduct a wide-ranging review of the public service. In 2009 the Committee released its report called Putting the Public First: Partnering with the Community and Business to deliver outcomes. The report recommended that the public service should act as a facilitator of services, rather than a direct provider, “with all areas of service delivery opened to competition.”¹³ Premier Barnett voiced his support for the substance of the report, stating that his government would shift the delivery of services away from government agencies.¹⁴ Privatising public sector functions brings with it a deterioration of job security, wages and conditions. The WA public service is better unionised than the private sector, so when public services are outsourced to private companies and not-for-profit organisations, these less unionised sectors deliver less job security, wages and conditions to workers. Thus the Barnett government’s

agenda of privatisation presents a threat to the secure work that exists within the public sector if those functions are privatised and those permanent public sector jobs become insecure private sector jobs. The agenda of privatisation coupled with the government policy of public sector cut-backs (as evidenced by the aforementioned ‘efficiency dividend’ policy of 3% cuts across the board and FTE ceilings) creates an environment and an incentive for employers to move towards employing people in insecure forms of work, because those people are easier to dismiss than permanent staff in the event of a government cut-back or selling off of a government function to the private sector. This uncertainty can be used as a rationale for government agencies to employ workers on contract until the agency ‘review’ or ‘restructure’ is finalised – a process which can take years.

CPSU/CSA members are cognisant of this issue of insecure work and the way it intersects with and is exacerbated by government cut-backs and privatisation. This is evidenced by ‘job security’ being ranked as the most important issue to CPSU/CSA members in a recent survey.¹⁵

SECTION 03: Types of insecure work for CPSU/CSA Members in the WA public sector



In November 2011 the CPSU/CSA sought feedback from workers in a mix of government agencies to investigate the prevalence of insecure work, and the impact of insecure work on individuals. Over 500 workers provided feedback to the CPSU/CSA; the majority through face-to-face conversations with CPSU/CSA organisers, and a small number of workers provided feedback online. The subsections below explore the most common types of insecure work in the WA public sector, and the impacts of these work arrangements on employees.

3.1: FIXED-TERM CONTRACT

As outlined in Section 1, the most prevalent form of insecure work in the public sector is fixed-term contract. There are legitimate reasons why a worker may be engaged on a fixed-term contract; as specified in clause 8(5)b the Public Service Award 1992:

In exercising their employing authority employers may only employ a person as a fixed term contract officer in the following circumstances:

- (i) covering one-off periods of relief;
- (ii) work on a project with a finite life: Where a project is substantially externally funded including multiple external funding, the employer must present a business case supporting the use of fixed term contract officers in such positions to the Peak Consultative Forum. Where external funding has been consistent on an historical basis and it can be reasonably expected to continue the employer shall assess the percentage of positions for which permanent appointment can be made;

¹³ Economic Audit Committee, Putting the public first (2009), p. 9.

¹⁴ Colin Barnett, ‘Supporting WA’s most vulnerable’, Premiers Media Release (May 13 2010).

¹⁵ By a clear margin, the issue that was ranked in first position as most important was job security (43% selected as their top ranked issue), and 72% of respondents put this issue in their top three.

- (iii) work that is seasonal in nature;
- (iv) where an officer with specific skills is not readily available in the public sector is required for a finite period; or
- (v) in any other situation as is agreed between the parties to this Award.¹⁶

Due to these legitimate reasons, there will always be a number of workers engaged on fixed-term contracts in the public sector. However the number of workers presently engaged in fixed-term contracts is high, which points to the widespread misuse of contract employment in the public sector. Anecdotally, some government agencies have a tendency to use contracts as de facto probation periods; i.e. new employees are engaged on a fixed-term contract, after which they may be made permanent or have to merit select for a permanent position. One worker stated that they were on a 6 month contract and they stated that this was “a probation period with a view to becoming permanent.” This misuse could be because there is a misconception that it is difficult to dismiss permanent workers in the public sector, and so employers could be taking the lazy way out – rather than manage underperforming staff through the various mechanisms that exist (such as the 3 month probation period at the commencement of employment), employers are simply engaging people on fixed-term contracts in order to not renew the contracts of underperforming workers. This is extremely unfair for the worker involved, who has the right to be made aware of their underperformance and given the chance to improve. Non-renewal of a contract in place of performance management is unjust, and can have a detrimental effect on the confidence of the worker, who in some cases may have no idea that they were deemed to be underperforming. The WA community should be able to have confidence in the government to treat it’s public servants fairly.

