



ASU Submission

Department of the Prime Minister and Cabinet

COVID-19 Response Inquiry

Submitter: Emeline Gaske, Assistant National Secretary

Organisation: Australian Services Union

Address: [REDACTED]

Phone: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

Date: 14 December 2023

Contents

The ASU	3
Executive Summary	3
Design flaws of JobKeeper	3
Local government workers	3
Community Services Sector	4
Casuals	4
Foreign Government-Owned Businesses.....	5
Airline Workforce	5
Disability Workforce	7
State Based Issues	8
ASU New South Wales and ACT Branch.....	8

The ASU

The Australian Services Union ('ASU') is one of Australia's largest unions, representing approximately 135,000 members. ASU members work in a wide variety of industries and occupations in both the private, public and community sectors.

Executive Summary

The JobKeeper scheme played a crucial role in steering the Australian economy through the pandemic, despite some costly design flaws.

Design flaws included limiting local government workers, casuals and those working for sovereign entities from accessing the crucial wage subsidy scheme and left many workers without pay.

JobKeeper also failed to impose restrictions on the behaviour of employers who received support, especially in the airline industry where companies such as Qantas used the scheme to run down employee leave entitlements, illegally made workers redundant, and manipulated the JobKeeper scheme to pocket workers' entitlements for overtime, public holiday and weekend allowances.

Both Qantas and Virgin have recently announced huge profits, with government COVID support initiatives going straight to their bottom line.

The ASU lobbied the government to change the design flaws in JobKeeper and to ensure government financial assistance be linked to employers committing to decent conditions and secure jobs for workers. We also argued that JobKeeper should be extended for workers in the aviation industry which bore the full brunt of COVID-19 restrictions. However, the government at the time ignored our calls.

Design flaws of JobKeeper

The JobKeeper scheme was the largest employer-directed wage subsidy in Australian history aimed at helping employees keep their jobs during the COVID-19 pandemic. Whilst the ASU was supportive of the scheme there were significant issues with the design of JobKeeper, with our members heavily impacted.

JobKeeper excluded many of the people and sectors hardest-hit by the pandemic and undermined the goal of keeping as many workers employed as possible.

Local government workers

JobKeeper excluded 194,000 local government workers and in response to COVID-19, many Local Councils stood down thousands of workers across libraries, leisure centres, art galleries, theatres and community centres. The ABS Public sector employment and earnings release shows a decrease of 8000 local government workers between June 2019 and June 2020. It wasn't until June this year that local government employment recovered to pre-COVID levels.¹

This left local government workers with no income support with many unable to pay their bills or put food on their table.

¹Australian Bureau of Statistics, Employment and Earnings, Public Sector, Australia [Online] <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/public-sector-employment-and-earnings/2019-20>

Enormous stress was felt by the entire local government workforce, with many not knowing if they would be stood down during the pandemic as it was left to individual Local Councils to decide on a case-by-case basis.

The pandemic also highlighted the increased casualisation of what has historically been a secure public sector workforce. Prior to the pandemic in Victoria there were just over 10,000 casuals employed across all 79 councils, 20% of the overall workforce. During the pandemic we believe close to 7,000 of these casuals lost their jobs, with only 3,000 remaining. Many of these 7,000 workers were ineligible for JobKeeper. Many other casuals nationally would have also lost their jobs within local government.

Government should have amended JobKeeper to allow local government employees to be eligible for the scheme that would have ensured parity with workers employed in the same role in the private sector as well as ensuring financial support to prevent job losses in the sector.

Community Services Sector

During the COVID-19 pandemic the Australian Council of Social Service (ACOSS) surveyed community sector workers and leaders of organisations to understand how the pandemic was affecting this sector.

The survey found 43% of organisations did not apply for JobKeeper. 62% reported they did not apply as their turnover didn't drop to the required amount; 11% said they didn't employ eligible staff; and 3% said there was too much administration involved.²

21% of leaders reported their organisation had reduced FTE levels with larger organisations most likely to report reducing staffing levels due to the pandemic.³

Despite reduced staffing levels, 80% of community organisations reported increasing demand for their services due to rising levels of poverty and disadvantage during the pandemic.⁴ Worryingly only 1 in 8 organisations reported government funding enabled them to meet this increased demand.⁵ Whilst there has been a rebound in staff numbers⁶, community services will only be able to scale up to match demand and increase staff numbers with adequate government funding.

