



27 September 2024

Royal Commission into Domestic, Family and Sexual Violence

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SA Unions – South Australia’s peak trade union council

SA Unions is the peak trade union council for South Australia, and our office is located on the lands of the Kurna people.

Through its twenty-six (26) Affiliated Unions, SA Unions represents approximately 160,000 union members from across a wide spectrum of industries, sectors, professions and occupations across South Australia.

Union members are the police and ambulance workers – the first responders to instances of family, domestic and sexual violence. Union members are the doctors, nurses and allied health professionals who provide treatment and care when family, domestic and sexual violence arises. Union members are the government and community service providers that give support and resources when family, domestic and sexual violence arises. And, of course, union members are the victim-survivors of family, domestic and sexual violence.

Domestic, family and sexual violence impacts us all.

As the peak trade union council for South Australia, SA Unions has a platform focused on workplace safety, fair pay and conditions for workers, women’s economic participation, and gender equality – and the issue of domestic, family and sexual violence intersects with all of those things.

Unions have been at the forefront of political, industrial and legal battles to enshrine policies to enable the equal participation of women in the workforce and women's economic equality.

Unions are engaged daily in the task of making the lives of South Australians better, both inside and outside of their workplaces.

We are grateful to the state Labor Government for this Royal Commission, and we appreciate the opportunity to provide written submissions on this important issue.

SA Unions would be very pleased to respond to any questions arising from these submissions and expand upon the content of these submission or other such issues as is desirable.

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BACKGROUND

SA Unions welcomes this pertinent and timely Royal Commission into Domestic, Family and Sexual Violence (Royal Commission).

Domestic, family and sexual violence is a scourge, a crime and a human rights violation¹ that has profound impacts on victim-survivors and their communities, as well as broader societal impacts with significant public health, economic, social and legal implications.

The number of women brutally murdered at the hands of someone they know, or someone they are in a relationship with, has seen a sharp rise in 2024 as compared with recent years.²

In 2024, on average, two Australian women are being violently killed every nine days.³

Australia is in a domestic and family violence crisis.⁴

Two in three women experiencing family violence are in paid employment.⁵

An immense body of research and evidence has long confirmed that the workplace is a key context where domestic and family violence is influential, and can be influenced. It is evident that the considerable implications of domestic and family violence on employment, and the implications of employment on domestic and family violence, form a convincing argument for the expansion of workplace responses.⁶

¹ Australian Human Rights Commission, Fact sheet: Domestic and family violence – a workplace issue, a discrimination issue

https://humanrights.gov.au/sites/default/files/13_10_31_DV_as_a_workplace_issue_factsheet_FINAL6.pdf

JobWatch (2018), *Domestic and Family Violence—A Real Workplace Issue for Women, Discussion Paper*, <https://jobwatch.org.au/wp-content/uploads/Domestic-Family-Violence-A-Real-Workplace-Issue-for-Women-Discussion-Paper-FINAL.pdf>

² Davey, Melissa (4 May 2024) *Eight years ago Australia had a wake-up call on family violence. So how did we end up here again?*

<https://www.theguardian.com/australia-news/article/2024/may/04/australia-family-violence-against-women-law-changes-reforms>

³ Roberts, Georgia (24 April 2024) *Eleven more women have died violently in 2024 compared to the same time last year*

<https://www.abc.net.au/news/2024-04-24/eleven-more-women-have-died-violently-compared-to-last-year/103759450>

⁴ Tingle, Laura (4 May 2024) *There is so much to be done on violence against women* <https://www.afr.com/politics/federal/there-is-so-much-to-be-done-on-violence-against-women-20240430-p5fnkk>

Tingle, Laura (4 May 2024) *The national crisis of violence against women is the culmination of many issues — and some of them the government can fix* <https://www.abc.net.au/news/2024-05-04/domestic-violence-funding-albanese-national-crisis/103800746>

Roberts, Georgia (7 May 2024) *First Nations women at forefront of talks on gendered violence crisis*

<https://www.abc.net.au/news/2024-05-07/roundtable-talks-on-gendered-violence-crisis/103813322>

⁵ The Victorian Trades Hall Council, *Understanding Family Violence As A Workplace Issue*,

https://d3n8a8pro7vhmx.cloudfront.net/victorianunions/pages/14377/attachments/original/1643174150/FV_Guide_-_2021.pdf?1643174150 and Australian Bureau of Statistics (2005).

⁶ JobWatch (2018), *Domestic and Family Violence—A Real Workplace Issue for Women, Discussion Paper*, <https://jobwatch.org.au/wp-content/uploads/Domestic-Family-Violence-A-Real-Workplace-Issue-for-Women-Discussion-Paper-FINAL.pdf>

Family, domestic and sexual violence is a significant workplace issue, and there has been increasing recognition of this fact.^{7 8 9 10 11}

A Full Bench of the Fair Work Commission (**Full Bench**) articulated this fact bluntly and concisely, finding that “FDV is a workplace issue that requires a workplace response”¹² and that “FDV is both a societal issue and a workplace issue. FDV has a real and tangible impact on employees and employers in the workplace.”¹³

The Full Bench did not, however, make these findings easily or quickly. The decision of the Full Bench was the culmination of a decades-long campaign by Australian Unions, academics and civil society partners to have domestic, family and sexual violence properly recognised as a workplace issue,¹⁴ and for paid domestic and family violence leave to be included in Modern Awards.¹⁵

Similarly, Australian Unions have been at the forefront of work to ensure that domestic, family and sexual violence is appropriately recognised as a work health and safety issue, and that workplace protections benefit workers and the whole of society.

At the outset, SA Unions makes three (3) primary points for consideration of the Royal Commission.

Firstly, that specific, effective and enforceable workplace conditions such as domestic and family violence leave are essential because maintaining an ongoing connection to the workplace is crucial for victim-survivors.

⁷ Australian Government Fair Work Ombudsman (2024) *Small Business Employer Guide to Family and Domestic Violence: A small business employer’s guide to supporting employees experiencing family and domestic violence*

<https://www.fairwork.gov.au/sites/default/files/migration/1414/employer-guide-to-family-and-domestic-violence.pdf>

⁸ The Victorian Trades Hall Council, *Understanding Family Violence As A Workplace Issue*,

https://d3n8a8pro7vhmx.cloudfront.net/victorianunions/pages/14377/attachments/original/1643174150/FV_Guide_-_2021.pdf?1643174150

⁹ SafeWorkSA (2024) *Family and domestic violence in the workplace* <https://www.safework.sa.gov.au/workers/family-and-domestic-violence-in-the-workplace>

¹⁰ Phillips, Jamie & Ravishankar, Rakshitha Arni (2023) *Harvard Business Review: Why Family and Domestic Violence Is a Workplace Issue* <https://hbr.org/2023/01/why-family-and-domestic-violence-is-a-workplace-issue>

¹¹ Australian Human Rights Commission, Fact sheet: Domestic and family violence – a workplace issue, a discrimination issue https://humanrights.gov.au/sites/default/files/13_10_31_DV_as_a_workplace_issue_factsheet_FINAL6.pdf

¹² *Family and domestic violence leave review 2021* [2022] FWCFB 2001 at para 78

<https://www.fwc.gov.au/documents/decisionssigned/html/2022fwcfb2001.htm> (all submissions, evidence, decisions and orders are available here <https://www.fwc.gov.au/hearings-decisions/major-cases/previous-major-cases/family-and-domestic-violence-leave-review-2021>)

¹³ *Family and domestic violence leave review 2021* [2022] FWCFB 2001 at para 995

<https://www.fwc.gov.au/documents/decisionssigned/html/2022fwcfb2001.htm> (all submissions, evidence, decisions and orders are available here <https://www.fwc.gov.au/hearings-decisions/major-cases/previous-major-cases/family-and-domestic-violence-leave-review-2021>)

¹⁴ M Baird, L McFerran and I Wright, ‘An equality bargaining breakthrough: Paid domestic violence leave’, *Journal of Industrial Relations*, Vol. 56, No. 2, 2014, 190–207.

¹⁵ ACTU submission (2014), Outline of Claim: Family and Domestic Violence

<https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/sub2-actu-281014.pdf>

Workers who are experiencing family and domestic violence often rely on their workplaces to be a safe place to escape violence, and to provide them with a crucial source of social and economic support.¹⁶

In its research paper titled “*Unlocking the prevention potential: accelerating action to end domestic, family and sexual violence*”,¹⁷ the Rapid Review Expert Panel made the following findings.

Economic security and equality play crucial roles in reducing the risk of gender-based violence. When women have access to education and training, stable, flexible and well-remunerated employment and financial resources, they gain autonomy and the power to make independent decisions about their lives. This economic independence can diminish their vulnerability to abusive and violent relationships by providing the means to leave or avoid situations where they might otherwise feel trapped due to financial dependence.

Policies to encourage women into secure employment, and to be able to stay in their jobs even if they are experiencing violence, are therefore prevention measures in their own right. This is particularly the case when 2021 data from the ABS Personal Safety Survey (PSS) reported that 451,000 women have had a previous partner who has controlled or tried to control them from working or otherwise earning income. ...

The need for specific, effective and enforceable workplace conditions that support the ongoing connection between a victim-survivor and their workplace cannot be overstated.