Of the workers who provided feedback on insecure work, fixed-term contracts were overwhelmingly viewed as a negative employment arrangement. Only a few workers indicated that being on contract had no negative consequences for them, and that they preferred the freedom and flexibility of being on contract.

The most common impact of being on a fixed-term contract for employees who provided feedback was a lack of financial security and ability to plan for the future, eg. difficulty accessing bank loans. As these workers explain:

“I can’t access loans, and I have no long term security to assist with family planning – i.e. I can’t take maternity leave.”

– fixed-term contract employee,
Department of Environment & Conservation.

“I don’t feel secure in my job, and I can’t get a loan as I am not permanent.”

– fixed-term contract employee who has
had a 3 month contract renewed 7 times,
Department of the Attorney General.

“[Fixed-term contracts] made it hard to gain necessary pre-requisites to apply for home loans because there was never any guarantee that I would be employed long enough to be able to pay those loans back.”

– former fixed-term contract employee, WA Police
Department

This lack of security is particularly difficult when the worker is the sole bread-winner. The lack of certainty about future employment puts a lot of stress on the employee, both emotionally and financially, and this stress can also often impact the employee’s family. This stress can also cause or exacerbate existing health issues.

“There is a total lack of financial security...I am a single mum with 4 kids.”

– fixed-term contract employee,
Department for Child Protection.

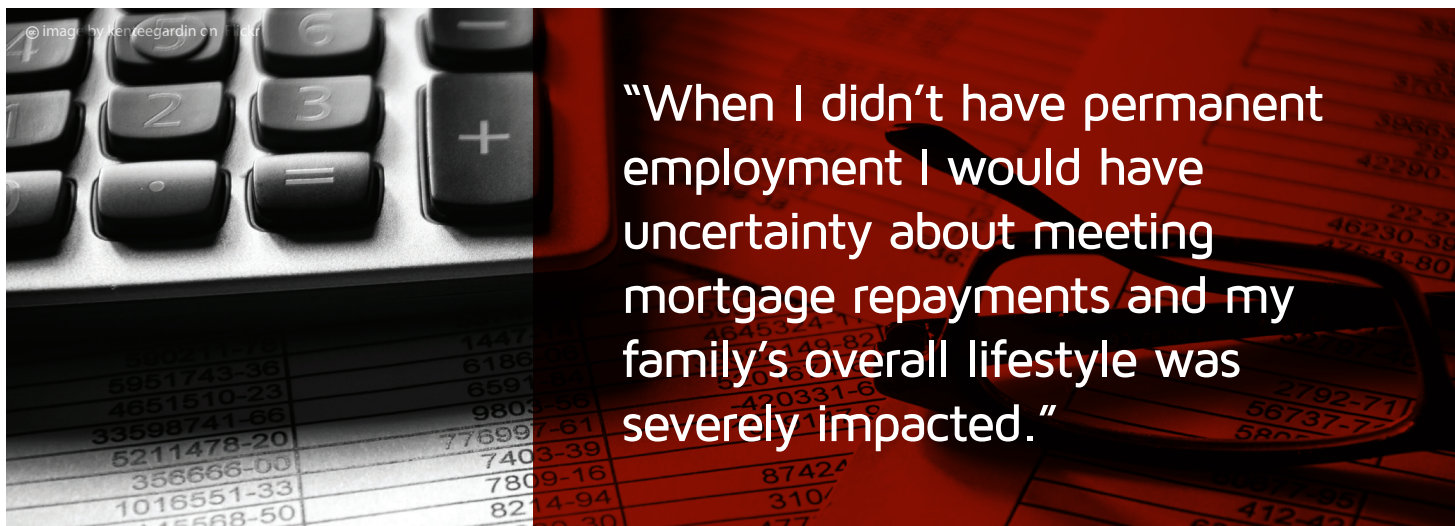
“I am a 40 year old single father with no partner. As my income is our household’s only income I have found it impossible to secure a housing loan and at times had difficulty in securing leases as I do not have permanent employment.”

– fixed-term contract employee,
Department of Education.

“When I didn’t have permanent employment I would have uncertainty about meeting mortgage repayments and my family’s overall lifestyle was severely impacted.”

– former fixed-term contract employee in the
Department of Environment & Conservation.

