



## ***EDUCATION, EMPLOYMENT AND SMALL BUSINESS COMMITTEE***

### **Members present:**

Ms LM Linard MP (Chair)  
Mr BM Saunders MP (via teleconference)  
Mrs SM Wilson MP (via teleconference)  
Mr N Dametto MP (via teleconference)  
Mr MP Healy MP (via teleconference)

### **Staff present:**

Ms E Jameson (Acting Committee Secretary)  
Ms A Beem (Assistant Committee Secretary)

## **PUBLIC HEARING—INQUIRY INTO THE COMMUNITY SERVICES INDUSTRY (PORTABLE LONG SERVICE LEAVE) BILL 2019**

### **TRANSCRIPT OF PROCEEDINGS**

**TUESDAY, 21 JANUARY 2020**

**Brisbane**

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### **The committee met at 9.26 am.**

**CHAIR:** I declare open this public hearing for the Education, Employment and Small Business Committee's inquiry into the Community Services Industry (Portable Long Service Leave) Bill 2019. I acknowledge the traditional owners of the land on which we are meeting this morning and pay my respects to elders past, present and emerging. My name is Leanne Linard. I am the chair of the committee and the member for Nudgee. With me today via phone are Mrs Simone Wilson, member for Pumicestone; Mr Michael Healy, member for Cairns; Mr Nick Dametto, member for Hinchinbrook; and Mr Bruce Saunders, member for Maryborough. Mrs Jann Stuckey, member for Currumbin and deputy chair, is unable to be here today and sends her apologies.

The bill was introduced into the parliament on 27 November last year and referred to the committee for examination. The committee must report to parliament by 14 February. The purpose of this public hearing is to hear evidence from stakeholders who made submissions as part of the committee's inquiry into the bill. The committee will also hear from and ask questions of representatives from the Office of Industrial Relations and the Department of Education.

Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. These proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. In this regard, I remind members of the public that under the standing orders the public may be admitted to or excluded from the hearing at the discretion of the committee. The proceedings are being recorded by Hansard and broadcast live on the parliament's website. All those present today should note it is possible you may be filmed or photographed during the proceedings by media, and images may also appear on the parliament's website or social media pages. I ask everyone present to please turn their mobile phones off or to silent mode. The program for today has been published on the committee's web page and there are hard copies available from committee staff.

### **SCHIPP, Mr David, Private capacity**

**CHAIR:** Thank you for your written submission; it is very much appreciated. I invite you to make an opening statement, after which committee members may have some questions for you.

**Mr Schipp:** Good morning. My name is David Schipp. I was employed by the Star Entertainment Group, Gold Coast for almost 10 years—specifically, nine years, 11 months and three days—when my employment was terminated effective immediately on the basis of an independent medical examination. I was denied payment of my accrued long service leave due to Star's interpretation of the Queensland long service leave legislation.

It did not matter that I had served nine years, 11 months and three days and was 3½ weeks short of the 10-year service threshold that would automatically entitle me to a payment. It did not matter that my five weeks payment in lieu of notice took me beyond the 10 years of service period. It did not matter that I had a good employment record with no history of misconduct or underperformance. It did not matter that I was unwell and not receiving any income. It did not matter that my payment of long service leave would have cost this multibillion dollar company approximately \$6,000. It did not even matter that my name and photo were published in the Star's internal newsletter congratulating me for 10 years of service. In the end, all that mattered was interpretation of the legislation which was that, because I had not resigned and was terminated instead for an illness related reason, I was not entitled to the pro rata long service leave.

I enjoyed the job that I had been employed to do for nine years, 11 months and three days and I fully intended to recover and return to work. I had no reason to resign. It turns out I became exempt from receiving my long service leave entitlement simply because I had elected not to resign. Because of the anomaly in the act regarding the pro rata long service leave entitlements and other separate matters in dispute regarding my employment termination, I have been on a very difficult and challenging journey. Some of these challenges include self-representing at conciliation, then a hearing and finally an appeal which I am thankful was alongside the Hon. Grace Grace's legal team.

Historically, the only employees exempt from a pro rata long service entitlement were those employees lawfully terminated for misconduct. The long service leave amendments implemented in 2001 in part intended to bring Queensland entitlements in line with other states and territories. Importantly, no other state or territory in Australia exempts an employee terminated for an illness related reason from pro rata long service leave. Clearly, this was also the intention of parliament in changing the legislation, particularly when considering the industrial framework's purpose, which is to provide a fair and balanced framework that supports the delivery of social justice for all Queenslanders. If I was employed in any other state or territory, including the Star Sydney Casino, I would not be here today as I would have received my pro rata long service leave. It makes no sense whatsoever that a resignation for an illness related reason provides an entitlement to pro rata long service leave but a termination for the same does not. That in itself supports a notion that the act contains an error.

It is my understanding that retrospective legislation may be justified and appropriate if it is beneficial, curative or validating in nature, including amendments that relate to fixing of errors. The proposed change to the pro rata long service leave entitlement is for the purpose of fixing an error and making the legislation clear and consistent with the intent of the act, the intent of long service leave benefits and public expectations.

I hope, despite the ambiguity and confusion in the current legislation, that other Queensland employers have acted in a fair and equitable manner by paying pro rata long service leave to employees terminated for an illness, injury or disability related reason. Amendments to the pro rata long service leave entitlement will benefit other Queenslanders once implemented. However, despite my case being the catalyst for the amendment, the amendment will be of no benefit to me if it is not retrospectively applied. Because of an error in the act that requires fixing, it would not be fair that I remain exempt from the entitlement, in my opinion. I understand that retrospective application of legislation is a rare occurrence. However, I strongly believe in this instance that retrospectivity should be applied. I urge the Queensland government to support retrospectivity to the pro rata long service leave amendment. I am pleased that when the amended legislation is implemented no other Queenslanders will go through what I have gone through.

**CHAIR:** David, if you have people here supporting you they are very welcome to sit with you. They do not have to sit behind you. If they would like to, they are very welcome to join you.

**Mr Schipp:** The minister determined that the anomaly in the act needs to be fixed. In addition to this, if it was never parliament's intention to exempt employees terminated for an illness related reason from a pro rata long service leave entitlement, why should this amendment not be retrospective? I will be forever grateful to the minister for her intervention in appealing my case. I hope that the retrospectivity amendment is supported. Thank you for the opportunity to speak today.

**CHAIR:** Thank you, David, for coming along today and making your submission. It has obviously been a very long road. It takes a lot of courage to do the many different things that you have done along that path and to come before a committee publicly and talk about a personal situation. Thank you for doing that. Your supporters are very welcome to stay at the table with you. That is no problem at all.

David, I was very sorry to hear of your case. The first time it came to my attention was when the minister stood in the House and included your story in her speech. As members, we have the great privilege of talking about our electorates and naming people in the House. Often that is a lovely thing, but when you get mentioned because your case and the anomaly it has raised in legislation has brought about legislative change, very often it is not a happy occasion because it has come from a degree of pain or loss. In that respect, I am sorry that you had to be mentioned in the House.

Can you tell us a little bit about how long that process has been? You talked about \$6,000. Is that in reference to what your pro rata entitlements would have been?

**Mr Schipp:** Basically, my pro rata is that amount. Moving forward, there is a lot more to this than just the long service leave. It has been a very hard battle for the last few years—June 2017. Obviously, this part of the long service leave is coming on to two years.

**CHAIR:** Can you advise how much you would likely have saved if you had not had to seek a determination through the commission? What have you spent in that process?

**Mr Schipp:** Basically, because I self-represented—if I had not self-represented I would owe money.

**CHAIR:** There are still costs incurred, even in seeking a process. Do you have an estimate of what the process itself has cost?

**Mr Schipp:** I would have to sit down and do a brief summary. Obviously, I have been travelling to Brisbane and so on. I have been seeing a psychologist and so on, but we can discuss that at another time.

**CHAIR:** That is a very relevant cost. It has been a stressful process. You have wonderful supporters reminding you of things that I am sure you want to put on the table, so I thank you for that. David, I appreciate that you may not have looked at legislation in depth—or you may well have, because you have lived and breathed this for some time now—but do you feel that what is proposed by the minister, the department or the government and that has been brought forward would have addressed and prevented your situation? Would it likely have protected you in your situation to be able to access that pro rata? Is it solving the problem?

**Mr Schipp:** I believe so. In my circumstance, because of everything that has happened, I have been unemployed in an ongoing capacity since. I have not had the ability to work in an ongoing capacity at all. That is also another thing. Obviously, as you may realise, there is more to this than just long service.

**CHAIR:** We respect that you will put on the public record what you can and what you choose to. We are very respectful of that. Finally, you made a comment that you could not access your pro rata long service leave entitlements because you chose not to resign.

**Mr Schipp:** Yes.

**CHAIR:** My understanding of the case, not having gone through the legal documents but having gone through what you have provided to the committee, is that you were terminated on the basis of your incapacity or ill health. You had no intention of resigning. Is there anything else that we need to know?

**Mr Schipp:** Basically, they gave me the option: if you resign you will get—I am chopping between cases here. If I resign I automatically get it, but because I am terminated for the same reason I do not. I had no intention of resigning. I never was leaving my job. I had been seeing my doctor in regard to a return-to-work program. Basically, I had no reason to resign.

**CHAIR:** Because of time, I will move to my colleagues. I am not cutting you short. I am moving to my colleagues, because they may have questions for you. Member for Pumicestone, are there any points of clarification that you seek?

**Mrs WILSON:** No, Chair. Thank you, David, for coming in and being a witness today.

**Mr SAUNDERS:** David, it is a pretty horrific story. I was listening intently to you. It is pretty sad what happened to you. Let us hope it does not happen to anyone else with the legislation. Thank you, David, for sharing your story not only with us and the committee but also the whole of Queensland.