Secondly, that general workplace conditions such as safe work, secure work, fair workers’ compensation, and the ability to enforce rights and entitlements are essential, including because:

- a. Insecure work is connected with poverty,¹⁸ and poverty is connected with domestic, family and sexual violence.¹⁹

¹⁶ Australian Government Fair Work Ombudsman (2024) *Small Business Employer Guide to Family and Domestic Violence: A small business employer’s guide to supporting employees experiencing family and domestic violence*

<https://www.fairwork.gov.au/sites/default/files/migration/1414/employer-guide-to-family-and-domestic-violence.pdf>

¹⁷ Rapid Review Expert Panel: Ms Elena Campbell, Dr Todd Fernando, Dr Leigh Gassner APM, Ms Jess Hill,

Dr Zac Seidler & Dr Anne Summers AO (2024), *Unlocking the Prevention Potential: Accelerating action to end domestic, family and sexual violence*, <https://www.pmc.gov.au/sites/default/files/resource/download/unlocking-the-prevention-potential-4.pdf>

¹⁸ Australian Council of Trade Unions (2021), *ACTU submission to the Senate Select Committee on Job Security; Inquiry into the impact of insecure or precarious employment*, <https://www.actu.org.au/wp-content/uploads/2023/06/media1449507d20-actu-submission-senate-inquiry-into-insecure-work.pdf>

¹⁹ Saxby, Karinna, Johnston, David & Knott, Rachel (2024), *Our research shows a strong link between unemployment and domestic violence: what does this mean for income support?* <https://findanexpert.unimelb.edu.au/news/81618-our-research-shows-a-strong-link-between-unemployment-and-domestic-violence--what-does-this-mean-for-income-support%3F>

Salter, Michael & Hill, Jess (2024) *Rethinking Primary Prevention*, <https://jesshill.substack.com/p/rethinking-primary-prevention>

- b. Insecure work is connected with sexual harassment within a workplace.^{20 21}
- c. Unsafe workplaces can result in disability, and disability is connected with domestic, family and sexual violence.^{22 23}
- d. Workers' compensation payments are connected with poverty,²⁴ and poverty is connected with domestic, family and sexual violence.²⁵

*“Providing a supportive and safe workplace can ease the emotional, psychological and physical pain and impact that family and domestic violence has on affected employees”.*²⁶

Thirdly, the union movement plays a key role – not just by influencing policy outcomes that have a tangible positive impact on people’s lives, but also because of our role inside workplaces. Within workplaces, unions directly support and represent affected workers, and proactively work with employers and workers on prevention strategies and developing workplace conditions for support when things go wrong. In that way, the role that unions play is distinctly important.

SA Unions recently ran a three-year campaign to secure new arbitration and dispute resolution rights for workers under our state work health and safety law. These new rights provide a new role for the state industrial tribunal to hear and determine disputes related to physical and psychosocial health and safety in the workplace, and to issue binding orders to resolve disputes. While these laws are new – having come into effect on 1 September 2024 – the union movement anticipates that they will be used to address the workplace safety risks that arise from domestic, family and sexual violence.

²⁰ ‘Respect@Work: Sexual Harassment National Enquiry Report 2020’, Australian Human Rights Commission, 2020, pg 19 <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>, citing Anthony LaMontagne et al (2009) *Unwanted sexual advances at work: Variations by employment arrangement in a sample of working Australians*, Australian and New Zealand Journal of Public Health, pg 173, 175-6 <https://doi.org/10.1111/j.1753-6405.2009.00366.x>; Australian Council of Trade Unions, Submission 306, Sexual Harassment Inquiry, 14–15.

²¹ Australian Human Rights Commission (2020), *Respect@Work: Sexual Harassment National Enquiry Report 2020*, <https://humanrights.gov.au/our-work/sexdiscrimination/publications/respectworksexual-harassment-national-inquiry-report-2020>

²² Sutherland, G (2020) *Violence against people with disability in Australia*, Melbourne School of Population and Global Health <https://mspgh.unimelb.edu.au/research-groups/centre-for-health-policy/disability-and-health-unit/violence-against-people-with-disabilities#details>

²³ Byars S, Sutherland G, Vashishtha R, Kavenagh M, Bollier AM, Krnjacki L, Hargrave J, Llewellyn G & Kavanagh A (2020). *The Australian Disability and Violence Data Compendium*. Melbourne: Centre of Research Excellence in Disability and Health. <https://doi.org/10.26188/5eb929ebd5aa3>

²⁴ Cavanough, E. 2023. ‘The Cost of Workplace Injury’. The Mckell Institute <https://mckellinstitute.org.au/wp-content/uploads/2023/02/McKell-The-Cost-of-Workplace-Injury-February-2023.pdf>

²⁵ Salter, Michael & Hill, Jess (2024) *Rethinking Primary Prevention*, <https://jesshill.substack.com/p/rethinking-primary-prevention>

²⁶ Australian Government Fair Work Ombudsman (2024) *Small Business Employer Guide to Family and Domestic Violence: A small business employer’s guide to supporting employees experiencing family and domestic violence* <https://www.fairwork.gov.au/sites/default/files/migration/1414/employer-guide-to-family-and-domestic-violence.pdf>

Unions in South Australia are actively coordinating with the support of SA Unions to ensure workers are supported and organised to use these new laws to best effect and to create safety cultures in workplaces that will prevent harassment and violence at work.

Unions have a fundamental role inside of workplaces. That role gives unions the ability to improve safety, build collective protections, bolster preventative measures, and shift culture. The positive role of unions in the workplace cannot be overstated.

Work is a substantial part of people's lives – it's estimated that the average person spends a third of their lives at work²⁷ – and work can cause impacts both inside and outside of work hours. Insecure work exacerbates vulnerability outside of work.

The state government cannot easily regulate inside the home, but it can regulate employment. And it should.

As a society, we share a common duty to protect and support the vulnerable members of our communities. Introducing and expanding workplace measures to address domestic, family and sexual violence is a social imperative.

Workplaces and employers are not immune from social responsibility.

As the biggest employer in the state – and with billions of dollars of influence – the South Australian state government must rise to its social responsibility and use all of the levers available to it.

In addition to its considerable influence at the Commonwealth level, the South Australian state government controls significant levers that are relevant to preventing and addressing gender inequality and domestic, family and sexual violence, including the following.

- State Government procurement.
- Enterprise Bargaining
- *Fair Work Act 1994* (SA).
- *Work Health and Safety Act 2012* (SA).
- *Return to Work Act 2014* (SA).
- *Equal Opportunity Act 1984* (SA).²⁸

²⁷ <https://www.hrmonline.com.au/productivity/infographic-how-we-spend-our-time-at-work/#:~:text=This%20infographic%20provides%20a%20breakdown,are%20spent%20on%20meaningful%20tasks%3F>

²⁸ Noting the recent *Equal Opportunity (Domestic Abuse) Amendment Act 2023* (SA) which prohibits discrimination on the ground of “domestic abuse”, including in relation to employment.

- A commitment to enshrine gender equality in legislation – “The SA Government will introduce an Equality Bill to require organisations to take positive actions across a range of areas to advance gender equality”.²⁹

SA Unions has focussed our submission on tangible policy positions and outcomes.

We strongly support policies that promote safe and secure work, and minimise insecure work.

Our recommendations represent things that can be implemented swiftly and would have an immediate positive impact.

State government procurement

1. Gender inequality sets the underlying context for domestic, family and sexual violence.³⁰
2. Addressing gender inequality has long been considered a moral, legal and economic imperative.³¹
3. State and federal government policies and practices can affect positive social change, and jurisdictions are increasingly leveraging public procurement as a strategy to advance gender equality.³²
4. SA Unions is strongly supportive of this practical and meaningful strategy.
5. The South Australian state government spends over \$8.5 billion each year on its procurement activities.³³

²⁹ Government of South Australia (2023) *South Australia’s Women’s Equality Blueprint 2023-26*

https://officeforwomen.sa.gov.au/_data/assets/pdf_file/0009/149373/Womens-Equality-Blueprint_2023.pdf

³⁰ Our Watch, *The link between gender inequality and violence against women*, <https://www.ourwatch.org.au/link-between-gender-inequality-and-violence>

³¹ See, for example:

1. The World Bank, *The World Bank In Gender*, <https://www.worldbank.org/en/topic/gender/overview>
2. The White House Washington, *National Strategy on Gender Equity and Equality*, <https://www.whitehouse.gov/wp-content/uploads/2021/10/National-Strategy-on-Gender-Equity-and-Equality.pdf>

³² See, for example:

1. Queensland Council of Social Service, *Gender equality in government procurement policy An interjurisdictional review* (November 2023) https://www.qcoss.org.au/wp-content/uploads/2023/12/230222-Gender-Responsive-Procurement-Report_web.pdf
2. Oxenbridge, S and Galea, N. (2020). *Gender equitable procurement: Insight paper and guide*, Research Paper https://www.wgea.gov.au/sites/default/files/documents/WGEA_Gender_procurement_Insights_0.pdf
3. OECD (2021), *Promoting gender equality through public procurement: Challenges and good practices*, OECD Public Governance Policy Papers, No. 9, OECD Publishing, Paris, <https://doi.org/10.1787/5d8f6f76-en>
4. Ben, Lawrence and Sage, Alistair (2021) *Promoting Job Security and Collective Bargaining at the Subnational Level: A Role for State and Territory Governments*, John Curtain Research Centre <https://curtinrc.org/wp-content/uploads/2023/08/Promoting-job-security.pdf>