¹⁶ Public Service Award 1992, Clause 8(5)2.



“When I didn’t have permanent employment I would have uncertainty about meeting mortgage repayments and my family’s overall lifestyle was severely impacted.”

“I am currently working on a full time fixed term contract and have been for the last 14 months. My position is due to be advertised at the end of the month and I have to apply for it. This is causing me great stress and anxiety, knowing that even though I have been in this position for over a year I may still not be successful in acquiring this position permanent fulltime. I am renting in public housing, and I have been given notice to vacate as I am currently earning too much money... All this uncertainty with my work is impacting on my living and my health as I have chronic depression and heightened anxiety that I am being treated for, and my employer was aware of this condition when I started working here.”

– fixed-term contract employee, Lotteries West

Due to their insecure work arrangements, many of these workers find it difficult to access leave provisions. Many workers on short-term contracts do not have the opportunity to accumulate much annual leave. As these workers explain:

“...having no leave accrued makes things difficult, particularly around Christmas.”

– fixed-term contract employee,
Department of the Attorney General.

“I could not plan annual leave, because my contracts only lasted 3 months at a time and there meaning there was no real insight as to being able to plan any type of extended leave...I had no guarantees of ongoing employment to be able to freely plan my life around work.”

– former fixed-term contract employee, WA Police
Department

Fixed-term contract workers are not given access to purchased leave, and rarely have access to long service leave - despite the fact they may have worked in the WA public sector long enough to be eligible:

“I’m close to being eligible for long service leave, but will lose that if there is a break in my contract.”

– fixed-term contract employee,
Department of Housing.

“I am now permanent, but before that I was bouncing from contract to contract, all the while losing accrued leave and entitlements.”

– former fixed-term contract employee,
Department of the Attorney General.

Workers on fixed-term contracts also note that they have limited access to training and career development opportunities: one worker on short-term based project funding had her contract renewed 22 times, and was frustrated by her inability to gain career development opportunities such as being a member of various internal departmental committees.

The misuse of fixed-term contract employment also has a negative effect on the corporate knowledge of the public sector, as this worker notes:

“There are too many people on contract, and when their contract is up and they leave, their experience leaves with them.”

– permanent employee,
Department of Housing.

This loss of corporate knowledge from the public sector, coupled with the loss of corporate knowledge from long-serving employees retiring and others

leaving the sector to capitalise on the private-sector mining boom, can only be detrimental to the quality of public service delivery in Western Australia.

3.2: PART-TIME

Part-time employment is relatively common in the WA public service, with many workers taking up this form of employment to fit in with caring responsibilities, for example. Part-time workers can be employed on either a permanent or contract basis. Permanent part-time employment tends to work well for employees - it offers more flexibility to fit in with caring responsibilities than full-time employment, while permanency offers more security and stability than casual employment or contract part-time employment. Permanent part-time employment enables employees to maintain their career paths, while offering a balance between their work-life and their personal-life. This mode of employment is also positive for

employers, as it generally means that employees are more likely to stay with the government agency for longer periods of time, despite changes in their life (ie. returning to work after having children, phasing into retirement, etc). The exception to this overwhelmingly positive view of permanent part-time employment is a small group of workers in the Department for Child Protection who expressed dissatisfaction with their part-time status – they wish to work full-time hours (see case study 1).

The option to work permanent part-time is generally taken up by those employees already in permanent full-time positions in the public sector; those outside the sector who are seeking to enter government to work part-time tend to be employed on a fixed-term contract basis. Of the workers who provided their feedback on insecure work to the CPSU/CSA, part-time workers who expressed dissatisfaction with their current arrangement were those who were on fixed-term

contracts – they did not express dissatisfaction with part-time status, but were dissatisfied with their fixed-term contract status, and wished to work permanent part-time. The reasons for their dissatisfaction were the same as those reasons cited in section 3.1; however, undertaking contract part-time work was the only way this group of workers could achieve the balance they needed. Had a permanent part-time option been offered, this would have been preferable for these workers.