**Mr Schipp:** Thank you.

**Mr DAMETTO:** I would like to mirror the comments of the member for Maryborough. David, thank you very much for coming in today and giving us evidence. I do not have any questions to ask you, but I want to thank you for giving us an insight into your industrial relations issue with portable long service leave and the inability to access your pro rata long service entitlements. Thank you very much for being brave enough to come in and tell your story.

**Mr Schipp:** Thank you.

**Mr HEALY:** David, I am very sorry to hear about what you have gone through, mate. The purpose of this amendment to the legislation will hopefully eradicate those issues. Thank you for your submission. I know that you have been through the bill. Do you think the bill's proposed amendments as drafted will be sufficient for a person in circumstances similar to your own to be able to access a proportion of payment for long service leave?

**Mr Schipp:** Yes, I do.

**Mr HEALY:** Excellent. That is the whole purpose of this. The idea is that we provide the legislative framework so that we do not have these issues again. Thanks for your submission and I appreciate your response.

**CHAIR:** David, there are no further questions. Is there something particular that you wish to get on the record? I know that the matter is fairly clearly addressed in both the minister's opening statement and the submission we have printed. The commitment I am very happy to give you is that, when the committee drafts a report, it will be a matter for the committee as to what the wording is in that report. I think it would be fair to say on behalf of my colleagues that we will faithfully put in that submission your strong request that it should be retrospective. Obviously it is a decision of the Brisbane

parliament ultimately whether the legislation is changed and if it does contravene fundamental legislative principles. I appreciate the argument that you have made in respect of why that threshold is met. Of course, as you would also understand, that is a discussion about whether it also meets the threshold given that it is an abrogation of obligations as well on the part of others. That is a conversation that will happen in the House. I think it is fair to say, on behalf of our members, that we will respectfully acknowledge your request in the report.

**Mr Schipp:** One more thing is that, before I was terminated, I was under the impression that I would get my long service leave. I reiterate: nine years, 11 months and three days. That is just heartbreaking.

**CHAIR:** Was that your understanding on the basis of your interpretation of the legislation or advice given?

**Mr Schipp:** Yes, and then after I was terminated I was advised, 'You're not getting it.' Up until then, I would have assumed that I would have got it for nine years, 11 months and three days of service.

**CHAIR:** To clarify, on your understanding of the legislation or on the advice your employer had given you?

**Mr Schipp:** On an understanding of mine.

**CHAIR:** Thank you for coming. You are very welcome to stay if you would like to hear other submitters or you may leave if you wish to. Thanks for coming in, David.

**Mr Schipp:** Thank you.

**NANCE, Mr Stephen, Manager Workplace Relations, Anglicare Southern Queensland**

**O'TOOLE, Mr Terry, Chief Executive Officer, TransitCare Ltd**

**WICKS, Ms Francine, People and Quality Manager, TransitCare Ltd**

**ZILLI, Ms Anna, Director, Organisational Development, Anglicare Southern Queensland**

**CHAIR:** Welcome. I ask someone from Anglicare to make the opening statement.

**Mr Nance:** Thank you, Chair and members of the committee. On behalf of Anglicare Southern Queensland we thank you for the opportunity to appear before the committee today. I will give you a little background on myself. I have been involved with the community sector since the making of the awards back in 1990. I was the principal architect from the employer side in the drafting of both the federal SACS award and the crisis assistance award and then progressing onto the community sector state awards. I was then involved as the principal advocate for pay equity, which was the Fisher case. I have a fairly good understanding of the community sector.

As outlined in our submission, Anglicare Southern Queensland does not oppose the introduction of portable long service leave in the community sector. However, we do have some practical concerns that we believe need to be clarified or rectified as part of this consultation phase. In particular, our most significant concern is the definition of community service.

On 9 January 2020 the department released a response to issues raised through public submissions to the bill. With respect to the scope of the scheme, the department states that the scheme has been established for the portability of long service leave in the community services industry. It states that, with respect to standalone residential aged care, primary health care and child care, the services are not within the proposed scheme. ASQ supports that reasoning.

Our principal concern with the scope of the proposed scheme is that it seeks to include home and community care services. This is defined under the bill as providing support for people with disabilities, including home care support for elderly clients. This broadened definition includes providing aged care to elderly people in their own homes. By retaining this definition, it then includes any staff or any employees who are involved in the community care of the elderly, which includes nurses, allied health staff, support staff, cleaners and people who go into people's homes doing home maintenance. The broadened definition would include things outside what the industry has always understood community service to be. It has never included aged care. It has included all other areas, including disability services. We do not disagree with that sentiment.

ASQ is seeking, as part of this consultation, that the definition be amended so it reverts to the clear understanding of what the social community sector has been since its inception in the 1990s, when the first awards were made. By broadening the definition it has confused the issue. We would submit that any staff who are prominently employed to provide services to the elderly in their own homes be excluded from the scheme. The legislation allows for exemptions to be made.

This exemption would also include employees who are temporarily working in the community services industry but are employed by an organisation in a service area not covered by the scheme. At Anglicare we do move people over on a short-term basis for training in certain areas. This would cause an administrative nightmare. If we put somebody into higher duties or across into the community service area for four weeks, we would be obligated to pay that levy for four weeks. However, when they revert to their normal position they would not be covered by the levy. It is an added impost on Anglicare to cover that situation. As I have stated, where employees are predominantly providing services to people with disabilities they would be covered by the scheme because that is what the social community awards would naturally gravitate to.

The second issue we would like to raise is the different long service leave conditions that currently apply. Across the industry a number of smaller organisations or other organisations would be complying with long service leave provision as per the Industrial Relations Act. However, there are a number of organisations that provide additional benefits to their staff as part of their attraction and retention provisions. For example, Anglicare accrues long service leave at a rate of 1.3 weeks for each year of service. After 10 years, employees would accrue 13 weeks and not 8.667 weeks. We also allow people to access long service leave after seven years, even on termination for any reason. Again, it is a lot more beneficial to our staff. This applies in a number of other organisations that I am aware of.

It is clear from the department's response that for an organisation that offers more generous long service provisions that must be managed by the employer. With respect, this explanation does not address the legal issues regarding this matter. For example, after the scheme is implemented if an employee has only worked for Anglicare for two years but has had eight years previous experience in the industry, the scheme will pay 8.667 weeks. However, under our agreements the employee could be entitled to 13 weeks. The issue here is: who pays the difference? The person has only worked for Anglicare for two years, but we will probably be hit with the impost of providing the additional four weeks pay for them.

The legislation is unclear. It does not say we have to and it does not say we do not have to. What we are seeking as part of this consultation process is for the legislation to be made very clear. It could be done either through the bill itself or more appropriately through the ancillary legislation, the regulations. The way the government wants to go should be reflected in the regulations.

We would submit that it seems unfair that organisations that have been providing additional benefits to their staff would be financially penalised if we are required to pay the additional four weeks long service leave. One option the government may consider as part of this consultation process is for organisations that are providing more benefits—and that could be where they are providing 1.3 weeks for each year of service or accessing long service leave after seven years—the levy imposed could be at a reduced rate. That would even things up and be fair and equitable, as the department stated. I do not have a figure, but I presume the people who have determined the levy to be 1.36 could look at what it would mean, if it is additional benefits around long service leave, if the levy were reduced to around 1.25. That is only a hypothetical figure.

I turn to the final issue we would like to raise. ASQ highlights the need for organisations that will be covered by the scheme to be appropriately funded. Currently, under the funding arrangements it is administrative funding. In the past this would not have included long service leave until somebody reached five years of employment and then it would be accrued as value on the books. Then the person would be able to take their leave after seven years with us or 10 years for other organisations. It would be a stepping stone so organisations could actually fund that leave through their funding arrangements.

The Queensland government has in past shown that it is prepared to assist organisations where there has been increased costs. For example, in terms of pay equity—the Fisher rates—the Queensland government assisted all organisations getting state funding to help accommodate the pay equity wage increases. It did not cover it all, but it certainly provided a benefit to those organisations. Likewise, when the federal commission awarded the pay equity increases in 2012 the state government and the federal government provided assistance to organisations to assist them in meeting that cost.

What ASQ would be seeking from the Queensland government at this stage is that it provide some form of compensation or supplementary funding, at least in the short term, to assist organisations to cover this initial cost, especially when they have staff who have been there for a number of years.

**CHAIR:** I am going to have to get you to wrap up. Is there a final comment you would like to make?

**Mr Nance:** The final point is that we have calculated that, based on the current definition, it would cost Anglicare more than \$1 million per annum to contribute to the levy. That would have to come out of funding. That would mean reduced services or reduced labour to maximise the funding.

**Mr O'Toole:** I would like to concur with the final statement made by my colleague. We would be in exactly the same boat but not with the same volume.

Thank you to the committee for giving us the opportunity to appear. Having read through the documentation from this committee and from the various respondents, it is clear that we are in the minority. That is not entirely surprising as our organisation and the community service it provides is significantly different to the majority of the sector. I do not see the fact that we hold divergent views because we come from a different practical experience in any way makes our views less valid. We thank the committee for giving us this opportunity to appear.

Within the community services sector there are some small, niche service providers that not only provide unique or specialist services, differently to the majority, but also operate in different markets in terms of competition, staff attraction and retention. Organisations specialising in the provision of emergency housing, community transport and meals on wheels are some specific examples.