Casuals

It is estimated around 1.1 million casuals missed out on JobKeeper because they didn't have 12-months' continuous service.⁷ This was grossly unfair on casual workers especially given they are often employed in insecure, precarious work that leaves them with inferior rights such as no access to sick leave, annual leave or long service leave.

The fear, vulnerability and powerlessness experienced by casual workers meant living standards and financial independence was severely impacted. Research at the time by Bankwest Curtin Economics

² Australian Council of Social Service, Australia's Community Sector and COVID-19 [Online] https://www.acoss.org.au/wp-content/uploads/2020/09/Australias-community-sector-and-Covid-19_FINAL.pdf

³ Ibid.

⁴ Australian Council of Social Service, Meeting demand in the shadow of the Delta outbreak: Community Sector experiences [Online] <https://www.acoss.org.au/meeting-demand-in-the-shadow-of-the-delta-outbreak-community-sector-experiences/>

⁵ Ibid.

⁶ Institute of Community Directors Australia, COVID-19 Community Sector Impact Survey [Online] <https://communitydirectors.com.au/research/covid19-community-sector-impact-survey>

⁷ My Business, Porter confirms 1.1m casuals will miss out on JobKeeper [Online] Accessed at: <https://www.mybusiness.com.au/finance/6815-porter-confirms-1-1m-casuals-will-miss-out-on-jobkeeper>

Centre⁸ found that 45% of short-term casuals were earning above \$550 per week (pre-COVID) which combated the economic argument that short-term casuals will be provided with adequate income via JobSeeker. The Bankwest research also found women workers were disproportionately affected by JobKeeper exclusions as they tend to be employed in industries that traditionally have higher levels of staff turnover like Hospitality, Retail and Health Care and Social Assistance.

In an economic environment where women are overrepresented in insecure and low-paid work without protections, measures such as JobKeeper should not have exacerbated these inequalities.

Foreign Government-Owned Businesses

During the establishment of JobKeeper the Government changed the definition of 'sovereign entity' in the JobKeeper rules so that an employer was excluded from the scheme if they were 100% owned by a foreign government. This rule change unfairly and arbitrarily excluded a significant number of ASU members from the coverage of the scheme.

Many of our members were employed at sovereign entities such as dnata, Air Niugini, Emirates, Thai, Etihad, Qatar and Vietnam airlines. These members were entirely excluded from the scheme. Many were left entirely without government support for the entire pandemic. However, Singapore Airlines was not excluded from the scheme because it is owned by the Singapore Government through a complex arrangement including the Singaporean superannuation scheme. Our members at Singapore received the full value of JobKeeper.

dnata Case Study

In 2018 the Federal Government approved the sale of Qantas' catering business to dnata, an in-flight catering company which is part of the Emirates group, owned by the Government of Dubai.

dnata employs 6000 workers every year at nine Australian airports, most of whom previously worked for Qantas' catering business.

In May 2020 dnata informed its workers it was ineligible for Jobkeeper because of the changes to the rules which preclude foreign government owned companies from accessing the payment.

The JobKeeper change devastated workers, some of whom had worked for Qantas for decades before the airline's catering business was sold to dnata. These workers paid taxes and were unable to comprehend why they were unable to access this wage subsidy scheme.

A dnata spokesperson said at the time "the outcome seemed unreasonable because dnata is incorporated in Australia, employs a large number of Australian workers, represents a substantial investment in Australia, and is an Australian resident company for income tax purposes".⁹

The JobKeeper scheme should not have been retrospectively amended to exclude sovereign entities.

Airline Workforce

During the COVID-19 pandemic around 11,000 aviation jobs were lost at Australian airlines and ground handling contractors despite billions of dollars in support from the Commonwealth, State and Territory Governments. Qantas made several thousand JobKeeper eligible employees redundant

⁸ Bankwest Curtin Economics Centre Research Brief COVID-19 #4, Short-term and long-term casual workers: how different are they? [Online] Accessed at: <https://bcec.edu.au/assets/2020/04/BCEC-COVID19-Brief-4-Casual-Workers-FINAL.pdf>

⁹ Daily Mercury, Thousands lose out as Scott Morrison backflips on JobKeeper [Online] Accessed at: <https://www.dailymercury.com.au/news/thousands-screwed-in-jobkeeper-backflip/4009443/>

based on their projected need for labour in 2022. The reduction in employee liabilities has seen Qantas' share price increase by 64% since June 2020.¹⁰

In addition, JobKeeper ended too soon for high-impact areas of the economy such as aviation. Subsequent retention payment schemes for aviation unfairly prioritised Qantas and Virgin, who received 85% of all Australian Government support¹¹ despite the impact of border closures on international airlines and ground handlers.