CASE STUDY 1: FAMILY RESOURCE EMPLOYEES IN THE DEPARTMENT FOR CHILD PROTECTION

Family Resource Employees (FRE's) are an occupational group in the Department for Child Protection. Their role is to provide supervision and transport to families, children and young people as well as providing information and support to families about how to access the Department and community resources provided for them. They also provide support services to the metropolitan district offices. As at June 2009, there were 166 FRE's employed by the Department for Child Protection, with an equivalent FTE of 69.21. FRE's are employed at level 1, and the vast majority of FRE's (the figure at June 2009 was 140) work a permanent part-time arrangement, with an additional 24 employed as fixed term part-time, and 1 person employed on a fixed-term fulltime basis, and another on a casual basis. The vast majority of FRE's are women; at June 2009 146 females and 20 males were working as FRE's.

With the exception of two, all FRE's are employed on a part-time basis, and the vast majority pick up casual shifts to the point where in reality they are working full-time hours. FRE's rely on these additional casual hours to boost their take-home pay, however FRE's generally express that they would like these casual hours to be permanently allocated to them, so they can have the security of full-time permanent employment. Since these additional hours are not guaranteed, it is often used as a way for management to divide the workforce and "play favourites" with the staff.

This puts FRE's in a precarious position – many are afraid to speak out on workplace issues for fear of losing the additional casual hours.

The part-time with additional casual hours arrangement has many negative effects on FRE's: whenever FRE's take leave, they are only paid for their permanent days – this makes the prospect of taking annual leave unattractive for many; as one FRE says: "I can't afford to take holidays." Similarly, if a FRE is sick on a casual work day, it can negatively impact their financial situation. FRE's report that this work arrangement means that they have very limited financial security, as one FRE notes: "I would like to increase my permanent hours...15 hours is not enough to ensure financial planning and security; I'm finding it hard to get a loan." The casual shifts can also have a negative impact on the work-life balance of FRE's, with many of the shifts being split-shifts to accommodate the clients before and after school.

FRE's undertake challenging work in difficult environments; they often have to deal with aggressive clients, and facilitate prison and hospital visits. FRE's undertake this work individually, and are concerned about the safety implications of working alone. This issue is further compounded for FRE's in regional areas who often have to drive long distances to undertake their work. Due to the tenuous nature of their employment, however, FRE's are often worried that raising Occupational Health and Safety issues with their employer will result in them not receiving additional casual hours.

FROM _____ TO: _____
(Leave dates should be inclusive, ie first day and last day)

	Hours	
Annual Leave *		Personal
Purchased Leave		Parental L
Leave Without Pay		Parental L
Long Service Leave		Bereaveme
Witness/Jury Duty		Other Leave
Dates of accrued Rostered Days Off (Days Owing)		
RDO in lieu:		
Public Holidays		

3.3: CASUAL

Although casual work is less widespread in the WA public sector than in the private sector, there are pockets of casual workers throughout the public sector. Of the workers who provided their feedback on insecure work to the CPSU/CSA, the majority of casual employees were dissatisfied with their employment arrangement. Those who were dissatisfied were either seeking permanent employment, or were working casual arrangements because they perceived it was the only way they could gain flexibility to balance with their caring responsibilities:

"I'm casual, but I don't want to be. There is too much insecurity, but I enjoy the ability to take school holidays off."

– Casual employee,
Department of Training and
Workforce Development.

"My shifts change every week, so I have difficulties with stability and with getting loans."

– Casual employee, Legal Aid.

"I don't want to be casual...There's no sick leave, no holidays"

– Casual worker, Department of Water.

These workers have no job security, and no access to rights and entitlements enjoyed by other public sector workers, such as personal leave and annual leave. It should be noted that some of the casual workers who provided feedback were satisfied with their current employment arrangement. This was a particular group of workers aged 20-29, currently studying at University, and working in the "Info-Line" call centre in Legal Aid.

The above information indicates that the majority of casual workers in the public sector are seeking an employment arrangement that offers flexibility to fit in with personal commitments, and these workers are also seeking job security and entitlements such as leave. Casual employment should not be used to fill the ongoing, long-term needs of government agencies; instead, permanent part-time arrangements would be better suited to filling this need. This would provide workers with the flexibility, job security, entitlements and career path they are seeking. Although there is a pocket of workers in Legal Aid who are satisfied with their casual employment arrangements as it fits in with their study schedules, it could be that if the option was available, these workers may choose to take up permanent part-time employment for the reasons of job security and accessing other entitlements associated with permanent work. The data on whether casual workers are engaged legitimately (ie. for short-term, sporadic needs, rather than on an ongoing basis for a long period of time) is not readily available, and this will have to be further explored to determine whether government departments are using casuals for legitimate purposes.