TransitCare has been serving our local community for more than 25 years. While our programs are predominantly supported via government funding allocations and the scope of the programs has therefore changed over time, we cannot in good conscience describe our organisation as any less stable than any private venture. Mining and exploration companies have uncertainty based on weather, ground conditions and commodity pricing. The retail, hospitality and tourism industries all have uncertainty based on economic conditions and/or public sentiment. It is a furphy to imply that our industry is any less stable than the private sector and therefore the people who work in this require different long service leave treatment. That said, as the papers indicate, this is all but a forgone conclusion that has left us to try to minimise the likely impacts and potential damage to our ability to serve our community.

Looking at the direct market in which we operate, community transport providers like TransitCare compete head to head with taxis, rideshare operators and other private organisations. The Queensland state government provides our direct competitors, taxis, with the Taxi Subsidy Scheme to enable them to artificially undercut prices charged by community transport organisations while still receiving a subsidy payment from the government. This effectively increases the cost paid by government and ultimately the taxpayer. In addition to the Taxi Subsidy Scheme, this government also pays operators of wheelchair accessible vehicles a \$20 lift fee when they use their vehicle to pick up someone in a wheelchair. This payment is on top of the financial assistance given by this government to individuals to buy a vehicle in the first place. This government has allocated \$21 million over the next three years for taxi operators—private enterprise—to upgrade their wheelchair accessible vehicles.

Against these multilayered subsidies, community transport organisations receive no equivalent assistance and have been saddled with an award equalisation scheme that costs us around 29 per cent more than our for-profit competitors per employee per year and now proposes to impose on us a portable long service leave levy. If the community transport providers withdraw from the market, there is a shortfall of around one million trips per year in Queensland. There is no infrastructure within the taxi industry or public transport alternatives to meet this need. This is a serious risk to government.

Against this reality, it is deeply concerning to read a formal response from the Department of Education which states that funding arrangements for the community services industry are outside the scope of the department to respond. How is it that the state government would seek to implement a scheme that will impose direct cost on the organisation it funds without any work done on potential offset funding for those organisations? The department's response infers that an analysis has been completed on the financial impact of the proposed levy. At page 7 of the response to issues raised paper the department states—

The benefits of the scheme, in light of ... community services industry, are expected to assist in offsetting the impact of paying the levy over time.

We would seriously question how such a statement can be made when the department clearly has made no effort to fully inform itself, and therefore this committee, of the impacts to the wider budget of the need to offset that funding. We were frankly disappointed by the quality of the written responses from the department to this committee in general and our stated concerns in particular. There are a number of concerns that were not addressed at all, and those that were addressed were squarely relegated to 'not my problem'.

Specifically, the community services industry, while funded by government, is not government. We are not a single entity but a group of competitors. A staff member leaving to work at a different employer is a complete loss of knowledge and talent from the organisation who has to be replaced at full cost. This has not been addressed. There is instead a monologue about the purpose of the scheme and its benefit to workers. Whilst that is not in dispute, that does not answer our concerns about the cost to the employer.

As detailed in our submission, TransitCare has 80 staff with an average length of service on our front line of 6.21 years. The unplanned separation rate for the 2018-19 financial year was 7.6 per cent. Longevity of service and low turnover have been achieved through substantial investment in the staff and training provided. The average direct cost to recruit and train new frontline staff is \$6,328, and that does not include the cost of internal human resources staff. The work we do is not common across the sector. Due to the nature of the work, some of our members are operational staff and not even covered under the SCHCADS award but by the passenger vehicle transport award. The majority of positions in our organisation can be described as either driving or clerical. There is no medical or allied support. The nature of our funding is for clients with low-level needs, and these are not even roles that would meet the definition of personal care workers.



New staff who come to us, particularly in driving roles, have to be trained from scratch. Our training program for a new driver runs between four and eight weeks. Our staff are highly sought after by other community transport organisations and Queensland ambulance. The assertion by the department that the loss of these staff to our competitors will be offset by a large pool across the entire sector in our situation is complete nonsense.

**CHAIR:** Terry, are you wrapping up? I am sorry, I have to do the same wrap-up that I did with Stephen or there will be no chance for questions.

**Mr O'Toole:** I do not have much more to go. Contrary to the assertions of the department in its response to the impact of the portable long service leave scheme, it is likely to be unequal in impact across the sector. We have given specific examples but they have not been answered. Our concern is that any financial burden in setting up the scheme and ongoing costs incurred by the organisation should be excluded from the levy.

With all due respect, we would ask the committee to get full and proper answers to the legitimate concerns raised by us. We have not seen anything in the papers to indicate that taxi operators have been included in the so-called wide consultation process. If by definition the scheme is to apply to all organisations that provide a community service and all employees within that organisation, then it follows that taxi companies and all their company drivers, who are effectively being funded more than \$21 million to provide community services, will also be covered by this scheme. Similarly, the scheme would also apply to bus operators, rideshare and transport providers, supply services to the disability sector and school transport. Like all good policies, there are some unintended consequences. We firmly believe that community transport and Meals on Wheels are unintended consequences.

**CHAIR:** To return to two of your comments, we do not mind divergent views. Here in parliament there are many, so you are always welcome to come and put those views before a committee. Secondly, I have a point of clarification. My understanding of the reference the department made to budget appropriations is simply a factual one. The department of industrial relations does not go and seek budget appropriations for the service agencies that fund the sector to the budget. It is just a factual statement in respect of how state budgets work. To be fair, having done many years in Treasury, I would make that comment.

On that note, thank you very much for your written submissions. I can see that you put a lot of detail and thought into your verbal submissions, and I am sorry time is short. Our next submitters are on at 10—I can see the Queensland Law Society sitting behind you—so I apologise. I will keep it short, but we want to make sure everyone gets a chance

**Mr HEALY:** Terry, TransitCare's submission suggested that the planning and implementation of any such scheme should be undertaken with direct input from an industry advisory board or panel comprised of representatives. Can you give us a little bit of detail on that? Is there a similar framework in another industry or jurisdiction where this has happened?

**Ms Wicks:** I am not aware of any similar body in a similar situation. The situation for our group has not happened before. The simple fact is that the way this particular legislation impacts on organisations funded to provide service is very different to the way it impacts on a government department or private enterprise which has the scope to change budget and the amount of money available. We are capped at what we have. There has to be a way of putting something together that does not unduly impact those costs. As Anglicare said, this will come directly out of service. We calculate that we would stop immediately about 1,500 trips a year just to pay for the levy itself.

**Mr HEALY:** You are not aware of a framework in any other industry. The suggestion of an advisory board really is to make further recommendations in relation to the legislation being proposed here?

**Ms Wicks:** Yes.

**Mr DAMETTO:** I do not really have a question but more of a statement. Thank you very much for coming in today and giving us your account from the industry's perspective on how the proposed legislation will affect not only how portable long service affects your industry but also how industry will pay for this and asking whether the state government has considered whether it will help with funding arrangements. Thank you for bringing some of those unintended consequences to our attention. I will note those as we go through the committee process and when we vote in the House.

**Mr SAUNDERS:** TransitCare notes that it will be disadvantaged by the portable long service leave scheme, suggesting it will act as a disincentive to move to less physically demanding jobs. Can you tell us how this will affect your organisation's existing or new strategy to retain and recruit staff and their roles?

**Ms Wicks:** As we said, we currently have about 80 staff and we take between four and eight weeks to train our frontline staff in the delivery of service. It is a good job, obviously, but as staff get older or they have done it for a longer period of time it does become more challenging. Our drivers do not just drive vehicles. They physically go to the door and help people into and out of vehicles; if people are in manual wheelchairs they physically assist them in and out; if people are in wheelchairs that have to be strapped down they physically strap them to the bottom of the vehicle. Over time it does become a demanding job, and certainly if they had the opportunity to move to something that was less physical and easy I would not blame them for wanting to do that. One of the reasons they stay—particularly long-term employees with five to seven years service—is absolutely long service leave. That is an incentive to stay. Given the fact that we put so much time and money into our training, if we lose staff with that level of experience and service we are going to put \$6,000 a person back on the bottom line just to train them.

**Mrs WILSON:** Thank you to everyone who has come in today. Anglicare and TransitCare have both raised issues about the cost involved. Anglicare states they have factored in that the scheme will cost roughly \$1 million per year, and TransitCare mentioned there potentially will be 1,500 trips lost per year. Can either of the organisations speak further to those comments? Are we talking about possible job losses and a further reduction in services they will be able to provide to consumers if this legislation comes in in its current form?

**Ms Wicks:** The quick answer from us is yes.

**Mr Nance:** If the definition remains as such as for community services, which will include elderly care, then clearly the organisation will have to review what services it provides if \$1 million of our funding will be going into the levy. How that is going to be distributed across all of the different areas is difficult to ascertain at this stage. If, for example, the committee makes a recommendation to exclude the elderly from the definition, then that would significantly reduce the actual cost impact to Anglicare. The reason I am saying that is: our wages bill for our elderly is \$42 million compared to the wages cost for other areas which are covered by the social and community award, which is around \$30 million. It is a significant bite, and we would have to reassess what services we would be able to provide. As for job losses, I cannot say that because that is not the position of Anglicare. We would try to retain jobs but most probably reduce hours or reduce the number of clients we service.

**Mr O'Toole:** TransitCare would probably be in a similar position. We would try to reduce the number of hours instead of having a headcount loss. It would impact on the services we could deliver by 1,500. We are one organisation and, whilst we are a large transport organisation in Queensland, you could extrapolate that this impact would then occur right across the state for all community transport organisations.

**Mrs WILSON:** Basically, potentially there could be a situation where some full-time staff members need to move to part-time or casual staff wages due to this scheme's changes, if the definition is not adjusted?

**Mr O'Toole:** That is certainly one of the options, but we would have to look at all options. It would be too difficult at this stage to say that is the only option. There would be a plethora of options we would have to look at.

**Ms Wicks:** To give you an idea, a driver will perform between 14 and 17 trips a day, so if there are 1,500 fewer trips to be done then, yes, drivers' jobs would be at risk.