³³ Government of South Australia, *Procurement Strategy*, <https://www.buying4.sa.gov.au/opportunities/the-strategy>

6. Public procurement, consequently, presents an important opportunity for the South Australian state government to leverage its role as a major capital investor, asset manager and purchaser of goods and services to:
 - 6.1. raise awareness of gender equality issues,
 - 6.2. impose targets,
 - 6.3. prioritise direct and secure employment,
 - 6.4. create employment opportunities for marginalised groups,
 - 6.5. impose training and skills development requirements, and
 - 6.6. create behavioural change to progress gender equality.
7. Ethical procurement represents a significant institutional response and strategy that the state government can implement.
8. With an \$8.5 billion spend, the procurement activities of the South Australian state government can have a significant and positive impact on our community. Public money should be spent for the best possible public good.
9. The South Australian state government appears to be aware of the opportunities that public procurement presents, and it is noteworthy that its procurement policy was recently updated to focus on, and given greater primacy to, local South Australian companies.³⁴
10. The state government's current procurement policy, however, lacks focus or support for women, and so there is no focus on structures or expectations on companies to, for example, increase women's opportunities to engage in skilled labour, receive training and education, or to improve women's access to higher paying jobs or improve insecure employment arrangements faced by women. Improving rates of women's participation in construction and other male-dominated industries, and moving away from insecure casual work, is a meaningful institutional response the state government can take.

³⁴ See for example:

1. Government of South Australia (2023), *Procurement strategy*, <https://www.buying4.sa.gov.au/opportunities/the-strategy>
2. Wardropper, Lesley (2023), *SA Government introduces "no brainer" changes to local procurement*, <https://procurementandsupply.com/sa-government-introduces-no-brainer-changes-to-local-procurement/>

11. State government procurement ought favour woman's participation and seek to eliminate or minimise casual or gig work. Procurement could mandate EA clauses that include certain training about appropriate workplace conduct, include family and caring flexibilities and paid leave types that support women.
12. Ability to dictate labour conditions – ensuring safe, secure and respectful workplaces with conditions that support victim-survivors of FDV. Put another way, why should a company be entitled to receive public money without such measures?
13. State Government procurement and the prioritisation of secure employment are levers that could be used by the government to support women's economic participation in the workforce and support the prevention of the economic vulnerability that arises within domestic and family violence.
14. We note that other Australian jurisdictions have, or are, focussing on procurement as a practical way of addressing gender equality, supporting safe and secure employment, addressing skills shortages and promoting training.

Federal Government

15. The recent changes to Federal Government policy provides a timely and pertinent example of the leveraging of public procurement for positive social outcomes,³⁵ though the Australian Skills Guarantee "Procurement Connected Policy" (PCP).³⁶
16. From 1 July 2024, the PCP introduced new national targets for increased participation of women, apprentices, trainees and paid cadets on eligible Commonwealth-funded procurements. The PCP seeks to support government policy objectives by leveraging its significant purchasing power to help address skills shortages and gender segregation in the building and construction and maintenance services (construction) and Information and Communication Technology (ICT) sectors.³⁷ The targets apply to new procurements with a total contract value of \$10 million or more.³⁸
17. Of the targets, the Procurement Connected Policy states that:

³⁵ Australian Government Workplace Gender Equality Agency, *Workplace Gender Equality Procurement Principles*, <https://www.wgea.gov.au/what-we-do/compliance-reporting/wgea-procurement-principles>

³⁶ Australian Government's Department of Employment and Workplace Relations, 2024, Australian Skills Guarantee Procurement Connected Policy - <https://www.dewr.gov.au/download/16254/skills-guarantee-procurement-connected-policy/36990/skills-guarantee-procurement-connected-policy/pdf>

³⁷ Australian Government's Department of Prime Minister and Cabinet, 15 May 2024, *Australian Skills Guarantee Procurement Connected Policy Guidelines*, <https://oia.pmc.gov.au/published-impact-analyses-and-reports/australian-skills-guarantee-procurement-connected-policy>

³⁸ Australian Government's Department of Finance, 2024, Procurement Connected Policies, <https://www.finance.gov.au/government/procurement/buying-australian-government/procurement-connected-policies>

4.1.1 The Skills Guarantee will lead to an increase of skilled workers, especially women, entering the construction and ICT sectors by setting new national targets on Commonwealth Government funded eligible projects. The national targets for women aim to increase the proportion of women working on eligible projects and drive long term sustainable change to increase gender equality and participation of women in the apprenticeship system.

4.1.2 The Skills Guarantee will introduce a target that will require a percentage of labour hours on an eligible project to be undertaken by apprentices or ICT cadets and two separate targets specifying the percentage of labour hours to be undertaken by women, and women in trade roles. Suppliers of flagship construction projects will be required to propose and meet higher, more ambitious targets for women and prepare a Gender Equality Action Plan ...

18. The targets set a minimum percentage of the total estimated labour hours that must be completed by the target groups (apprentices, women, and women in trade roles) every financial year, with the targets for women increasing annually, as follows.

Targets apply	Overarching apprentice target for women	Trade-specific apprentice target for women
1 July 2024 to 30 June 2025	6.0%	4.0%
1 July 2025 to 30 June 2026	7.0%	5.0%
1 July 2026 to 30 June 2027	8.0%	6.0%
1 July 2027 to 30 June 2028	9.0%	7.0%
1 July 2028 to 30 June 2029	10.0%	8.0%
1 July 2029 to 30 June 2030	11.0%	9.0%
1 July 2030 onwards	12.0%	10.0%

19. The target-based approach taken by the Federal Government in the PCP presents a practical and concrete measure, which will result in discernible outcomes.

Queensland

20. The Queensland Government reflects its commitment to maximising benefits for Queenslanders by using procurement to support local jobs and businesses and drive economic, environmental and social outcomes. This includes ensuring quality, safe workplaces through application of “Best Practice Principles” which impose requirements for:

- 20.1. workplace health and safety systems and standards,

20.2. commitment to apprentices and trainees, and

20.3. best practice industrial relations.

21. The Queensland Procurement Policy 2023,³⁹ and its predecessor, provide that the “*Best Practice Principles*” apply to major state government projects (valued at \$100 million and above) and declared projects. The “*Best Practice Principles*” are set out in extensive documentation that contractors and tenderers are obliged to commit to. In relation to building and construction projects, for example, the “*Standard Best Practice Industry Conditions – Building Construction Projects 2023 – 2027*”⁴⁰ document sets out the minimum terms and conditions (similar to an enterprise agreement) that are to apply. Relevantly, the “*Standard Best Practice Industry Conditions – Building Construction Projects 2023 – 2027*” includes terms relating to “Women in the Industry”, sexual harassment, family violence leave, work health and safety, and working arrangements that support women such as “job share” and “Individual Flexibility Policies”.
22. The Queensland Government has, in a very practical way, set out its expectations and requirements of the companies engaging in public procurement to ensure that public money is spent in a way that provides for safe, secure and well-paying jobs for Queenslanders and advances gender equality.
23. SA Unions is strongly favourable to this approach.

Western Australia

24. On 1 July 2022, the Western Australian Government commenced a 12-month pilot to raise awareness of the benefits of gender equality in Western Australian workplaces using selected public sector procurement processes. Fifteen (15) Western Australian Government agencies initially participated to help advance gender equality in Western Australian businesses and communities.⁴¹
25. The Western Australian Government’s Department of Communities published a resource to be used by all WA public sector employees with responsibility for the management of procurement policies and practices. The resource outlines the considerable benefits of gender equality in state government procurement, stating as follows:

³⁹ Queensland Government, *Queensland Procurement Policy 2023*,

https://www.forgov.qld.gov.au/_data/assets/pdf_file/0021/367023/queensland-procurement-policy-2023.pdf

⁴⁰ Queensland Government, *Standard Best Practice Industry Conditions – Building Construction Projects 2023 – 2027*,

https://www.epw.qld.gov.au/_data/assets/pdf_file/0014/20435/best-practice-industry-conditions.pdf

⁴¹ Government of Western Australia, 1 July 2022, *Gender Equality in Procurement - WA Public Sector Pilot*,

<https://www.wa.gov.au/government/announcements/gender-equality-procurement-wa-public-sector-pilot> accessed 22 September 2024.

Benefits of gender equality in procurement

Gender equality in procurement is a powerful tool to boost women's economic empowerment, advance workplace gender equality and create more gender-equal societies and economies.

Gender equality in procurement is a win for individuals, businesses, society and the state economy.