During the pandemic our members experienced:

- Many airlines forced employees to use their accrued leave while they were stood down and being paid JobKeeper. Companies were able to reduce accrued liabilities using taxpayer money.
- Qantas manipulating the JobKeeper scheme to reduce the take home pay of some employees who worked overtime and hours that attracted penalty rates.
- Qantas made 8000 employees redundant based on their projected need for labour in 2022. This was described by the company as a 'right sizing process'. This included several hundred ASU-covered employees at airports, lounges and corporate areas and targeted better paid, high-skilled staff. In 2019 Qantas employed 29,000 people compared to the 23,500 it employs now.¹² Qantas has recently announced it expect to employ 32,000 by 2033¹³ however hiring thousands of new staff on lower pay and insecure working conditions over the next decade won't replace the corporate knowledge and experience of those workers lost during COVID-19.
- In April 2020 Virgin Australia went into voluntary administration. The ASU, along with other Unions lobbied the government to bailout Virgin and to save jobs and ensure that the airline could continue to fly but the government refused to bailout Virgin. In the end Bain Capital, a private equity firm become the new owner. During this time Virgin made 3000 workers (a third of their workforce) redundant and sought long term wage freezes and drastic permanent cuts to conditions from its workforce. Through months of campaigning and negotiations with Virgin Australia the ASU was able to prevent long term wage freezes and drastic cuts to conditions of employment.
- Rex attempted to vary their enterprise agreements covering customer service staff, flight attendants and aircraft engineers to remove pay increases due to employees on 1 July 2020. The company backed down after employees organised against the proposal.
- Menzies Aviation forced its employees to use their accrued leave while they were stood down and being paid JobKeeper. For many employees, they saw no additional income while their accrued leave balances were run down.
- Singapore Airlines also made a significant number of their airport staff redundant, including all employees at Canberra Airport.
- Airlines refusing to accommodate existing Job Share and Flexible Work Arrangements during the COVID crisis.

¹⁰ Qantas Annual Report 2023 [Online]

<https://investor.qantas.com/FormBuilder/Resource/module/doLLG5ufYkCyEPjF1tpgyw/file/annual-reports/2023-Annual-Report.pdf>

¹¹ Australian National Audit Office, COVID-19 Support to the Aviation Sector [Online] Accessed at:

https://www.anao.gov.au/sites/default/files/Auditor-General_Report_2021-22_40.pdf

¹² Australian Aviation, Qantas to hire 8,500 to beat pre-pandemic staff numbers [Online]

<https://australianaviation.com.au/2023/03/qantas-to-hire-8500-to-beat-pre-covid-staff-numbers/>

¹³ Ibid.

In September this year the High Court found Qantas had unlawfully outsource baggage handlers, cleaners, and ground staff during the height of the pandemic. Unions will be seeking compensation for all adversely impacted workers.

Disability Workforce

The COVID-19 pandemic had a significant impact on the disability workforce which saw an increased demand for disability support workers as people with disability faced additional challenges and vulnerabilities.

The disability workforce experienced shortages and challenges in maintaining staffing levels. Factors such as illness, quarantine measures, and increased demand stretched the capacity of the workforce, leading to shortages in some areas.

Disability support workers faced heightened health and safety concerns. Providing care to people with disability often involved close personal contact, and workers needed to adapt to new safety protocols to prevent the spread of the virus.

At the start of the COVID-19 pandemic disability support workers faced challenges in accessing an adequate supply of personal protective equipment (PPE) as they were not included by the Australian Government in the group getting priority access to PPE. This exposed them and the people whom they supported to an increased risk of infection.¹⁴

Federal and State Governments failed to prioritise and plan vaccinations for the disability workforce. This led to not only confusion but increased the risk of exposure to the virus to workers. A report by the Royal Commission into Disability found that less than 2% of the workforce had received one dose of the vaccine by May 2021, however this figure had increased to 35% by July 2021.¹⁵ A lack of communication and consultation contributed to the slow vaccine rollout.

The pandemic also highlighted the need for additional training and skill development for the disability workforce, particularly in areas such as infection control, remote service delivery, and the use of technology for virtual support. As such, the ASU and our members fought for additional protections for these workers.

COVID-19 Care Allowance

In April 2020 the ASU, HSU and UWU jointly lodged an application with the Fair Work Commission to insert a COVID-19 Care Allowance in the Social, Community, Home Care and Disability Services Industry Award 2010.