**CHAIR:** I am mindful of the time so I will address my question to the panel jointly. Your submission, Terry, talks about the average length of service of your frontline staff—6.12 years—so below the payment of pro rata long service leave. These are truly quick estimations. I have not sat down with a calculator, so I apologise if they are wildly wrong. Looking at the breakdown of Anglicare's staffing numbers, roughly only six to eight per cent of employees reach the pro rata level and five per cent would reach the 10 years. How are you currently apportioning and meeting your requirements and obligations under the Industrial Relations Act in respect of long service leave entitlements? How does that work in both of your organisations? The majority of that money has never been paid to employees. I am just interested to know how it practically currently works in your organisations.

**Mr Nance:** In respect of the figures that were put into our submission, they were specifically related to people covered by the social, community and home care award and not to the aged-care sector.

**CHAIR:** That is okay, because we are not talking about aged care. The minister's speech was quite clear about that.

**Mr Nance:** The way it works is that Anglicare would start accruing on the books after five years. Therefore, if any employees get to seven years under our industrial agreements or policies, if they leave for any reason they would be paid out or, alternatively, if they wish to access their long service leave after seven years as a form of either cash payment or leave they have the right to apply for that.

**CHAIR:** But the majority never reach that and can never call on this entitlement at all. What are your views about why the majority of employees never actually reach that threshold?

**Mr Nance:** I think it is the nature of the work itself. It is a tiring work. I have to state that our oldest employee currently is 82 years of age, working in the community.

**CHAIR:** Lots of experience and wisdom!

**Mr Nance:** That is right. We have a low turnover of 13 per cent, compared to the industry average of 18 per cent. To be fair, when people are providing care to elderly or doing the ancillary sort of support of cleaning, vacuuming, washing and so on, when they get into their 50s and 60s it does pose a problem physically for them. After a certain time, they find that the work is too demanding and, yes, they then will leave the industry or look for alternative employment. One of the big issues is looking for alternative employment.

**Mr O'Toole:** A lot of our employees seem to arrive at our door in their late 40s to 50s. In saying that, though, this year—we have already scoped that out—we would probably have about 12 people about to convert their 10 or 15 years of service. It is not a young person's workforce. We do tend to attract people who have lost jobs, been made redundant, been retrenched et cetera.

**Ms Wicks:** Or change of life. This would be true across the sector. People move into the disability services sector because they want to do something that has meaning. Often they have pursued life as a nurse or investor in whatever way and they get to a point where they want to do something else later in life so they come to this kind of work. That is part of the reason it is a shorter service period over time, because they are older when they start.

**CHAIR:** Would it be fair to reflect that you are acknowledging that there are particular characteristics of this industry that do lead to shorter lengths of service, which has been the impetus given by the minister and stakeholders for the need to look at portable long service, because people are not making the threshold to ever access it? I think you have already acknowledged that.

**Mr Nance:** It is a fair comment. I will not dispute that it is not a long-term engagement for the majority of our workers. Likewise, our workers come to our industry in their 40s. It is more of a late-blossoming industry; therefore, yes, people have a shorter term. On the flip side, by not contributing to a fund those moneys go back into the services we provide.

**CHAIR:** Terry, I do not want to put words in your mouth—I want them to be your words—but is that something you acknowledge and agree with; namely, the nature of the industry being short term, unlike other sectors? I think you almost inferred that it is not.

**Ms Wicks:** I would say some but not at all. We are slightly different, as we have said. I do not think our experience is any different to a retail environment, a restaurant environment, a hospitality environment. Most of those would not reach anywhere near this, either.

**CHAIR:** Stephen, you estimated \$1 million. I am interested in your comment about administration normally being built into service contracts from government. The Deloitte report, which I am sure you have looked at, estimates that an additional five to 10 minutes per quarter would be needed to administer a portable long service leave scheme, or an additional cost of approximately \$1.80 to \$3.65 per employee per quarter. Have you based your estimate on \$1 million on what Deloitte is inferring would be the additional cost?

**Mr Nance:** No, our estimate is based on the wage. The 1.35 per cent levy is based on the ordinary time or the ordinary wage.

**CHAIR:** You made a comment about administration. Were you not referring to that?

**Mr Nance:** Realistically, administering over 2,000 employees each quarter will take longer than the report states. I do not know how many employees are there. If you look at a standard organisation in the social community of probably 30 to 40 people I would agree with that, but not when you have over 2,000 employees who could be subject to this levy.

**CHAIR:** For the record, you dispute the number that Deloitte has given? That is fine. It is good. It is just so that we are clear.

**Mr Nance:** I do.

**Ms Wicks:** We agree with him.

**CHAIR:** I could keep asking you many questions—I am sure my colleagues could also—but we have more stakeholders to hear from. I thank you very much for your time.

**BRODNIK, Ms Kate, Senior Policy Solicitor, Queensland Law Society**

**MURPHY, Mr Luke, President, Queensland Law Society**

**SANTELISES, Mr Aaron, Industrial Law Committee, Queensland Law Society**

**CHAIR:** Thank you for your written submission. We all have read your submission. As is the usual process, Luke, we do not need you to go through everything in depth, but this is your opportunity to expand on anything you would like to.

**Mr Murphy:** Thank you very much for inviting the society to appear at this hearing. In opening, I would like to acknowledge the First Nations people as the original inhabitants of the land on which this meeting is taking place. I recognise the country north and south of the Brisbane River as the home of both the Turrbal and Jagera nations and pay deep respects to all elders past, present and future. The society, as committee members would be aware, is the peak professional body for the state's over 13,000 legal practitioners whom we educate and support. The society is fiercely independent and an apolitical representative body upon which we believe government and parliament can rely to provide advice and to promote good evidence based law and policy.

In relation to this bill, the society certainly supports the intent of the legislation. Our submission, as is evident, is driven more at a couple of drafting queries and, in a nutshell, really seeks greater clarification to ensure that the implementation of the bill provides certainty for those affected by it. We note that the department has responded to some of the queries by stating that the decisions about coverage, and particularly the submissions we made in response to the definitions, are capable of review and appeal. Whilst we completely support the rights for review and appeal, it is not, in the society's view, the ideal way to be addressing the implementation of legislation. It is far more beneficial to ensure there is as much certainty as possible in relation to the bill as drawn. Having made those general comments, if the committee does not mind I will ask Mr Santelises to make some specific comments.

**Mr Santelises:** To build on Mr Murphy's submissions, it is the society's position that there needs to be further clarity within the bill. The first example I draw your attention to is the definition of a worker. Clause 8(2) provides that a regulation may prescribe a class of individuals who will be considered workers. The explanatory notes and the briefing paper which accompany this bill do not provide guidance as to the possible class of workers within the bill who might be excluded. The Queensland Law Society welcomes further clarity for all parties involved in this bill as to what that is to be. Further, we note that the explanatory notes state in reference to clause 6 -

For the purposes of this Act, it is intended to be distinct from the aged care industry and the child care or early childhood education industry.

The issue with this statement is that the schedule lists services which could form part of the aged-care, childcare or early childhood education industries. If it is the intention to exclude these industries, there needs to be clarification either to have them in or to acknowledge how this will work out in practicality.

Further, we highlight that clause 9 considers amendments in reference to subsection (3) to section 7 of the Labour Hire Licensing Act 2017. The labour hire regulation section 4 sets out those individuals who are not workers. For example, a person employed by a community service organisation has been included in that exclusion. This is because community service case workers are generally classed as in-house, and employees under this scheme are not persons provided for labour hire purposes. This is a clear inconsistency that needs to be addressed by the bill. Accordingly, we submit that there needs to be an amendment to clauses 6, 7, 8 and 9 to ensure there is a clear definition of who is a worker and who is an employer in this bill.

The other main point we raise is in relation to QLeave. We understand the establishment of this organisation, but there is no reference within the bill and we further ask that there is consideration of the clarity of the functions of this organisation and how it will work out with this bill.

**CHAIR:** I am frantically trying to review the response to you to see if any of those were addressed.

**Mr Murphy:** I can address that. No, they are not. The reason they are not is that we were extended an indulgence of some 24 hours in submitting our submission. The department quite rightly prepared its response on the other submission. No, unfortunately, the department have not responded to those issues.

**CHAIR:** Thank you. I am quickly looking through, because we have received from the department a response to the issues that you raised, but we authorised it for publication only about an hour and a half ago. I am not shocked that you have not read that because it would not be online yet. You have just now received a copy of that. I can see reference to some of the issues you have quickly outlined. Some of the matters you have raised I think are addressed; some of them are not. I appreciate that you will not be happy with all of them. Correct me if I am wrong, committee members, but we would appreciate, when you have had a chance to digest what they have said, a letter or an email saying, 'We still feel this matter, in part or full, is not addressed.' That will be of benefit to us and we will respectfully acknowledge that in the report.

**Mr Murphy:** When would you like that completed by?

**CHAIR:** You know that parliament always likes to give long timelines, so by Friday if you could. It is not today; we are being very generous!

**Mr HEALY:** I do not have a question, but I thank you. You did cover off on a few points. I will be interested to see your response to the material you will be getting. Unfortunately it has to be by Friday, but I am keen to see your feedback on that document. Thank you very much and thank you, Chair.

**CHAIR:** Thank you. I appreciate that you waited and now you have spoken. I say this at every hearing, but we appreciate the expertise that you bring in respect of the drafting of the bill. I am very interested particularly in whether you feel the department's response addresses your concerns about the definition of a worker. It is a perennial issue in many different respects, as we know, when matters come before the courts or in respect of legislation in terms of that definition and it can cause issues when it is not properly defined. Also I note in respect of clause 6 that the issue of aged-care and childcare services has been raised. The minister made some comments in her introductory speech about when these services are peripheral to the main purpose, being community services, that they would be captured but when they are standalone services they would not. I am interested in your views about the drafting and whether it clearly reflects her statements, as we know what is in legislation is different to that extraneous material, being a speech.