Key business and economic benefits for procuring organisations includes:

- *Improves long-term financial performance and business resilience.*
- *Improves organisational reputation amongst internal and external stakeholders.*
- *Diversified supplier base promotes innovation and drives competition.*
- *Recognising and celebrating the success of businesses that support women's employment.*

Key benefits of gender equality in procurement for the community includes:

- *Increases women's labour force participation*
- *Increased visibility of women at all levels of the workforce*
- *Reduces occupational gender segregation, particularly in male-dominated industries*
- *Reduces gender pay inequality*
- *Increase the supplier base of women-owned and women-led businesses⁴²*

26. While the pilot was initially scheduled for one-year, the Western Australian Government extended the scope of the pilot to nineteen (19) agencies and extended the duration of the pilot by a further year. Of the pilot, the Western Australian Government stated that it “...recognises that government procurement is a significant lever to create behaviour change to progress gender equality in Western Australia and improve women's employment and economic outcomes.”⁴³

27. An evaluation of the second year of the pilot is yet to be completed, and the Western Australian Government has indicated that any future steps will be based on the evaluation findings and informed by current work being progressed at a national level and by other jurisdictions.⁴⁴

⁴² Government of Western Australia's Department of Communities, 2022, *Gender Equality in Procurement: WA Public Sector Pilot, Building the case for gender equality in procurement - information for WA public sector agencies*, https://www.wa.gov.au/system/files/2023-07/building_the_case_for_gender_equality_in_procurement_-_information_for_wa_public_sector_agencies.pdf

⁴³ Government of Western Australia, 1 July 2024, *Gender Equality in Procurement Pilot*, <https://www.wa.gov.au/government/document-collections/gender-equality-procurement-pilot>.

⁴⁴ Government of Western Australia's Department of Communities, 2023, *Evaluation Report 1 July 2022 to 30 June 2023 – Snapshot* https://www.wa.gov.au/system/files/2023-10/gender_equality_in_procurement_evaluation_report.pdf.

28. In our respectful submission, a considerable limitation of the pilot was its focus on “awareness raising” and education, rather than concrete outcomes to address gender inequality. To date, for example, there is no data suggesting that the pilot actually resulted in improvements in women’s employment conditions or that there was any discernible increase in the number of women employed.⁴⁵
29. Although the principled policy purposes behind the pilot were admirable, the Western Australian pilot was unambitious and uninspiring. We caution South Australia against pursuing so limited a path.
30. We accept that education and awareness raising can be a worthy endeavour. But, in relation to gender inequality and domestic, family and sexual violence, education alone is unlikely to result in the tangible improvements we need to see. Education must not be the end game but, instead, sit alongside targets and other practical requirements.

The Australian Capital Territory (ACT)

31. The ACT Government’s innovate and effective approach to ethical public procurement is perhaps the most advanced in Australia through its “two gate” tendering model. The first “gate” requires a prospective supplier to demonstrate a commitment to quality, secure employment in its workforce through a certification process. The second “gate” requires the prospective supplier to compete on cost, timeliness and social and community outcomes.
32. The first “gate” in the ACT Government’s model is found in the “*Secure Local Jobs Code*”⁴⁶ (**Code**), which is made under Part 2B of the *Government Procurement Act 2001* (ACT). In general terms, the Code sets out the following features.
- 32.1. The ACT Government (and directorates, publicly owned companies, etc.) cannot accept a response to a tender for territory funded work unless the tenderer holds a Secure Local Jobs Code Certificate (**Certificate**).
- 32.2. Before being granted a Certificate the applicant entity must complete an audit by an approved auditor. This must include a report into the matters outlined by the Code and regulations – including adherence to industrial instruments, compliance with workplace laws, promoting job security in the Territory and reduce the incidence of insecure work, etc.

⁴⁵ Government of Western Australia’s Department of Communities, 2023, *Evaluation Report 1 July 2022 to 30 June 2023 – Snapshot* https://www.wa.gov.au/system/files/2023-10/gender_equality_in_procurement_evaluation_report.pdf.

⁴⁶ ACT Government, *Government Procurement (Secure Local Jobs) Code 2020*, <https://legislation.act.gov.au/di/2020-278/>

- 32.3. A Secure Local Jobs Registrar is empowered to enforce the Code including issuing and cancelling Certificates, requiring new audits, and conducting investigations into complaints.
- 32.4. Entities that hold a Certificate are required to ensure that they adhere to the Code across their entire business, not just at sites on which territory funded work is occurring; as well as ensuring that any business they subcontract on a territory funded work site is also a holder of a Certificate and are complying with the Code.
- 32.5. Any contract for territory funded work entered into by the responsible directorate/agency should also have terms mirroring the Code, ensuring that the contract can be cancelled or modified where the certificate holder is non-compliant.
33. The second “gate” in the ACT Government’s model requires the prospective supplier to compete on both whole-of-life cost, local employment, economic outcomes, social and community outcomes, as well as local content sourcing and capability retention where relevant.
34. SA Unions is strongly favourable to the approach taken by the ACT.

SA Unions policy position

35. SA Unions believe that public money should only be given to businesses that uphold the highest ethical standards. It is the position of SA Unions that the buying power of the South Australian Government should prioritise secure, good quality, local jobs for South Australian workers, by contracting with businesses that engage in ethical practices and prioritise gender equality.

SA Unions recommendation

36. SA Unions recommends that the South Australian Government implement a South Australian *Secure Local Jobs Code*. The purpose of this procurement code should be that every single State Government dollar – whether spent through traditional procurement mechanisms, financing or loan arrangements, funding agreements with the Commonwealth or local governments, or any other arrangement – should be covered by the Secure Local Jobs Code.
37. SA Unions support the adoption of a procurement model that follows a “two gate” tender process. This “two gate” process ensures that tenders are not determined solely based on economic considerations at the expense of ethical considerations and protects government against the reputational risks associated with engaging tenderers with unethical, discriminatory and non-compliant employment practices.
38. SA Unions supports a model that includes the following.

- 38.1. A “two gate” tender process, where businesses must first secure a Certificate to demonstrate compliance with a range of factors – such as engagement in ethical employment practices – before being eligible to tender for projects based on cost, timeliness, and any other relevant factors or obligations.
 - 38.2. Independent oversight of the Code by a government body.
 - 38.3. Consistent auditing of Certificates, with sanctions for non-compliance, including the cancellation of Certificates
 - 38.4. Certificate-holders must meet the Code standards across their entire business, not just when performing government work.
 - 38.5. Businesses throughout the supply chain must all be compliant with the Code and hold a Certificate, not just the principal contractor.
39. The obligations on entities tendering or contracting should include specific strategies and targets in relation to:
- 39.1. Minimum quotas for women to increase participation and gender equity and equality goals;
 - 39.2. Adherence to industrial laws;
 - 39.3. Enterprise agreements with the relevant union or unions and the recognition of the right to collectively bargain;
 - 39.4. A record of work health and safety compliance (including hours of work and fatigue management);
 - 39.5. Rights for elected union delegates;
 - 39.6. Rights of union participation in inductions;
 - 39.7. Reducing the incidence of precarious or insecure work;
 - 39.8. Strategies for the inclusion of First Nations businesses and workers;
 - 39.9. A guarantee that one in ten workers is an apprentice, trainee or cadet;

- 39.10. A security of payments framework; and
- 39.11. Regional local employment targets.
40. The South Australian Government should establish a well-resourced compliance Unit that is statutorily independent. The Unit should have the authority to issue and cancel Certificates, initiate audits and place conditions on tenderers.
41. In addition to this, the South Australian Government must establish best practice wages and conditions on major projects, in collaboration with relevant unions. SA Unions supports the introduction of “Best Practice Principles”, based on the model implemented by the Queensland Government (described above). These principles would set out minimum terms and conditions of employment for employees performing work on South Australian Government funded projects that align with best practice industrial relations. The principles would:
- 41.1. Advance gender equality;
 - 41.2. Promote safe working conditions;
 - 41.3. Support a functional work/life balance;
 - 41.4. Ensure a comfortable standard of living; and
 - 41.5. Provide a framework that seeks to maximise productivity on major projects through genuine communication, consultation and collaboration between stakeholders.
42. SA Unions submits that public procurement represents a significant lever available to the South Australian Government to address gender inequality.
43. Positive societal change can be achieved with policies that impose equality and other requirements on the \$8.5 billion of public money spent every year by the South Australian Government on procurement.
44. The implementation of a South Australian *Secure Local Jobs Code* and *Best Practice Principles* would represent a practical and institutional response to gender inequality which, as is well established, correlates with domestic, family and sexual violence.
45. SA Unions submits that the Royal Commission should make a recommendation that the State Government commence consultation with Unions to establish the “two gate” procurement policy outlined above.

The state government must not support insecure work arrangements

46. Workers who may be more likely to experience sexual harassment in the workplace include people in working arrangements described as “precarious” or “insecure”.^{47 48} That is, insecure work makes people vulnerable within their workplaces.
47. Insecure work is linked with financial instability, precarity and poverty,⁴⁹ and poverty is linked with domestic, family and sexual violence.⁵⁰ That is, insecure work makes people vulnerable in their personal lives.
48. The rates of insecure work are scandalously high – at August 2023, there were 2.7 million casual employees in Australia, representing 22% of all employees in the Australian workforce.⁵¹ That is, more than 1 in 5 Australian workers are employed casually.
49. In its research paper titled “*Unlocking the prevention potential: accelerating action to end domestic, family and sexual violence*”,⁵² the Rapid Review Expert Panel emphasised the protective role that job security and stability can play in the prevention of, and mitigating the impacts of, gender-based violence.
50. Given the voluminous research consistently demonstrating clear links between insecure work, poverty and domestic, family and sexual violence, it is incumbent on the state government to reduce rates of insecure work. The state government can embark on this immediately, including by:

⁴⁷ ‘Respect@Work: Sexual Harassment National Enquiry Report 2020’, Australian Human Rights Commission, 2020, pg 19 <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>, citing Anthony LaMontagne et al (2009) *Unwanted sexual advances at work: Variations by employment arrangement in a sample of working Australians*, Australian and New Zealand Journal of Public Health, pg 173, 175-6 <https://doi.org/10.1111/j.1753-6405.2009.00366.x>; Australian Council of Trade Unions, Submission 306, Sexual Harassment Inquiry, 14–15.