3.4: HIGHER DUTIES

There are many instances of employees undertaking higher duties – ie. acting in higher level positions throughout the WA public sector that are vacant because the employee is on extended leave, on secondment, etc. Undertaking higher duties is an opportunity for professional development and career advancement. It is difficult to get data on how many employees across the public sector are acting in a higher position and how long they have been acting for, however anecdotally we know that there are many people who are undertaking higher duties for an extended period of time in the public sector. This can often create uncertainty and stress (emotional and financial) for the employee.

As one worker states:

"I have spent 4 years [acting] at level 4, and now am being sent back to my substantive level 2."

– permanent employee
undertaking higher duties,
Department of the Attorney General.

Workers who have been undertaking higher duties for an extended period of time cite similar difficulties workers in other forms of insecure work in applying for loans and having financial stability. Again, it is difficult to quantify whether higher duties are being widely misused across government, however anecdotally we know of instances where an employee will be undertaking higher duties for years in a position that is vacant but has just not been advertised. If senior positions are left vacant, this can create a significant flow-on effect with many workers undertaking higher duties down the line. To minimise this, it is essential that vacant positions are permanently filled in a timely manner. In other instances, the relentless restructuring and realignment of government agencies leads to situations where workers can be undertaking higher duties until the restructure is finalised. This process can take years, and leads to a cascading effect where several workers down the line are undertaking higher duties. This is inefficient, and leads to an uncertain, insecure situation for workers.

3.5: LABOUR HIRE

Labour hire/external contractors are prevalent throughout government, most commonly to carry out IT and administrative functions. In specific instances, a small number of labour hire workers are engaged to provide specialist knowledge and skills not available in the public sector, however the majority of labour hire workers provide services that could easily be provided directly by the public sector. The policy of FTE ceilings may have exacerbated the use of labour hire, as agencies are unable to employ more staff to carry out necessary functions, however the use of labour hire is not counted under the FTE ceiling. Labour hire are perhaps the most vulnerable category of workers, however they are also the category we know least about as they are widespread throughout agencies, there can be high staff turnover, they are a transient workforce, and these workers are not covered by the CPSU/CSA.

The labour hire staff who provided the CPSU/CSA with feedback were all dissatisfied with their employment arrangement – many expressed a

desire to become permanent staff. One employee in the Department of Housing commented that they had been a labour hire "temp" for 18 months, and was seeking to be made permanent, however there were "no positions available." Labour hire employees expressed the same kinds of frustrations in regards to securing a loan and having job security as fixed-term contract and casual workers, and like casuals, were dissatisfied with the lack of leave (annual and sick leave):

"There is no annual leave, no sick leave, no job security."

– labour hire employee, Department of Finance.

"I'm not able to plan holidays, I have an uncertain future."

– labour hire employee,
Department of Agriculture and Food.

Similar to fixed-term contract and casual employees, labour hire employees stated that they do not have a career path:

"I have difficulties accessing loans, very low job security, and cannot achieve my career targets and personal targets."

– labour hire employee,
Department of Agriculture and Food.

Labour hire is a false economy for government departments. Although they have managed to circumvent the government's FTE ceiling by engaging labour hire, this comes at a significant financial cost. As one worker commented:

"Departments try to hide the costs of [labour hire] contractors – they are more expensive than permanent staff."

– permanent employee, Department of Housing.
In a similar way to the misuse of fixed-term contracts, engaging labour hire to do work that could be done by permanent public servants leads to a "brain drain" from the public sector – the loss of corporate knowledge and skills due to the transience of this workforce. The engagement of labour hire to do work that could be undertaken by permanent public servants is "privatisation by stealth" which erodes the working conditions and security of employment that have been long fought for by CPSU/CSA members.

CASE STUDY 2: LABOUR HIRE IN LEGAL AID

Legal Aid WA engages a high proportion of labour hire employees to undertake work that could be done by permanent public servants. Legal Aid has a 328 staff members (as at June 2011, WA public sector workforce report June 2011), plus a total of 94 labour hire/external contractors.

The labour hire contractors work in the following areas:

FINANCE:

- There are only a few labour hire employees in this area, and they appear to be contracted to fill vacancies.

INFORMATION MANAGEMENT:

- There are a number of independent companies who are contracted to supply IT support to Legal Aid.