The COVID-19 Care Allowance aimed to reward disability support workers for their essential work and increased responsibilities associated with supporting a person with a disability who may have

¹⁴ Purpose at Work, Workforce support to the disability sector in response to COVID-19 [Online]

https://www.nds.org.au/images/workforce/workforce-project/NDS-COVID-19-Workforce-Paper_final-V-Public.pdf

¹⁵ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Public Hearing Report, Public hearing 12 [Online] <https://disability.royalcommission.gov.au/system/files/2023-05/Report%20-%20Public%20hearing%2012%20-%20The%20experiences%20of%20people%20with%20disability%2C%20in%20the%20context%20of%20the%20Australian%20Government%E2%80%99s%20approach%20to%20the%20COVID%2019%20vaccine%20rollout.pdf>

contracted the virus, including performing enhanced hygiene procedures and using personal protective equipment (PPE).

Paid Pandemic Leave

Furthermore, the ASU along with other unions filed for Paid Pandemic Leave and Special Leave where an employee contracts COVID-19 to be inserted to the Social, Community, Home Care and Disability Services Industry Award 2010 in an application to the Fair Work Commission.

Paid Pandemic Leave would have ensured a worker receives two weeks paid leave each time they were required by the government, their employer or a doctor to self-isolate for the mandatory 14-day period due to exposure to COVID-19. Special leave where an employee contracts COVID-19 would have allowed for a worker to be absent from work without loss of pay, until the worker has medical clearance to return to work.

Decision

The Fair Work Commission rejected both applications for a COVID-19 Care Allowance and Paid Pandemic Leave.

Our cases were supported by thousands of frontline workers in the NDIS, by some of the largest NDIS providers in the country, and, importantly, by people with disability themselves and their advocates.

The Fair Work Commission agreed with the ASU that the COVID pandemic had meant that disability support workers had higher level of stress, mental pressure and anxiety at work and that workers did require higher level of skill and responsibility to support someone with COVID. But they accepted the arguments of big business groups who said that it could cost too much and believed if they supported our applications for the disability workforce than other workers would want it too.

Our members were extremely disappointed with many feeling they were the forgotten workforce of essential workers with their important role in delivering essential services to people with disability overlooked.

State Based Issues

ASU New South Wales and ACT Branch

ASU members in NSW and the ACT experienced similar issues to other states and territories with some differences in NSW that have lessons for government responses to any future pandemics or serious widespread emergency situations. In response to the pandemic the NSW Government made Public Health Orders (PHO) regularly, a number of these PHOs applied to ASU members, the work they perform and the communities they service, and support, this had both intended and unintended consequences for workers and communities.

Public Health Orders and Lockdowns

The NSW Government announced lockdowns with extensions and changes to these lockdowns occurring regularly over the life of the pandemic, the lockdowns were by way of Public Health Orders (PHO) and included different rules applied to job roles, locations (metropolitan, regional remote, and local government area) and other criteria. The PHOs were announced at daily media conferences.

In July 2021 the government announced severe lockdowns in specific local government areas (LGA) in South West Sydney. These LGAs are among the most socio-economically disadvantaged and culturally and linguistically diverse neighbourhoods of NSW, the government labelled these LGAs as 'areas of concern'. A subsequent PHO prohibited workers in these LGAs/areas of concern leaving their homes for work unless they were essential workers. The announcement of this PHO did not include a list or definition of an essential worker or essential work. The lack of a definition of an essential worker or essential work coupled with the lockdown of 'areas of concern' created confusion, uncertainty and fear among workers in the community and disability sectors and the communities they support.

Increased policing in the 'areas of concern' including helicopter surveillance and increased police presence on the local streets heightened fear, particularly from refugee and migrant communities who had fled civil conflict and persecution in their homeland. Police issued fines to residents for alleged breaches of PHOs. Workers were required to apply for permits to leave their homes to travel from 'areas of concern' for work and were required to provide evidence that their work was essential work.

The social and economic consequences of COVID lockdowns resulted in an increased demand for the supports and services many community and disability workers and organisations provide.

The Government eventually provided a list of essential workers, however, this list did not include the essential work that many community and disability workers provide to individuals and communities in need and crisis. The ASU made representations to government on the workforce shortage crisis this inadequate list had created in essential community services.

A definition of essential work, to be applied during any future pandemic or widespread emergency situations, needs to be developed in consultation with community and disability workers and their union, and workers in other essential industries and sectors. This needs to be in place now and not delayed until the next crisis occurs.