⁴⁸ Australian Human Rights Commission (2020), *Respect@Work: Sexual Harassment National Enquiry Report 2020*, <https://humanrights.gov.au/our-work/sexdiscrimination/publications/respectworksexual-harassment-national-inquiry-report-2020>

⁴⁹ Australian Council of Trade Unions (2021), *ACTU submission to the Senate Select Committee on Job Security; Inquiry into the impact of insecure or precarious employment*, <https://www.actu.org.au/wp-content/uploads/2023/06/media1449507d20-actu-submission-senate-inquiry-into-insecure-work.pdf>

⁵⁰ Saxby, Karinna, Johnston, David & Knott, Rachel (2024), *Our research shows a strong link between unemployment and domestic violence: what does this mean for income support?* <https://findanexpert.unimelb.edu.au/news/81618-our-research-shows-a-strong-link-between-unemployment-and-domestic-violence--what-does-this-mean-for-income-support%3F>

Salter, Michael & Hill, Jess (2024) *Rethinking Primary Prevention*, <https://jesshill.substack.com/p/rethinking-primary-prevention>

⁵¹ <https://abs.gov.au/statistics/labour/earnings-and-working-conditions/characteristics-employment-australia/latest-release>

⁵² Rapid Review Expert Panel: Ms Elena Campbell, Dr Todd Fernando, Dr Leigh Gassner APM, Ms Jess Hill, Dr Zac Seidler & Dr Anne Summers AO (2024), *Unlocking the Prevention Potential: Accelerating action to end domestic, family and sexual violence*, <https://www.pmc.gov.au/sites/default/files/resource/download/unlocking-the-prevention-potential-4.pdf>

- 50.1. reducing rates of casual employment within the South Australian Public Sector, which reports that 9.35% of its workforce is casual,⁵³
 - 50.2. prohibiting publicly funded institutions such as universities from engaging workers in insecure work, and
 - 50.3. minimising its use of contracts and contractors, instead it should insource work as much and as far as is possible. For example, the cleaners at state hospitals should be directly employed, rather than engaged through third parties on labour hire or “gig” arrangements. These should be good and secure government jobs, rather than insecure work that is ultimately funded by the taxpayer.
51. By reducing insecure work, the state government can make a meaningful positive impact in reducing financial precarity and poverty. *“While all social classes experience violence, national and international research suggests that women who live in poverty experience more violence, more severe violence, and have less opportunity to ameliorate its impacts.”*⁵⁴
52. SA Unions submits that the Royal Commission should make recommendations to the state government to use all measures at its disposal to reduce insecure work.

Access to paid domestic and family violence leave

53. SA Unions submits that access to paid domestic and family violence leave is essential, and that the entitlement ought be improved.
54. The entitlement for the South Australian public sector is underpinned by Schedule 3B of the *Fair Work Act 1994 (SA)*, and we submit that South Australian state government should act swiftly to improve these entitlements.
55. Paid domestic and family violence leave allows victim-survivors to undertake necessary actions during work hours, including the following.
- 55.1. Make arrangements and plan for their safety (including relocation).
 - 55.2. Attend court hearings.

⁵³ Government of South Australia (2023) *Workforce Information Report 2022-2023*
https://www.publicsector.sa.gov.au/_data/assets/pdf_file/0008/955304/OCPSE-WIR2023.pdf

⁵⁴ Salter, Michael & Hill, Jess (2024) *Rethinking Primary Prevention*, <https://jesshill.substack.com/p/rethinking-primary-prevention>

- 55.3. Access police services.
- 55.4. Attend counselling and medical appointments.
56. That paid domestic and family violence leave applies to casual employees – with payment at their full pay rate for the hours they were rostered to work – is significantly positive.
57. The structures that support paid domestic and family violence leave such as:
- 57.1. the confidentiality protections, and
- 57.2. the constraints on the information that can be included on payslips,
- are fundamental to achieving the positive policy purpose of domestic and family violence leave.
58. At its core, access to paid domestic and family violence leave serves to support victim-survivors to maintain a connection with their workplace. This is essential, including because the workplace is often considered a safe (or safer) place to the victim-survivor, and because the income arising from work can support the worker’s escape from violence and allow them to retain financial independence.
59. When a victim-survivor’s connection with, and income from, their workplace is lost, they are left much more vulnerable to domestic and family violence.
60. *“Women who experience domestic violence should never have to choose between securing their safety and accessing the support they need, and their financial security. We know that when women experience domestic violence it is utterly critical that if they are working they keep their connection to their workplace and income. Securing financial independence can be a key part of a woman’s journey through healing and recovery.”⁵⁵*
61. In May 2024, experts met in the nation’s capital for a national roundtable on the domestic violence crisis. One of the key policy announcements made by the Federal Government ahead of the roundtable was a

⁵⁵ The Hon. K.A. HILDYARD (Reynell—Minister for Child Protection, Minister for Women and the Prevention of Domestic and Family Violence, Minister for Recreation, Sport and Racing), *Hansard: Introduction and First reading speech for the Fair Work (Family and Domestic Violence Leave) Amendment Bill 2022 (SA)*, South Australian Parliament House of Assembly, November 16, 2022, <https://hansardsearch.parliament.sa.gov.au/daily/lh/2022-11-16/40?sid=510db0be61a34a5883>

commitment of \$925.2 million over five years to permanently establish the Leaving Violence Program.⁵⁶ From mid-2025, the Leaving Violence Program will provide eligible people with financial support of up to \$5,000.⁵⁷

62. These measures acknowledge the financial difficulties experienced by victim-survivors in attempting to exit violent situations, and that financial support is essential.
63. Paid domestic and family violence leave is essential to helping victim-survivors maintain paid employment. We respectfully agree with the statement that “...*job security and economic security are often deciding factors when a woman contemplates leaving a violent relationship.*”⁵⁸
64. To escape violence, victim-survivors need money.
65. The current cost-of-living crisis brings into sharp focus the connection between paid domestic and family violence leave, and the challenges faced by vulnerable people who need to leave unsafe relationships and find alternative housing.
66. The housing situation in South Australia is dire, and the circumstances facing a person seeking to leave an unsafe relationship and secure housing are compelling. This broader context, which includes the current cost-of-living crisis, is worthy of the Independent Review’s consideration. We make the following submissions.
- 66.1. Rental properties are unavailable. “Adelaide, according to property data firm CoreLogic, has the lowest vacancy rates in Australia – both for standalone houses (0.5 per cent) and units (0.3 per cent).”⁵⁹

⁵⁶ The Hon Amanda Rishworth MP (1 May 2024) *Media Releases: Helping women leave a violent partner payment* <https://ministers.dss.gov.au/media-releases/14541>

⁵⁷ The \$5,000 financial support package is comprised of up to \$1,500 in cash and up to \$3,500 in goods and services.

⁵⁸ The Hon. K.A. HILDYARD (Reynell—Minister for Child Protection, Minister for Women and the Prevention of Domestic and Family Violence, Minister for Recreation, Sport and Racing), *Hansard: Introduction and First reading speech for the Fair Work (Family and Domestic Violence Leave) Amendment Bill 2022 (SA)*, South Australian Parliament House of Assembly, November 16, 2022, <https://hansardsearch.parliament.sa.gov.au/daily/lh/2022-11-16/40?sid=510db0be61a34a5883>

⁵⁹ David Taylor (2023) ABC News, *Experts fear Adelaide’s housing crisis is only going to get worse,*

<https://www.abc.net.au/news/2023-09-28/drum-south-australia-housing-crisis-accommodation-adelaide/102912904>

Craig Francis (2022) *Rental crisis deepens as available properties halve*, <https://www.apimagazine.com.au/news/article/rental-crisis-deepens-as-available-properties-halve#:~:text=%E2%80%9CAdelaide%20has%20had%20a%20rental,even%20worse%20in%20this%20regard.%E2%80%9D>

- 66.2. Securing a rental property is time consuming; a huge problem for those who do not have time to spare. Prospective tenants report unsuccessfully applying for hundreds of rentals over many many months.⁶⁰
- 66.3. The cost of rent is high. Adelaide's median rent is \$565 per week.⁶¹
- 66.4. The cost of rental bonds are high. In South Australia, where the rent does not exceed \$800 per week, a landlord may require a maximum bond of the equivalent of four (4) weeks rent. That's \$2,260.00 that a tenant would need to find, based on Adelaide's median rent.⁶²
- 66.5. The cost of rent is increasing, and some landlords are price gouging.⁶³ Adelaide had the nation's second highest rent increase – up 12.9%⁶⁴ – with SACOSS chief executive Ross Womersley saying that median rent rises in Adelaide were "vastly bigger" than any increase in costs for landlords associated with interest rate rises. Mr Womersley said that "*We think there is no excuse for rent prices to be increasing at this rate.*"⁶⁵
- 66.6. The cost of buying a home is prohibitively high for most people, and prices are increasing. The prices for units, apartments and houses in South Australia is high, and climbing. For example, the two (2) bedroom unit at 3/23 Emerald Street, Edwardstown, SA 5039 sold for \$200,000 on 30 August 2021.⁶⁶ On 4 March 2024, without renovation, it sold for \$305,000.⁶⁷