**Mr Murphy:** It was exactly that. It is the clarity that is our greatest concern. As I said at the start, we fully understand and support the intent. It is ensuring as best as we can that the implementation of it is as effective as possible and that there is not this reliance on reviews and appeals and the potential exposure for employers for offences of noncompliance.

**CHAIR:** Thank you. Clarity is a good thing for all concerned.

**Ms Brodnik:** As you have said before, we turn up to every committee hearing that we can. The various departments very kindly provide responses to the committee on the submissions and they have done so again in this case. That often does give further clarity, but we note that that then is left in the committee process. When the bill is passed and becomes an act, what is listed on the Queensland legislation is the act and the explanatory notes. In our view, it is not the case that this further material can be accessed by the users of the scheme going forward. Even if the material does provide further clarity to the committee and to everyone else who has been part of the inquiry, it needs to be placed in the legislation or this legislation needs to be clear enough that it does not rely on supporting material from the committee process.

**CHAIR:** I absolutely agree. That is a broader debate in terms of how much you can put in legislation and the weight apportioned to this sort of supporting material. Of course, it is on the committee web page, which I am sure everyone at home refers to and reads with great pleasure and not just us. I am not being flippant in respect of your comment; I do appreciate what you are saying. Often it is only people who understand the process who would then know to go to that as supporting material and whether that then carries any weight in a legal proceeding I appreciate is very significant. I thank you all. I will let you get back to your other roles. We look forward to your response.

**DEAR, Ms Kerriann, Sector Sustainability Coordinator, Community Legal Centres Queensland**

**HANSON, Ms Carly, Sector Sustainability Coordinator, Community Legal Centres Queensland**

**MONRO, Ms Rosslyn, Director, Community Legal Centres Queensland**

**CHAIR:** Thank you for your submission. I appreciate you have much engagement with the parliament and different committee processes. Thank you for engaging in our process. Would you like to make an opening statement?

**Ms Hanson:** Thank you for having us today. Community Legal Centres Queensland is very pleased to attend this hearing and provide evidence on the Community Services Industry (Portable Long Service Leave) Bill 2019. CLCQ provided a submission in support of the bill in 2019 as well as a written response to the consultation RIS in October 2018, both as an organisation that will be subject to the bill and on behalf of our member organisations.

CLCQ is the peak membership body representing the 34 funded and unfunded values based community legal centres across Queensland. Our members are independently operated, not-for-profit community organisations of varying size employing approximately 480 workers who provide free legal help to disadvantaged and vulnerable people. As with most other social and community services organisations and as identified in the RIS, our members rely on government funding, most of which is prioritised for staffing cost, to deliver legal and support services. Employment contracts are often short term due to uncertainty of continued funding, which can create issues for employee attraction and retention. Our sector, when compared to similar roles in the private and government sectors, is lower paid and is largely female dominated, and many workers operate in environments of high stress and crisis with a real risk of vicarious trauma and burnout.

Our submission highlighted the elements of the bill we are supportive of and noted several concerns raised by our members. We are mostly satisfied with the responses provided in the department's correspondence to the committee on 9 January in papers 1 and 2. However, there are some key aspects of the bill that have been raised since we put in our submission that we would like to address today. Many of the comments provided in the other submissions and in those responses related to scope, so we would like to comment on that briefly.

We note the determination of whether an employer is providing community services may depend on the employer's individual circumstances, but we agree with the Queensland Law Society's submission that perhaps the dominant purpose test should be applied where there is a question around scope—for example, if the organisation is not listed in the types of community services noted in schedule 1 or there is some confusion there.

Where the employer is not providing community services as its dominant purpose, we believe the organisation should be able to opt in so their staff can enjoy the benefits of the portable long service leave scheme. Our view is that once the employer is deemed to be providing community services or has opted in, all employees of that organisation should be covered by the bill and have access to portable long service leave, regardless of whether they are working on the front line or in administration, management, leadership or IT. This will ensure certainty and fairness for all employees and reduce the administrative burden for organisations.

We would like to point to a particular situation where there seems to be an unintended consequence of creating two classes of workers, which may occur under the bill in its current form, which was raised in the department's responses to the committee on 9 January. We have concerns that employees who are in the industry prior to 1 July 2020 would continue to be covered by the Industrial Relations Act, meaning they will have to wait 10 years to access their long service leave, whereas those starting fresh in the industry or with a new employer after the commencement date will be part of the new scheme and have pro rata access after seven years. In our view, it seems out of line with the policy reason behind providing earlier access, which was as a compromise for a lack of retrospective coverage. When improvements are made to employment provisions, it makes sense to move workers to those more favourable conditions as soon as possible.

The objects of the bill are to provide an equitable and efficient system of long service leave in the community services industry. As such, the bill and regulations should seek to provide certainty for both employers and employees in relation to scope and ensure an equitable outcome for all employees. The inequities that may result from this are best demonstrated by an example. This is hypothetical. Jenny started working at a community legal centre on 1 July 2018 and was on rolling Brisbane

12-month employment contracts. As she commenced prior to the introduction of the new portable long service leave scheme, she would need to work for a further 10 years with the same employer in order to access her long service leave under the Industrial Relations Act, that is, 1 July 2028. If Jenny's employment contract came to an end in July 2025 after seven years of service with the employer and in the industry, she would not be able to take her long service leave as she is three years short of the Industrial Relations Act requirements.

If Jenny was then employed at another CLC, she would have to start her accrual of long service leave from scratch, even though she has had five years of levies paid into the scheme on her behalf. Although the portable scheme commenced on 1 July 2020, Jenny is not able to take advantage of any of the benefits of the new scheme. She cannot take a break of up to four years, she cannot change employers, even within the community services industry, and she cannot access her pro rata long service leave at seven years. However, a new worker commencing fresh with the same community legal centre on 2 July 2020 would have access to all of these benefits.

Just briefly, I would like to make mention of the minimum of five-day blocks of long service leave that can be taken under the bill. Our members questioned whether long service leave could be taken more flexibly than the minimum five-day blocks as some organisations have better conditions allowing employees to take single days of leave—for example, where they have caring responsibilities or are transitioning to retirement. We note that the Industrial Relations Act contains no such restriction and submit that this be matched in the portable long service leave bill.

In conclusion, we support the Queensland Law Society's submission to release the draft regulations for public consultation as this will clarify many details regarding the implementation of the scheme, helping to ensure a smooth transition into the scheme and avoid unintended consequences.

**Mr SAUNDERS:** What have you observed in legal centres that offer future employee entitlements including long service leave in comparison to those that do not offer such arrangements in the industry?

**Ms Hanson:** To clarify, are you asking whether there are better conditions available in some centres?

**CHAIR:** I think he may have dropped out after he asked his question.

**Ms Hanson:** We will come back to that one.

**CHAIR:** We will move to the member for Cairns and we will come back to that.

**Mr HEALY:** Thank you very much for your submission. Your submission notes that the majority of community legal centres in Queensland have made some provision for future employee entitlements including long service leave. Could you elaborate on how long service leave arrangements currently operate?

**Ms Hanson:** As with other organisations in Queensland, our community legal centres are bound by the Industrial Relations Act. Some centres have better or more favourable conditions contained in enterprise bargaining agreements or in their policies or conditions. That might include earlier access to long service leave. Many of them have a seven-year provision. A couple have a five-year provision and some have additional weeks of long service leave as part of their better entitlements. Most of our centres—when we surveyed them we received a response from about half of our members—say that they have different approaches to the way they account for their long service leave and accrue that on the books. Some from day one start putting money aside on their books for long service leave in anticipation of their staff reaching whatever threshold—so the seven-year, five-year or 10-year threshold—and others start accruing at a particular time or use a different formula as advised by their accountants.

**Mr SAUNDERS:** What have you observed in the legal centres that offer future employment entitlements including long service leave in comparison to those that do not offer such arrangements? What are your observations?

**Ms Monro:** Are you asking what are the employment conditions of workers in CLCs compared to the rest of the community sector?

**Mr SAUNDERS:** Yes.

**Ms Monro:** Carly outlined earlier that there is a range of different conditions across community legal centres. I think it does reflect the sorts of conditions that are across the community sector as well. Some employees can access their long service leave as early as five years and others have to wait for 10 years. There is a range, but certainly we are confident that our membership is setting aside whatever is required to meet the financial obligations of that long service leave, no matter what that term of service needs to be.



**CHAIR:** Carly, you made the statement that when an employer opts into the system all employees should be included. Can you make some comments in regard to that? Certainly you may be aware that other submissions have made the point that they do not believe that supporting staff—administrative, managerial, variously explained—should be included in the scheme. Do you think it should be on the basis of percentage of their time actually apportioned to the job at community services or not?

**Ms Hanson:** No, we think if the organisation falls under the scope of the scheme then all employees should be within the scheme and should be able to access the benefits that the portable scheme provides. It should not matter, in our view, what role that person has within the organisation or what proportion of their work is community services work. We believe that all of those roles on the back end—managerial positions, admin roles, non-frontline positions—should attract long service leave and be under the portable scheme.

**CHAIR:** Why should it not matter?

**Ms Hanson:** We believe that provides fairness and equity for all staff. I think it would be very difficult to draw a line in the sand about which parts of a particular role are providing or supporting community services work and which parts are not. Take the example of a finance officer doing the payroll for the community service frontline workers. Without those frontline workers that role would not even exist, so I do not know how you could argue that that person should not be part of the scheme.