The NSW Government did not recognise the important role that local non-government community organisations (NGO) play in disseminating information and services to disadvantaged and CALD communities. NGOs with broad community links can reach communities and facilitate their access to information and services including assisting in setting up vaccination hubs, as they did at the early stages of the pandemic. They are most effective for CALD, ATSI and other vulnerable communities when information may not readily be available in their language or networks.

Vaccine mandates

The NSW Government made a PHO which mandated COVID-19 vaccinations for workers in specific roles, workplaces and sectors, this included workers in disability, NDIS and residential care roles. This was in addition to the requirement of the NDIS Commission for workers who had contact with NDIS participants to be vaccinated. The vaccine mandate PHO had compliance dates for first and second vaccinations.

There were a number of consequences of the vaccine mandate. Firstly, the roll out of vaccines did not keep pace with demand and many workers were not able to comply by the required dates and were not able to work until they could confirm and attend vaccination appointments. Initially, vaccine appointments for workers in disability, NDIS and residential care roles were not prioritised. The ASU made representations to the NSW Government to include these workers among those who should be given priority for vaccination appointments. The ASU liaised with NSW Health to find

vaccination appointments for these ASU members to enable them to remain working in these essential services.

Secondly, the vaccine hesitancy and fear among sections of the Australian population was also present among sections of the community and disability workforce. This phenomenon had not been considered by government when implementing vaccine mandates, consequently, the sector was at risk of significant workforce shortages. The government did not develop or implement a strategy or remedy to address this issue. The ASU supported members who were vaccine hesitant and or fearful by:

- one on one conversations, providing independent scientific and health information about COVID vaccine research and safety;
- negotiating with employers for alternative non vaccine mandated roles for workers where possible and appropriate;
- implementing a 'Vaccine Champions' project highlighting the positive experiences of ASU members who had been vaccinated, particularly leaders of specific communities with high levels of vaccination hesitancy and fear; and
- disseminating information such as facts sheets and the *ASU Vaccination + Guide* to ASU members.

There is a need for easily accessed and easy to read information about vaccinations, including history of vaccines in Australia's health story, research results, efficacy data, known side effects and frequency; FAQs and published results of fact checking of myths and misinformation.

Personal Protective Equipment

The Government approach to personal protective equipment (PPE) was highly medicalised with little consideration of non-medical settings such as supported accommodation, home based care, and disability support services. The distribution, regulation, guidance and training was designed for medical/clinical settings such as hospitals and residential aged care facilities. Disability services in particular experienced longer delays in receiving supplies of PPE than medical/clinical services. There needs to be a recognition that many support and caring services are provided in community and home based settings and should have equal access and priority to PPE along with medical and clinical services.

Existing funding arrangements did not allow for the purchase of PPE and many providers of disability and community services experienced shortfalls in funding for PPE. The ASU made representations to government for the provision of additional funding to purchase PPE for both workers and clients. There was a delay in additional funding being provided which created financial stress for some providers. Similarly, government did not provide funding for ventilation, modifications to buildings to improve ventilation and reduce airborne virus spread. Small NGOs needed funding for risk assessments, however, government would not provide additional funding for risk assessments.

ASU NSW ACT Branch Response

The ASU experienced an increase in requests for support and information from members during COVID. In response to this increased demand from members the ASU developed a number of resources to assist members, these included:

- Working from home isn't safe when home isn't safe: How to respond to family and domestic violence in home-based workplaces.
- Created and distributed *Vaccine Plus* Guide with workplace COVID risk assessment matrix, hierarchy of risk control, safe and appropriate consultation measures in the workplace, risk assessment template.
- Establishing an ASU Jobs Connect Service to link ASU members with NDIS, disability and community service providers with workforce shortages, assist ASU members to find alternative work if unable to maintain their existing roles due to COVID issues.
- Established ASU COVID Call Centre team to support ASU members on an individual basis with vaccination appointments, PPE advice and access, vaccine hesitancy conversations, information and support, work health and safety measures and reducing risk in the workplace.
- Developed a suite of fact sheets with tips and information about a number of COVID-19 related topics.
- Established vaccination Champions Project featuring ASU members sharing their positive experience of vaccination with particular emphasis on community leaders from specific cultural and faith communities with increased levels of vaccine hesitancy and fear. Published in Social Media posts and member bulletins.

ASU members trusted their union as key distributors of up to date and reliable information during the pandemic. All of our COVID resources were available on the ASU website and were also distributed to members via email and bulletins.