⁶⁰ Ashleigh Barraclough (2023) ABC News, *As the rental crisis worsens, people are applying for homes they have not seen, offering more than the asking price*, <https://www.abc.net.au/news/2023-01-30/rental-crisis-worsens-australia-melbourne-bidding-homes/101858172>

⁶¹ Owen, Eliza (2024) CoreLogic, *Australia's median rent hits new record, surpasses \$600 per week. Rental Market Update, for release Tuesday 23 January, 2024*, https://www.corelogic.com.au/_data/assets/pdf_file/0004/21010/240122_CoreLogic-Pulse-Rents-Final-Updated.pdf

Daniel Ziffer and David Chau (2023) ABC News, *Rents rising at slower pace despite 'record high' 10pc surge last year, CoreLogic says*, <https://www.abc.net.au/news/2023-01-11/rents-increase-record-cost-of-living/101840454>

⁶² Legal Services Commission, Law Handbook, *Bonds*, accessed 1 December 2023

<https://www.lawhandbook.sa.gov.au/ch23s01s05s01.php>

⁶³ David Taylor (2023) ABC News, *Experts fear Adelaide's housing crisis is only going to get worse*, accessed 1 December 2023 <https://www.abc.net.au/news/2023-09-28/drum-south-australia-housing-crisis-accommodation-adelaide/102912904>

⁶⁴ Daniel Ziffer and David Chau (2023) ABC News, *Rents rising at slower pace despite 'record high' 10pc surge last year, CoreLogic says*, accessed 1 December 2023 <https://www.abc.net.au/news/2023-01-11/rents-increase-record-cost-of-living/101840454>

⁶⁵ Stacey Pestrin (2023) ABC News, *Fierce competition for Adelaide rental homes amid tight market, prompting calls for rental price caps*, accessed 1 December 2023 <https://www.abc.net.au/news/2023-03-17/price-hikes-and-tough-competition-in-tight-sa-rental-market/102110094>

⁶⁶ <https://www.realestate.com.au/sold/property-unit-sa-edwardstown-136148638>

⁶⁷ <https://www.domain.com.au/property-profile/3-23-emerald-street-edwardstown-sa-5039> and <https://www.realestate.com.au/property/unit-3-23-emerald-st-edwardstown-sa-5039/>

- 66.7. The cost of moving house can be high. “The average cost [of moving intrastate] tends to fall between \$300 to \$3,500, depending on the specific circumstances”.⁶⁸
67. The ability to meet an unexpected expense – such as seeking to leave an unsafe relationship – is low. Disposable incomes are low.⁶⁹
68. The Australian Council of Trade Unions (ACTU) has gathered concrete data about a working person’s ability to meet an unexpected expense. The ACTU’s Attitudes, Sentiments and Knowledge (**ASK**) survey, which provides key insights into attitudes around financial wellbeing and cost of living, and has revealed the following.
- 68.1. 22% of working respondents to the survey stated that they would be completely unable to raise \$3,000 in an emergency.
- 68.2. 22% of working respondents said that they could raise \$3,000, but would need more than 1 week to do so and/or additional support.
- 68.3. The proportion of working respondents who were completely unable to raise this amount was comprised of:
- 68.3.1. 28% casual employees,
- 68.3.2. 38% workers earning less than \$52,000 per year, and
- 68.3.3. 25% workers in award reliant industries.⁷⁰
69. Paid domestic and family violence leave represents an essential mechanism to keeping victim-survivors in employment. A victim-survivor’s connection with, and income from, their workplace gives them a far greater chance of being able to leave an unsafe relationship.
70. SA Unions submits, in the strongest possible terms, that the entitlement to paid domestic and family violence leave must be expanded and improved for the benefit of workers.

⁶⁸ HiPages (2023) *Removal costs: The cost of moving house in Australia in 2023*, accessed 1 December 2023 https://hipages.com.au/article/cost_of_moving_house_in_australia#:~:text=The%20average%20cost%20tends%20to,move%20all%20y our%20belongings%20yourself.

⁶⁹ Michael Read, The Financial Review (2023), *Australia records biggest income decline in the developed world*, accessed 1 December 2023 <https://www.afr.com/policy/economy/australia-records-biggest-income-decline-in-the-developed-world-20231108-p5eijg>

⁷⁰ ACTU, *Submission to the Annual Wage Review 2022-23*, page 156, accessed 1 December 2023, <https://www.actu.org.au/wp-content/uploads/2023/06/media1450294d13-actu-submission-to-the-awr-2022-23.pdf>

71. Affiliates to SA Unions have raised the following four (4) considerations and improvements.

71.1. Evidence requirements

Affiliates to SA Unions have noted some difficulties with managerial personnel asking for too much information from the victim-survivor.

This issue suggests a need for education/training for employers, and/or better guidance with respect of the type and scope of evidence that can be reasonably required.

Employers should be discouraged from making onerous evidential requests; it's not necessary and it's not helpful.

71.2. Preservation of confidentiality

Affiliates to SA Unions have noted some difficulties with employers not maintaining confidentiality.

This issue is particularly distressing for victim-survivors, and suggests a need for stronger and easier enforcement of the confidentiality obligations and a need for education/training for employers.

71.3. Expansion of reasons for access

Affiliates to SA Unions have expressed a desire to see an expansion of the reasons for access, including to explicitly include time for recovery.

A Union affiliated to SA Unions has described the issue as follows:

We would like to see it being available for the recovery component of FDV – for example, getting over the shock of financial abuse, if your spouse just up and left you with the children and took the savings. Yes, there are practical things that need doing which would fall under the legislation of 'dealing' with it, but just the shock which goes with it should also be included – time for recovery.

Paid domestic and family violence leave is needed to support a victim-survivor across the entirety of their journey – including their recovery.

71.4. Increased quantum of leave

While Schedule 3B of the *Fair Work Act 1994* (SA) provides fifteen (15) paid days of family and domestic violence leave, the original consideration and proposal was to provide victim-survivors with twenty (20) days paid leave per year.⁷¹

In 2009, a collaboration between NSW unions, the Australian Domestic & Family Violence Clearinghouse and academics from the University of NSW with expertise in FDV and its impact on women's workforce participation, safety and economic security, resulted in the development of a "model" enterprise bargaining clause which provided (inter alia) twenty (20) days paid leave.⁷² The number of paid leave days was based on extensive research and evidence.

In 2010, the first family and domestic violence leave clause to appear in an Australian enterprise agreement – the *Surf Coast Shire Council Enterprise Agreement (No 7) 2010-2013* – included twenty (20) days paid leave per year.

Family violence leave has been included in all Victorian public sector enterprise agreements since 2015, meaning public sector employees including nurses and teachers have access to twenty (20) days of paid family violence leave, or unpaid family violence leave for casual employees, per year.⁷³ For example, clause 52 of the *Victorian Public Service Enterprise Agreement 2020* provides for twenty (20) days paid leave per year.⁷⁴

Effective from 1 January 2023, NSW Government Sector employees, including casual employees, are to have access to twenty (20) days paid domestic and family violence leave per calendar year.⁷⁵

In late 2022, the South Australian Government introduced a Bill to enshrine fifteen (15) days of paid family and domestic violence leave for permanent and casual employees within the South Australian public sector and local government.

An increase to the quantum of paid leave contained within Schedule 3B of the *Fair Work Act 1994* (SA) would provide invaluable additional support to victim-survivors, as well as improving consistency with our interstate counterparts.

⁷¹ Ismail, Sophie (2022) "Paid family and domestic violence leave: The origins and significance of the ACTU's modern award case" [2022] PrecedentAULA 28; (2022) 170 Precedent 15 <https://classic.austlii.edu.au/au/journals/PrecedentAULA/2022/28.html>

⁷² M Baird, L McFerran and I Wright, 'An equality bargaining breakthrough: Paid domestic violence leave', *Journal of Industrial Relations*, Vol. 56, No. 2, 2014, 190–207.

⁷³ <https://www.premier.vic.gov.au/victoria-leads-way-paid-family-violence-leave>

⁷⁴ <https://www.standby.vic.gov.au/sites/default/files/2023-04/family-violence-leave.pdf>

⁷⁵ https://www1.health.nsw.gov.au/pds/ActivePDSDocuments/IB2022_047.pdf

State system general protections

72. The state government should legislate to ensure that the entitlement to family and domestic violence leave is a protected right, and one which is enforceable by workers and their unions.
73. Without protection and enforcement, public sector workers may be unable to freely access the entitlement to family and domestic violence leave. This would thwart the principled policy purposes and intended operation of Schedule 3B of the *Fair Work Act 1994* (SA).
74. The absence of protection and enforcement by South Australian public sector workers stands in sharp contrast with their federal system counterparts.
75. In the federal system, Chapter 3 Part 3-1 of the *Fair Work Act 2009* (Cth) provides a protective regime for employees and prospective employees – called the “General Protections”.
76. The General Protections are intended to protect workers who access workplace rights and entitlements by prohibiting an employer from taking “adverse action” against them. The General Protections provide “standing” for workers and unions to commence proceedings, with meaningfully high penalties applicable to recalcitrant employers which serve a strong deterrence function.
77. The General Protections provide meaningful protections to federal system workers; workers know that they are protected when they access entitlements.
78. No such protections exist for South Australian public sector workers. So, while their federal system counterparts can access family and domestic violence leave reassured by protection and enforcement structures, South Australian public sector workers have no such protection.
79. Other important gaps exist between the state public sector and the federal system. In the federal system, for example, the right to request flexible working arrangements applies to an employee who “...provides care or support to a member of the employee’s immediate family, or a member of the employee’s household, who requires care or support because the member is experiencing family and domestic violence”.⁷⁶ No such legislative right exists within the state system.
80. SA Unions submits that the Royal Commission should recommend:
- 80.1. a state system general protections regime to protect public sector workers, and

⁷⁶ Section 65 of the *Fair Work Act 2009* (Cth).