**Ms Monro:** Community legal centres tend to be small to medium sized community organisations. Determining who is in and out would add to the administrative burden. For us, where we are not operating large organisations, there is an ease of being able to say, once the organisation is deemed to be under the scheme, that all workers are covered by that. Given that they are small organisations, people are much more aware of the different conditions that employees operate under and I think that would potentially lead to some pretty bad workplace culture outcomes as well.

**CHAIR:** Is it fair also to say that whether they are in administration, management or on the front line, to use that terminology, they are still all subject to the same funding arrangements and sometimes the repeated short-term contracts? Is that is another reason?

**Ms Hanson:** Yes, precisely. We would agree with that. The contracts are the same essentially for any worker within a community legal centre. The funding belongs to the whole centre. The management and backend roles are not protected from any issues around short-term funding or uncertainty with funding. Definitely we would I agree with that.

**CHAIR:** I appreciate that it is a fictitious example, but let's talk about Jenny. The issue you are raising really goes to retrospective recognition. What are you proposing essentially that you think the bill should do that it is not currently doing? Where is this line that you feel should be drawn rather than what has been currently drawn?

**Ms Hanson:** I do not know that I am proposing retrospectivity. It was our understanding that once the portable long service leave bill passed, if it does, and commences on 1 July 2020 all existing employees and all new employees coming into the sector would just move into the coverage of that act rather than stay with the coverage of the Industrial Relations Act.

For Jenny, for example, I think it would be fair for her to say that with her two years of service prior to the act commencing she would then need to work a further five years until she is able to achieve long service leave. It does not retrospectively apply. She is still with the same employer for that two years. If she was to change employers prior to the commencement of the scheme, I understand that that would be a different situation. For example, if she did stay on with that same employer after commencement, she does not have access to all of those new conditions that new employees would get. It almost seems that if she resigned from her position after the commencement on 2 July and then recommenced a new role she would be in a better position than if she had stayed for a longer time with that same employer.

**CHAIR:** Just to clarify, you are talking about that subset of people who are continuing with that one employer; you are not proposing retrospectivity of the portability to their whole service in the sector?

**Ms Hanson:** Yes, absolutely. We understand that there are many difficulties in trying to apply retrospectivity, even though it was raised as an option in the consultation RIS early on.

**CHAIR:** Sure. There are many times, I can tell you personally, that I would have loved it if that was not an FLP but it is an FLP for good reason. Thank you for attaching your submission to the RIS. I appreciate that there was a lot of detail in there. I do not have any further questions. Thank you for Brisbane

the work you do. I love my own CLC at Nundah. I am very appreciative of the work they do to support my community and those most in need. I do not know what we would do without them. We appreciate you coming along.

**Ms Hanson:** Thank you, Chair and committee.

**COLES, Ms Sarah, Manager, Industry and Influence, Community Services Industry Alliance**

**GILLETT, Mr Matthew, Acting Chief Executive Officer, Community Services Industry Alliance**

**HENLEY, Mr Mark, Chief Executive Officer, Queensland Council of Social Service**

**CHAIR:** I invite you to make an opening statement and then we will open for questions.

**Ms Coles:** I will briefly outline our submission and then throw to QCOSS. It was a joint submission but we have slightly different approaches. The Community Services Industry Alliance exists to advance the business of community services industry. From that perspective, we strongly support the policy intent of the bill. We also want to recognise the minister and the department for the very collaborative approach they took to its development. We were members of the task force, so we were involved in the design process from the beginning. Throughout that process we have also been talking to large and small organisations in the industry to get a sense of what works and what does not for them. Our position is influenced by those conversations.

From that perspective, we have two main issues that we want to raise, both around clarity of scope. The first one is the definition of 'community services industry' which I know has been a topic of discussion for a number of people. We do not have a strong position on what that definition should be, just that it should be clear before the implementation of the legislation. As to whether aged care should be in or out, our foundation members, as well as other people we have spoken to, have a variety of views on that, but basically, from an administrative perspective, we want clarity before the legislation commences. Similarly, we would like clarity in terms of the definition of 'worker'—who is within the scope of the scheme and who is not. The bill refers to administrative support, but, as Community Legal Centres pointed out, that could be anyone in the organisation. We seek a clearer definition of who is in scope and who is not before implementation of the scheme.

**Mr Henley:** Thank you for the opportunity to present to the parliamentary committee. I would also like to acknowledge the traditional custodians of the land on which we meet—the Turrbal and Jagera people—and pay respects to their elders past, present and future and recognise they are the first peoples on this land and the first peoples of this nation.

QCOSS supports the policy intent of the bill. We also support the need to better support employees in the community service sector. For good policy to be effective it must, however, be supported by good transition and implementation and ongoing commitment and support from the funding body such as the state government. That is particularly relevant to ensuring there are operational and administrative supports and costs available. Inadequate commitment to resources and funding the scheme will only compromise the policy intent and the quality of services that are required to be delivered to people across Queensland. It should be noted by the committee that many services which are commissioned by the state government currently are not funded at appropriate levels to ensure service quality and employee development. It is also important that the right level of funding is applied to support the sector to deliver quality services and to ensure service quality or employment is not compromised into the future.

We support the scope description outlined in the Deloitte *Forecasting the future* report on the basis of who will be covered. Given the diversity of the community sector and the many organisations that work within it, it will be important that there is further clarity on who is captured by the scheme so it can be clearly articulated, supported and implemented for all those whom it is intended to support.

From QCOSS's perspective and for the majority of employers, there will be a preference to adopt practices where all staff are treated equitably and fairly. That would mean, where at all possible, all staff of the organisation would be captured and engaged in the scheme. It is important that all workers in the community sector are better supported and have access to benefits such as portable long service leave. The often inconsistent nature of policy and funding decisions has resulted, for many people, in an insecure work environment—for employers and employees alike.

A good environment would be one where there is more policy and funding clarity and where employers can better invest in their staff. If portable long service leave is implemented in Queensland and supported with the appropriate resources, it would then deliver a benefit to many workers, improving their desire to work in and remain employed in the community sector.

**Mrs WILSON:** As we have discussed earlier today, there are definitely issues raised in regard to the definition. Do you have a clear idea of what you believe the definition should look like for this piece of legislation?

**Mr Gillett:** The short answer is no. To explore the issue around aged care a little bit more, the aged-care industry tends to have two arms that are related—residential aged care and community care. Some organisations only deliver residential aged care, but many will deliver in both residential and community care. Where that occurs, it is not uncommon for workers to be working in both settings, so the distinction between residential and community care can be problematic for some organisations. Similarly, some organisations that deliver only community care will also be providing disability supports. In that situation, it is most likely that workers would be delivering services both to the elderly and to people with disability. Therefore, there is no right answer in terms of the definition. Certainly our members had a variety of views about where that should land. However, it is very clear that clarity is sought. At the moment it seems that simply stating that those organisations which have a standalone residential facility are excluded is not necessarily very clear for some organisations.

**Mr HEALY:** Thanks very much for coming in and for both submissions, which are detailed. There seem to be a couple of points here. As you touched on earlier, the submission raises concerns about the scope of the scheme and key definitions. I note that the department has responded. Does the department's advice clarify your concerns? Are you getting the appropriate responses from the department?

**Ms Coles:** The department's response really, from my understanding, restated the rationale for the definition, which we did understand previous to this. I think the short answer is 'not really'. It does not actually give clarity in terms of the implementation of the scheme. I think some of the other suggestions made today around opt in or opt out, or other things like an activity test—those kinds of things—might be more useful to consider.

**Mr Henley:** I would agree with Sarah's statement. There needs to be greater clarity on who is captured and intended to be captured in the scheme to assist organisations. There is more work to be done in that.

**Mr DAMETTO:** I would like to thank you for both submissions, as well as for coming in and giving some evidence to our public hearing today. One trend that seems to be coming through from a couple of our witnesses today is the extra cost that is going to be incurred by companies and organisations that need to implement the scheme if it is introduced through this legislation. Where do you see the money coming from? In your opinion, will this require the state and federal governments to increase funding for situations like yours or will this be a cost incurred by the recipient of the care?

**Mr Henley:** I had absolutely no doubt from day one, and I have been stating in the task force, that the policy intent is good but the implementation is another issue—how it would be supported and resourced by the state government. This is a state government policy. I think it needs to be supported at a state government level, looking at how they would fund this into the future, taking responsibility for the services that it commissions. I think it is really important that we look with great interest, if this is introduced, at what happens in the next state budget to ensure there is investment in that.

I think there are many ways in which the state government can support a successful transition, including potentially putting money in to establish the fund in the first place, given that many of the services are delivered by, in particular, community service organisations of a not-for-profit status or a charitable status that are delivering services on behalf of the community for the benefit of Queenslanders. That should be of great interest to a Queensland government. I think the state government should look at any transition option that will make this a good policy with good implementation and should look at every opportunity to resource it to be the most successful that it can be, as far as supporting organisations to adopt this policy. I hope that helps. The state government absolutely has a responsibility

**Mr SAUNDERS:** Thank you for coming in. Your submission notes that there is divided opinion regarding the inclusion of aged care in the community services industry's long service leave scheme. What are your views on an exclusion from the scheme?

**Mr Gillett:** To pick up on earlier comments, the exclusion from the scheme would certainly provide some difficulty in terms of how it would be implemented for some organisations. I think it is fair to say that community aged care is more commonly seen as part of the community services industry than traditionally residential aged care has been. There is a natural partition within the aged-care sector that speaks to those two sectors. For example, if organisations are providing services in the community to people with disabilities through the NDIS and also through My Aged Care, there would be real difficulties in determining which workers were in and which workers were out.