CLIENT SERVICES:

- These workers are primarily law students who work casually at Legal Aid to provide phone advice to clients. Originally these workers were employed directly by Legal Aid, but moved to labour hire – apparently because Legal Aid did not have the resources to train staff, and the payroll system could not cope with a casual workforce.

EXTERNAL SOLICITORS:

- Legal Aid also employ solicitors that work for private firms. These solicitors work off-site at their own firms, however Legal Aid does pay these firms for their services (ie. these are not pro-bono services). The engagement of these external solicitors means that Legal Aid does not have to employ as many in-house solicitors.

SECTION 04: Conclusions

Insecure forms of work are rife throughout the WA public sector, and insecure work is growing, while permanent work is decreasing. In particular, the use of fixed-term contracts is widespread. The CPSU/CSA proposes the implementation of the following measures to counter the growing problem of insecure forms of work in the WA public sector:

- 1) **State government needs to ensure that it complies with provisions in the Public Service Award 1992 in relation to engaging workers on fixed-term contracts**

As outlined in section 3.1, there are some legitimate reasons for engaging employees on fixed-term contracts, however it is clear that fixed-term contracts are widely misused in the WA public sector. This has a detrimental impact on the individual workers, as well eroding the Westminster principle of a permanent public service. There is currently a lack of regulation over the engagement of fixed-term contract employees in the WA public sector. When government agencies advertise vacancies, they should be advertised as permanent, unless

they can demonstrate the need for a fixed-term contract as per the criteria set out in the Public Service Award. In order to ensure the principle of a permanent and politically neutral public service is upheld, the Senior Executive Service must also be permanently appointed.

- 2) **Government should collect data on the use of labour hire by public sector agencies, and identify areas where services could be provided directly by government**

The data on how many labour hire workers are employed by government agencies is not collected by the Public Sector Commission. There are a few legitimate circumstances where an agency could engage labour hire workers, such as to provide specific specialist knowledge or skills not available in the public sector, however by collecting the data on the use of labour hire it should become clear that agencies are engaging labour hire for illegitimate reasons. There is no reason why government could not provide IT, administration, and other services directly, employing workers on a permanent basis.

3) State government must abandon the use of the FTE ceiling for public sector agencies

The imposition of FTE ceilings on public sector agencies has exacerbated the use of labour hire by government agencies. The FTE ceiling is an arbitrary cap on the number of full-time equivalent staff an agency can employ in order to save costs for government. In reality, however, where agencies require more staff to achieve their outcomes, they employ labour hire workers as they are not counted toward the FTE ceiling. This produces an artificial cost saving on paper, however in reality it is a false economy – engaging labour hire companies costs a significant amount of public money, which is being directed towards a private company instead of being invested in the public sector. The money spent engaging labour hire companies needs to be invested in employing more permanent public sector workers to directly provide services.

4) State government must abandon its privatisation agenda

As outlined in section 2, the Barnett government's privatisation agenda is leading to a rise in insecure work. In anticipation of an area of government being privatised, an agency may employ workers on fixed-term contracts to avoid paying severances if and when the area is privatised. When a public service is privatised, the work will usually be more insecure, as private companies and not-for-profits provide less job security than the public sector.

5) Speed up processes of filling positions

Anecdotally we know that many vacant positions in government are not filled in a timely manner. This could be due to the perception that merit selecting new staff is onerous and time consuming, and requires a rigid process to meet public sector standards. As Maxine Murray argues, this could be due to the misconception that the Public Sector Management Act 1994 removed the right to appeal a recruitment decision on the basis of merit; instead workers can appeal on the basis of a breach of process. Murray argues that this has led human resource departments to rigidly observe the process, rather than applying flexibility while still conforming to the principles of merit selection.¹⁶ If agencies take a more flexible approach to recruitment, rather than simply a rigid application of process, it is likely that vacancies could be filled more quickly than at the present time.

The government has a responsibility to provide secure forms of work for public sector workers. This will ensure that workers can have job security, financial stability, an appropriate work-life balance, and access to rights and entitlements. Secure work in the public sector is also key to upholding the principles of good public sector governance – a permanent and impartial public service. The CPSU/CSA calls on the government to immediately rectify the growing issue of insecure work in the public sector to provide stable and secure work for public servants, so that they are better able to deliver frank and fearless advice to government, and quality services to the community into the future.

¹⁶ Office of the Public Sector Standards Commissioner, 10 year review No. 2, 'Principles of Public Sector Recruitment and Employment' (2006), p. 28.



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