80.2. the commencement of consultation with unions to identify other protective provisions and initiatives within the *Fair Work Act 2009* (Cth) that ought be imported into the state system.

Impact on work performance and conduct

81. Understandably, domestic, family and sexual violence may affect an individual's work performance or conduct, which makes it very much a workplace issue.
82. The Public Service Association (**PSA**) identified this as an issue to be advanced in public sector enterprise agreement negotiations. In 2017, and in addition to achieving fifteen (15) days paid domestic and family violence leave, the PSA proposed and achieved additional clauses that support workers and recognise the impact on work performance and conduct.
83. The PSA has described the benefits of the additional clauses as “... allowing a worker to ask a third party to inform their manager or decision making delegate that they are experiencing DFV.

Having a third party relay this information helps ensure the worker is not re-traumatised by telling their story again and again. The PSA also proposed and achieved a clause which stipulates that, having been advised that a worker has been subjected to DFV, the employer must take the worker's situation into account in any consideration or assessment of their performance or conduct.”

84. The additional clauses state as follows.⁷⁷

WORKPLACE PERFORMANCE AND CONDUCT

14.5 Experiencing domestic/family violence may have an adverse effect on an employee's workplace performance or conduct.

14.6 At any time, the employee may request a person to whom they have made disclosure to inform the relevant manager or delegate about matters that may affect their workplace performance or conduct. The provision of this information must be consistent with the Information Privacy Principles and constrained to relevant information only.

⁷⁷ 2017 agreement - https://www.saet.sa.gov.au/app/uploads/mp/files/enterprise_agreements/files/south-australian-modern-public-sector-enterprise-agreement-salaried-2017.491448e03b1d74a1c4b7420833948243.pdf

2021 agreement - <https://www.saet.sa.gov.au/app/uploads/2021/12/ET-21-05787-SignedOrdersandEA.pdf>

14.7 Where the employer becomes aware of an employee's personal circumstances, they are to take this information into account in any assessment of that employee's workplace performance or conduct.

85. In addition to paid domestic and family violence leave, the PSA's additional clauses represent an essential mechanism to keeping victim-survivors in employment. A victim-survivor's connection with their workplace is immeasurably important; a workplace often puts the victim-survivor out of a perpetrator's reach (even if temporarily) and their wages can provide them with crucial financial independence and resources.
86. SA Unions submits that the Royal Commission should recommend that the state government take a principled policy position to include similar such provisions in all public sector enterprise agreements.

Presumptive Workers' Compensation – impact on first responders

87. SA Unions submits that presumptive provisions should apply with respect of first responders and other emergency service personnel who develop Post Traumatic Stress Disorder (PTSD) and/or who sustain a Post Traumatic Stress Injury (PTSI).
88. As Leah Watkins, General Secretary of the Ambulance Employees Association, adeptly put it:
...the impact of family, domestic and sexual violence takes a psychological toll on first responders. Some members who experience domestic violence themselves, then have to attend victims of DFSV as part of their work as ambos which can be very triggering. Even if there is no personal experience, the exposure to the impact of DFSV exposes ambos and other first responders to vicarious trauma which increases their risk of suffering PTSD. Obviously, prevention is much better than cure when considering psychological injuries.
89. Improvements to workplace safety and to workers' compensation would represent meaningful actions that the state government can take.

Workers' compensation and poverty

90. The connection between workplace injury, disability, inadequate workers' compensation entitlements resulting in poverty, and domestic, family and sexual violence is critically important to recognise and address.
91. There is a significant connection between disability and domestic, family and sexual violence.

92. Women with disability are more likely to experience intimate partner violence (36%), compared to 21% of women without disability. Men with disability are more likely to experience intimate partner violence (15%), compared with 7% of men without disability.^{78 79}
93. The workplace is a significant cause of injury and disability.⁸⁰ In the 2022-2023 financial year alone, ReturnToWork SA reported 14,527 workers' compensation claims filed within the premium-paying scheme with respect of work-related injuries. Notably, this data is limited to the premium-paying scheme and, therefore, does not represent the true extent of workplace injury in South Australia.⁸¹
94. Thousands of South Australians rely on the workers' compensation scheme when workplace injury and disability arise. And many more South Australians are currently locked out of the workers' compensation scheme entirely. Consequently, it is appropriate to consider the adequacy of the South Australian workers' compensation scheme, both in terms of the entitlements available to injured and disabled workers, as well as the scope of the scheme.
95. In terms of the entitlements available, analysis from the McKell Institute found that profound inadequacies in the South Australian workers' compensation scheme are leaving South Australians in poverty. In its report titled "*The Cost of Workplace Injury*", the McKell Institute made the following finding.

The current Return to Work system is leaving many South Australians mired in poverty particularly arising from the 20% reduction in weekly payments after twelve (12) months and the removal of weekly payments after two (2) years for all but the most seriously injured workers. This is compounded by the fact that those waiting for compensation are reliant for a period on social security (be it Newstart or a disability pension), which is not keeping up with escalating costs of living. In the long term, these workers' are impacted by the fact that superannuation is not payable on worker's compensation weekly payments, meaning workers lose out on super during critical times in their working life.⁸²

⁷⁸ Sutherland, G (2020) *Violence against people with disability in Australia*, Melbourne School of Population and Global Health <https://mispgh.unimelb.edu.au/research-groups/centre-for-health-policy/disability-and-health-unit/violence-against-people-with-disabilities#details>

⁷⁹ Byars S, Sutherland G, Vashishtha R, Kavenagh M, Bollier AM, Krnjacki L, Hargrave J, Llewellyn G & Kavanagh A (2020). *The Australian Disability and Violence Data Compendium*. Melbourne: Centre of Research Excellence in Disability and Health. <https://doi.org/10.26188/5eb929ebd5aa3>

⁸⁰ ReturnToWorkSA, Annual Report 2022-2023, https://www.rtwsa.com/_data/assets/pdf_file/0008/220679/ReturnToWorkSA-Annual-Report-22-23_Final_web.pdf

⁸¹ Actual injury rates across South Australia are much higher; ReturnToWork SA does not report claims data with respect to self-insured employers or the Crown. Further, "gig" workers and others in insecure work arrangements are not covered by workers' compensation and so ineligible to make claims.

⁸² Cavanough, E. 2023. 'The Cost of Workplace Injury'. The McKell Institute <https://mckellinstitute.org.au/wp-content/uploads/2023/02/McKell-The-Cost-of-Workplace-Injury-February-2023.pdf>

96. In addition to the reduction in weekly payments and the hard caps on entitlements for all but the most seriously injured workers identified by the McKell Institute, the issue of unjust and unfair “deductions” that arise with respect of permanent impairment assessments similarly contribute to poverty.
97. It is unacceptable and unconscionable that the South Australian workers’ compensation system is leaving South Australians in poverty, with poverty inextricably linked with domestic, family and sexual violence.
98. SA Unions submits that reform to the *Return to Work Act 2014 (SA)* is strongly desirable, including to remove the reduction to weekly payments, remove the hard caps on weekly payments and medical expenses, and to address the unfairness of “deductions”. SA Unions submits that the Royal Commission should recommend that the state government commence consultation with the union movement about improvements to the South Australian workers’ compensation system.
99. In terms of the scope of the South Australian scheme, workers’ compensation entitlements are not available to workers engaged on the basis of the type of independent contracting arrangements used by “gig” platforms.
100. This is deliberate on the part of a “gig” platform. By engaging its workers as independent contractors, the “gig” platform avoids paying an employer premium into the workers’ compensation scheme and dodges any obligation to assist an injured worker to return to work. This contributes to the low-overhead costs enjoyed by “gig” platforms, which allows them to out-compete their competitors that directly employ workers.
101. Concerningly, the industries in which “gig” platforms are proliferating – the Health Care and Social Assistance industry and the Road Transport industry – have been identified by SafeWork Australia as “high risk” and “high priority” industries in which “workers face the highest rates of harm”.⁸³
102. When a “gig” platform can avoid paying into the workers’ compensation scheme and dodge the obligations arising from that scheme, then compliance with work health and safety is disincentivised. This, in conjunction with the low prosecutorial activity of SafeWork SA, creates a genuine risk that “gig” platforms will fail to prioritise worker safety, which is often seen as a cost and a burden.
103. A failure to prioritise safety, inevitably, results in injuries to workers who are without the safety net of workers’ compensation.