**CHAIR:** You talk about the definition of ‘worker’. I appreciate what you have been saying, and a number of submitters have said that there needs to be greater clarity about who is in and who is out. I think it is fair to say that this sector is by no means clear about where the lines start and finish because of the nature and the complexity of the work that you do.

I acknowledge the extraordinary work that people in this sector do, because they never get to do one clean thing. They work in difficult circumstances. Sometimes they have to be all things to the people they serve and support. I think they are quite extraordinary. The people I hear from in my electorate change employers frequently. Certainly, I have seen that great people stay but their job titles and their organisations change repeatedly. I am grateful that they stay. With the lack of continuity and security of employment, I think the fact that they stick it out for people who are most in need is extraordinary. Thank you for the part that you play in respect of representing those workers.

**Mr SAUNDERS:** Hear, hear, Chair!

**Mr Gillett:** To pick up on that point, one of the issues discussed in terms of the definition of ‘worker’ is what happens when a worker might progress through an organisation into a leadership role and be more removed from direct client service delivery. Do they lose their entitlement as they move out of a frontline service role into a more senior management role? That is one of the concerns that was raised in relation to definitions as well.

**CHAIR:** You have talked about the complexities. My colleague the member for Maryborough talked about who you think should be excluded and whether aged care should be in or out. I am very interested in having on the record who you think this portable long service leave scheme should cover. Who should it cover and who should it not cover? I appreciate that we can raise problems with what is there now, but we are also very interested in your expert view on what should be in and out.

**Mr Henley:** In the longer term, it is an important discussion to be had about all sectors that fall under the social services banner. I think that then means that there needs to be a greater level of conversation with the federal government and a responsibility, because there are a number of those areas that they actually fund. Many workers work across aged care, disability and sometimes in the community services sector as well. There is no one clear definition. I think it is important that portable long service leave could be available to all people in the longer term, but there is a transition to work through. Having a longer term view of what this should look like is really important, rather than just having this as a one-off decision.

**Mr Gillett:** The difficulty in providing an answer is that, as we did our consultations, there were a variety of views in our membership so our board has not taken a position. I guess, though, that, with the work that we do in terms of workforce planning to provide for the future of the variety of sectors in community services, we believe that portable long service leave would serve the purposes of strengthening the sector into the future and widest coverage would serve the best benefit.

**CHAIR:** Without putting words in your mouth, is it fair to say that what I am hearing and have heard this morning is that, while greater clarity in respect of who is a worker caught under this scheme would be beneficial, there is not going to be broad or universal agreement as to what that definition is because the stakeholders, including yourselves, are recognising the sheer complexity of the sector itself and, therefore, the scheme that would serve it in this respect?

**Mr Gillett:** Yes.

**Ms Coles:** Correct.

**Mr Henley:** Absolutely.

**CHAIR:** I always ask, just in case people say, ‘Here is the clear answer everyone will be happy with,’ but I appreciate that is not the business we are in. It is about trying to find a better situation than we have now, appreciating that it is a journey.

**Mr Henley:** It is a journey and it would be good to have had that conversation about what it should look like in the longer term. Whatever decision is made, we need the least amount of confusion, because there is always going to be grey—about organisations, about the sector itself and also about individuals who are employed and working in the sector.

**CHAIR:** This is more of a drafting question, so please feel that you can say you do not know. Is it your view that there is a particular vehicle to best assist in respect to giving clarity? Is it examples in the legislation? Is it supporting materials? Do you have a particular view about what would assist and best support you, because obviously legislation is fairly blunt?

**Mr Gillett:** Obviously support materials are very useful. I think also, given the complexity, talking through some examples of more Jennys, so that we can tease out some of the very real situations that would cause confusion in the industry. I think that would help.

**Ms Coles:** Yes.

**CHAIR:** Thank you very much for your time. We appreciate it.

**BROOK, Ms Del, Member, Social Welfare and Community Services Industry Divisional Committee, The Services Union**

**McDONALD, Mr Michael, Member, Social Welfare and Community Services Industry Divisional Committee, The Services Union**

**MORAN, Ms Justine, Development Coordinator, The Services Union**

**THOMAS, Ms Jennifer, Executive President, The Services Union**

**CHAIR:** Good morning. Thank you very much for your submission. Thank you also for attaching your submission to the RIS. I assume that you, Jenny, will be making an opening statement?

**Ms Thomas:** Yes. In doing so, I would like to acknowledge the traditional owners of the land on which we meet and pay our respects to the elders and the Turrbal and Jagera people. In opening, I identify our union as the Services Union. We are part of a national union of 135,000 members. Here in Queensland we represent all areas of the community sector and we represent members in local government who also provide a number of community services. In our government owned corporations and the community sector, absolutely our membership represents much of the ins and outs of what happens in the community sector. We feel the movement of the sector every week in terms of representing our membership.

We have submitted previous submissions in support of the RIS and the bill. Today we are passing up, on the record, a supplementary submission, which is in response to the paper from OIR of 9 January. I am making the assumption that that can get to the other members on the phone after today.

**CHAIR:** Sure.

**Ms Thomas:** It is really important to hear from our members who are in jobs on the front line and would benefit from this bill. The key points that we would like to make—and it is a common theme through what we have heard this morning—are that our union supports an all-inclusive approach when defining the community services industry, the services and the community services work. We do not support the removal, very clearly, of family day care services, home and community services, and senior community support services from the type of community services listed in schedule 1 of the proposed bill.

Our view is also that, when determining who are community service employers, the focus needs to be, as per the bill, about what is the legal entity and the purpose for which it is established. The bill, we believe, is clear about the legal entity, regardless of the delivery streams and the workers engaged by the entity, as opposed to the streams. Our view is that all positions within the legal entity established provide community services and, therefore, we need the inclusion to extend to all of those workers. Again, that is a big theme of what has been talked about here this morning. It does not really matter what position you are operating in; the scheme should be inclusive to everyone who is operating out of that service.

Unfortunately, Rosemary Larkin, the vice-president of our community services group, fell sick last night and cannot be with us today. We have included her story in the materials today, because she is the manager of a small domestic and family violence service on the Gold Coast and is a perfect example of one of those local managers. She has been a manager for 25 years in the service and then has carried out other roles. She has stayed in the sector and moved through her career up to being a manager for the past 20-odd years. I think her story is really important in terms of what we experience in our membership with frontline service workers who can then move into those roles. You would want the scheme to absolutely encompass all of those workers delivering services, whether they work in small organisations or large ones. It is really important that all of those workers are considered in the application of the scheme. I will pass over to Del, who works in the disability sector and can talk to that issue as well.

**Ms Brook:** I have worked in the sector for about 15 years in a variety of roles around direct support work in mental health, disability and occasionally helping out with aged care which is within my organisation. I have been in my current role with my company, which is a medium to large organisation, for the last nine years. Within that company alone I have been a support worker and a manager. I am currently doing scheduling because as it restructures the industry changes. It is very important to me that I am covered by the portable long service leave provisions. With my skills I am able to take on different roles within my company.

The only reason I am probably with my company is that there is career progression for me. I can have a break from direct work because otherwise you burn out. I think everyone has to be covered. I have been there for nine years. It would be unfair not to cover everybody within that company for the same reasons. Most support workers start off as support workers and then become managers if they want that career progression.

**Mr McDonald:** I work in the disability sector of a large organisation. I have worked in disability for 25 years. Five of those years were in a management role. As far as long service leave goes, I managed to get six weeks in 25 years. I have had nine employers in that time. I am one of the ones who has had fewer employers. Others who have stayed in the industry have more employers in their lives.

The industry is notorious for its turnover. Two to three years is the average turnover for a disability support worker. The reason for the burnout and people not getting long service leave is challenging clients and the shiftwork that goes with it. There is also insecure employment. If you are not casual you are given a contract of eight hours a week. That is what my company is giving new people at the moment. Under the NDIS, clients and advocates have a lot more say. They are changing organisations and saying things like, 'That worker is not working for me.' Turnover happens for that reason also.

With regard to the management role I had, I was on call for emergencies for a lot of the time, whether I was down to be on call or not. There were specific times when I was the backup for emergencies and things that happened out of hours. Even to get the job done I would do extra hours for nothing. The work is never done, but in the management role I would work extra hours to try to get done what I thought were the most crucial things.

**Ms Thomas:** I point out for the committee members on the phone and the chair that Justine Moran coordinates our community services membership and has been part of the task force and the campaign process from day one and can answer all those technical questions you might have. The committee has a great opportunity to ask members who directly work in the field about the benefits they will get. They are really looking forward to answering any of your question.

**Ms Moran:** We are lucky enough to have two of our members with us. Both of them work in what are relatively large organisations. The capacity for them to be in the position of having longevity with one employer is because of the mobility created within that employer. For a large number of our members that is simply not the case. They are constantly shifting between employers. They have what we would see as long service to the industry but not necessarily to one employer.

When we undertook a survey of our membership in preparing for this, what we identified was that at least 72 per cent of those participants who had over 10 years of service within the industry have never actually obtained long service leave. At least 80 per cent of those participants had worked with between three and five different employers within that 10-year period. Of those who have achieved over 10 years of service within the industry, they are actually with an employer for on average 6.7 years.

When you look at long service of 10 years with one employer it is extremely difficult. This process has obviously identified that and the bill attempts to address that by providing early access at seven years. From our perspective, we think that is an absolute benefit. It also then assists this industry with the challenges that it is about to face, which is the attracting and retaining of new employees into what is one of the largest growing industries, not just within Queensland but also nationally.

**Mr SAUNDERS:** Some of the stakeholders have raised concerns with the definition of community service work. Do you have any views on the proposed scope of the scheme or this definition?