⁸³ SafeWork Australia (2023) *The National Work Health and Safety Strategy 2023-2033*, page 7, https://www.safeworkaustralia.gov.au/sites/default/files/2023-10/australian_whs_strategy_2023-33_october2023.pdf

104. Injured “gig” workers must, consequently, rely on the public health system and social services including social security payments – neither of which “gig” platforms contribute to in any meaningful way. “Gig” platforms do not pay payroll tax with respect of those workers, and they rarely contribute much by way of corporate profits tax.
105. This is unacceptable; workers’ compensation should be a minimum entitlement for all workers in Australia.
106. “Gig” workers face risk and injury, and they are performing work of value to the “gig” platform. “Gig” workers are workers, and workers should receive workers’ compensation. Further, “gig” platforms should have the same obligation as every other employer to pay employer premiums into the scheme and to assist and support an injured worker to return to work following injury.
107. In the absence of workers’ compensation entitlements, injured and disabled “gig” workers are left perilously reliant on income support⁸⁴ and at risk of falling into poverty, with poverty linked with domestic, family and sexual violence.
108. SA Unions submits that reform to the *Return to Work Act 2014 (SA)* and/or *Return to Work Regulations 2015 (SA)* is strongly desirable to provide workers’ compensation to all “gig” workers, with premiums paid by “gig” platforms.

Workplace safety

109. SA Unions makes three (3) submissions concerning the critically important role of workplace health and safety with respect of domestic, family and sexual violence.
110. Firstly, it is essential that employers accept the role of the workplace in supporting and keeping safe victim-survivors.⁸⁵ Employers must ensure that the workplace makes accommodations, promotes flexibilities and includes safety planning that gives primacy to a victim-survivor’s safety and ensures their ongoing connection with the workplace.
111. Secondly, workplaces need to do better to identify and resolve the safety risks early, and before those risks result in workplace injury and disability. Unresolved safety risks give rise to far too many injuries,

⁸⁴ Saxby, Karinna, Johnston, David & Knott, Rachel (2024), *Our research shows a strong link between unemployment and domestic violence: what does this mean for income support?* <https://findanexpert.unimelb.edu.au/news/81618-our-research-shows-a-strong-link-between-unemployment-and-domestic-violence--what-does-this-mean-for-income-support%3F>

⁸⁵ SafeWorkSA (2024) Family and domestic violence in the workplace <https://www.safework.sa.gov.au/workers/family-and-domestic-violence-in-the-workplace>

and workers' compensation payments are inadequate – workers' compensation payments are “...leaving many South Australians mired in poverty...”.⁸⁶ Improvements to workplace safety is essential because both poverty and disability are connected with domestic, family and sexual violence.⁸⁷

112. Unsafe workplaces also risk the longevity and stability of a worker's employment. Simply put, when a workplace is unsafe, and the risks remain unaddressed, workers often look elsewhere for work and, in doing so, break continuity of employment and lose all of the rights and protections that continuity affords. In its research paper titled “*Unlocking the prevention potential: accelerating action to end domestic, family and sexual violence*”, the Rapid Review Expert Panel found that “...work is required to ensure that workplaces are psychologically, as well as physically safe environments for women and, as such, support their financial security by enabling them to maintain employment”.⁸⁸
113. Thirdly and finally, unions hold a vitally important role in work health and safety, and that role must be recognised, supported and expanded.
114. Unions have a fundamental role inside of workplaces. Union officials with Work Health and Safety Entry Permits can enter workplaces, consult with workers, and investigate suspected safety contraventions. Unions can support workers to elevate their voices with respect to work health and safety.
115. Workers who are empowered to act collectively through their unions are safer and healthier at work. The right to safe and healthy work is central to Australia's values of fairness, equity and equality at work. The union movement has always played the predominant role in advancing worker voices and ensuring the right to safe and healthy work is safeguarded.
116. Safe workplaces mean increased longevity and stability in a worker's employment. Safe workplaces mean fewer injuries and disabilities. Safe workplaces can mitigate against the impacts of domestic, family and sexual violence.
117. In South Australia, the recent legislative reform will make workplaces safer. That reform provides the ability for unions and workers to take work health and safety matters to the state industrial tribunal, including by creating a new work health and safety dispute jurisdiction and by providing standing for

⁸⁶ Cavanough, E. 2023. 'The Cost of Workplace Injury'. The Mckell Institute <https://mckellinstitute.org.au/wp-content/uploads/2023/02/McKell-The-Cost-of-Workplace-Injury-February-2023.pdf>

⁸⁷ Cavanough, E. 2023. 'The Cost of Workplace Injury'. The Mckell Institute <https://mckellinstitute.org.au/wp-content/uploads/2023/02/McKell-The-Cost-of-Workplace-Injury-February-2023.pdf>

⁸⁸ Rapid Review Expert Panel: Ms Elena Campbell, Dr Todd Fernando, Dr Leigh Gassner APM, Ms Jess Hill, Dr Zac Seidler & Dr Anne Summers AO (2024), *Unlocking the Prevention Potential: Accelerating action to end domestic, family and sexual violence*, <https://www.pmc.gov.au/sites/default/files/resource/download/unlocking-the-prevention-potential-4.pdf>

unions to commence internal and external review of certain decisions by SafeWork SA Inspectors and the Regulator.

118. The state government should be congratulated for that reform, and be encouraged to legislate with respect of the Merritt Review⁸⁹ recommendations that remain outstanding.
119. SA Unions submits that the Royal Commission should recommend:
- 119.1. strengthening workplace health and safety laws to complement the positive duty on employers to prevent workplace sexual harassment, sex discrimination and harassment under the *Sex Discrimination Act 1984 (Cth)*, and
- 119.2. faithfully legislating Recommendation 39 of the Merritt Review to amend the *WHS Act* to extend the existing civil penalty provisions to cover the primary duty at s 19 and the offences in Part 2 Division 5 of the *WHS Act*, and that standing for bringing applications in civil penalty provisions be extended to workers, families of injured workers, and employee associations.

Conclusion

120. The role of industrial relations and the workplace in addressing gender inequality and domestic, family and sexual violence cannot be overstated.
121. It is estimated that the average person spends a third of their lives at work – the equivalent of 90,000 hours.⁹⁰
122. Workplace managers impact employees' mental health (69%) more than doctors (51%) or therapists (41%) — and even the same as a spouse or partner (69%).⁹¹
123. The influence of work on people's lives makes workplaces a crucial means of addressing gender inequality and domestic, family and sexual violence.

⁸⁹ Merritt, John (2022) *Independent Review of SafeWork SA* <https://www.agd.sa.gov.au/industrial-relations/safework-sa/safework-sa-review/SafeWork-SA-Review.pdf>

⁹⁰ <https://www.hrmonline.com.au/productivity/infographic-how-we-spend-our-time-at-work/#:~:text=This%20infographic%20provides%20a%20breakdown,are%20spent%20on%20meaningful%20tasks%3F>

⁹¹ <https://www.ukg.com/about-us/newsroom/managers-impact-our-mental-health-more-doctors-therapists-and-same-spouses>

124. The ABS 2005 Personal Safety Survey found that 68% of the people who were subjected to domestic and family violence by a current partner were employed.⁹²
125. Introducing and expanding workplace measures – including specific measures and general measures – to address domestic, family and sexual violence are social imperatives.
126. It is our common duty as a society to protect and support our most vulnerable members. Workplaces and employers are not immune from social responsibility.
127. The South Australian state government is the largest and most influential employer in the state. There is much that it can do.
128. In our submission, we have identified practical reforms that the state government can undertake, and which will do much to address gender inequality and domestic, family and sexual violence in South Australia. These practical reforms include the following.
- 128.1. Leveraging the state government’s \$8.5 billion spend of public money on procurement to ensure that only the most ethical businesses that provide societal benefits can engage – noting that this is an institutional response that is capable of effecting broad social change.
- 128.2. Addressing workplace safety and elevating unions will reduce workplace injury and disability – noting that disability is connected with domestic, family and sexual violence.
- 128.3. Improving workers’ compensation will prevent injured and disabled workers from falling into poverty – noting that poverty is connected with domestic, family and sexual violence.
129. To its credit, the South Australian state government has expressed its commitment to enshrine gender equality in legislation, stating that “*The SA Government will introduce an Equality Bill to require organisations to take positive actions across a range of areas to advance gender equality*”.⁹³ We anticipate that consultation will commence shortly, and it is our intention to advocate for robust and meaningful measures (with the ability to measure change over time), strong public-facing reporting, effective oversight, and compliance and enforcement of requirements.

⁹² ABS 2005 Personal Safety Survey, p.34 and JobWatch (2018), *Domestic and Family Violence—A Real Workplace Issue for Women, Discussion Paper*, <https://jobwatch.org.au/wp-content/uploads/Domestic-Family-Violence-A-Real-Workplace-Issue-for-Women-Discussion-Paper-FINAL.pdf>

⁹³ Government of South Australia (2023) *South Australia’s Women’s Equality Blueprint 2023-26* https://officeforwomen.sa.gov.au/_data/assets/pdf_file/0009/149373/Womens-Equality-Blueprint_2023.pdf

130. We applaud this commitment and submit that the state government can achieve positive progress with an Equality Bill, alongside and in conjunction with the reforms we have recommended.
131. The state government directly employs more than 100,000 South Australians,⁹⁴ it is immensely influential with its \$8.5 billion spend in procurement, and it is capable of legislating for immense social benefit. We strongly encourage it to embrace its unique and influential role as a force for good.
132. Workplace and industrial relations reform can help to address gender inequality and domestic, family and sexual violence.
133. Fix workplaces, fix lives.

⁹⁴ Government of South Australia Office of the Commissioner for Public Sector Employment (2024), *About*, <https://www.publicsector.sa.gov.au/about>



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