**Ms Moran:** We take a view that the bill takes the inclusive approach which is required to ensure that those who need to be captured are captured. As we heard from the previous presenters for QCOSS and CSIA, without that broadness within the bill you have the capacity for employees who should be covered not being covered and creating greater confusion. We think the terminology within the bill will suffice. It is the examples that need to be provided in supporting the implementation process that are needed to give clarity.

**CHAIR:** Jenny mentioned in her opening statement that they had provided a supplementary submission of approximately six pages. Members, I seek your approval to table that document. I will not refer to it because you cannot see it. We can obviously resolve later in private to publish that. There being no objection, the supplementary submission is tabled.



**Mr DAMETTO:** Others who have given evidence today have been worried about who actually pays for the portable long service leave. Are not-for-profit organisations or organisations that rely on state government funding comfortable with the state government footing the bill to implement this scheme?

**Ms Thomas:** We are always working in unison with the sector in terms of lobbying for additional funds for the community sector. The reality is that this sector works on the smell of an oily rag. We understand the needs of the organisations in identifying those transitional issues and identifying the potential need for additional funds.

From talking to organisations I can say that it is their accounting processes and how organisations have been accounting for long service leave that differs. Where Rosemary works they account for it from day one. That is not an issue for her organisation. We have largely identified that it is our medium to large organisations—not really the CLCs and so on—the church based organisations and the large not-for-profits, that do not account for long service leave that are really going to have some of those implementation issues on day one because they do not account for it at five years. We understand what organisations have been saying.

Equally, we understand the view of the Queensland government. All of their funding as well as the federal funding appropriately funds for long service leave in terms of the contracts that organisations tender for. It really becomes an accounting practice. It could be covered in things like supplementary funding. We have had that done before. Those administration costs could be covered and considered as part of supplementary funding from the Queensland government which regularly happens when we deal with things like pay equity and workforce planning into the future. What we have identified as the real need is that education piece. We would hope we could work with the Queensland government, the sector and QLeave in the implementation of the scheme to focus on the education around the rollout.

**Ms Moran:** That might also go so far as to include some assistance to organisations in preparing for that and what they might need to do in running education sessions among their employees and those who will have to administer the scheme. It may also include how they are doing their cash flow management and practices like that. There might need to be some education in that space. That would certainly be where we would see the assistance being needed.

**Mrs WILSON:** I want to touch on a question I put to Anglicare and TransitCare during their evidence. I am not sure whether you were in the room at that stage. We were discussing the definition being discussed today. I posed the question to them with regard to the costs to their businesses with this scheme. We discussed whether there would be reduced hours for their workers and also people who are part-time at the moment maybe going to casual. Are you concerned that unless we look at the definition more carefully the costs to the organisations employing these workers may be such that they have to cut services to consumers to be able to fund this scheme?

**Ms Moran:** From our perspective, one of the things we would note is that the definition relied upon in the Anglicare submission was constructed quite some time ago. The industry itself has evolved significantly to the point where there is a crossover in the delivery of those services. We quite clearly have organisations—and I will purely speak about disability and services being provided to the aged—where there are crossover support workers that might be providing disability support work and are then utilised by their employer to also deliver that support work within an aged-care setting.

From our perspective, the aspect about the clear definition that was relied upon is one that has evolved and is evolving practically within the business models of the organisations themselves. Again, we say that it would need to be as broad as possible in order to cover the organisations and the employees that it is intended to reach under the policy intent.

As to the cost that might be incurred by those organisations, we cannot speak to that. Obviously we do not have that information. Whether they reduce services would again depend upon the sorts of services they are providing for. For those that operate within disability and in the NDIS space, the funding contracts allow for long service leave. There would be a requirement already for them to be accounting for it and it is within the actual pricing model. Why that would then lead to a reduction in services and/or jobs and/or hours of work would be beyond me. I would not understand why that would happen, unless they are seeking to somehow spread moneys across their organisation. That is where we come back to the point about education for services within this industry around financial management and business modelling.

**Mrs WILSON:** I appreciate everything your workers do in the community. I know it is an extremely hard job. Do you think organisations need to be more supportive of their workers to keep them employed in their organisation for more than the, say, five or six years that is potentially currently the case due to burnout?

**Ms Brook:** I think I have been with my company past that five-year mark because I was able to diversify. For people working with challenging behaviours for an extended period there is a very high burnout rate. I was able to go into frontline management where I could still do what I love doing but I could give back in a different way. I think if companies provide that support they do retain workers. Having information about portable long service leave is important. Although I like the company I work for and I work for them full-time, I have had two or three jobs over the last 15 years. Portable long service leave would be great for that because my skills would benefit the company I am going to, so it would be a financial incentive to have me as an employee because I have those skills.

**Ms Moran:** To support what Del is saying, in this particular industry the size of the organisation really to a large extent determines what support they can provide. If they are a small organisation with a small workforce and they lose their funding contract, their ability to redeploy that worker back into their organisation becomes quite difficult, so the worker naturally is going to have to follow the work to whichever organisation it goes to. However, some may diversify and pick up other funding arrangements or provide different services, and they might be able to redeploy that employee into that service. It does largely depend on the nature of the service being delivered and how the business runs.

As far as providing portability, the main point for us in terms of looking at this particular industry is the retention and attraction of staff. By having portability, rather than having someone burn out and leave the industry completely there is capacity for them to move to another employer. That employer then gets the benefit of a skilled worker, and that in turn should reduce recruitment and induction costs. We do see there is a longer term benefit for all employers operating within the industry.

**Mr HEALY:** Thank you very much, ladies and gentlemen, for your input today. I note that your submissions recommend an education process for employers and employees in the event that portable long service leave is introduced. What specific implementation activities or resources do you think would be appropriate? What are you suggesting? What does that look like?

**Ms Moran:** Having operated on the task force, we did have the benefit of speaking with QLeave in this space. Obviously, they have had the benefit of implementing two other schemes within Queensland, so there are existing resource tools such as information sheets, websites and portals that could be established for this scheme. We think that all of those are beneficial; however, knowing the nature of this industry, we think face-to-face communication of some form is always best. If there was the capacity to have workshops and rolling seminars or sessions where there are speakers from QLeave and/or the employers coming together with employees to talk specifically about what this is going to look like, how it would work and the process, providing those live examples we mentioned before would be critical, we think, to the success of this.

Obviously, given the vastness of our state and where people are located, from a regional perspective having those kinds of tools in an on-demand type of process—whether by video, web link or something so that people can easily access them—would also be very important. Our union also has made it clear through our submissions that we would welcome the opportunity to participate in that process and be part of that, because we represent a large number of workers who are our members in this industry and we can assist in the dissemination of that information.

**CHAIR:** Justine, can I come back to a comment you made in respect of the retention and attraction of staff. A submitter this morning said that this scheme would have the opposite effect. It would encourage employees in the sector to move more. Can you speak to that and explain why you think this scheme will assist in the retention of good people in the industry?

**Ms Moran:** I did have the benefit of hearing that. In respect of that specific example I would probably need some further clarity. I took from what was being said that in that scenario it is likely that those persons who may be coming to a certain age or a certain period in their career may see it as more desirable to move on. That may be a circumstance that is going to happen at any time for that particular provider. I think the offset from an employee perspective and for the industry is that having the capacity to retain their service may encourage them to stay in the industry and take up employment where they can utilise their skills at another provider.

We do not support that it would be a deterrent for existing employees who have a good relationship with their employer, they enjoy the work they are doing and they have the capacity to stay on at that organisation. We do not think purely the fact that their service can move with them is the main enticement to leave that employer. What we might see is that where people have career aspirations and need to access broader experience in order to advance within their career that might promote the sense of moving, but that would be something that this industry faces all the time.

A lot of these organisations have flat structures, so in order for employees to advance beyond what might be seen as their direct role they may need to seek employment in other organisations to gain that experience in different levels. I do not think it is something that is going to be uncommon. We certainly do not believe it would be an enticement or even a disincentive to stay with your employer. If you have a good relationship and the culture is good and you like your job, there will be other things that prompt you to leave other than the portability of your service.

**Ms Thomas:** Particularly in the disability sector at the moment, a majority of workers are facing a lack of employment. The majority of our members are working three jobs over six days. That is the standard we see and the submissions we have made federally to the NDIS scheme in terms of workforce planning and what is needed in that industry. It is an industry that has to grow by double, and we are not achieving the outcomes in Queensland to date. People leave because of the underemployment that exists in that industry. People do not want to work three jobs to make up full-time hours over six days. That is why people leave employers. There are those who stay, like Del. She is in a full-time position, and even through four restructures in the last two years she has been able to keep secure employment. Secure employment is what is needed in this industry. The benefit of portable long service leave is just giving a direct benefit to that worker for their continued service in the industry as they continue to deal with these challenges on a daily basis.

**CHAIR:** That brings me to the next point in your submission on page 4. I found the statistics in your submission—which are supported in a number of submissions—with regard to the actual length of service and average length of service turnover quite extraordinary. A strict minority of people will ever attain a long service benefit in this industry. Have you seen any other industry that has the sort of turnover and statistics that have been quoted? One of the issues that has been raised here is the cost of a scheme like this, but it appears to me on the basis of the numbers provided that, while they have to meet their obligations for an entitlement, the majority of people will never reach that entitlement. They will have to pay that entitlement, so I think it will be a significant shift for these employers to put money aside that will be called on. It seems to be a real inequity that they are called on to put it aside but employees are never actually able to draw down on what is an entitlement.

**Ms Moran:** We see this scheme rectifying what we see as an injustice around that. It feels as though this industry trades on that particular point. They may put the money aside but they never realise it to the employee; it goes back into the organisation. Again, that is why we say education around financial management and business modelling would be essential for some of these providers and where the assistance needs to go. It is a significant issue that this industry continues to face, but it is the worker who is missing out with respect to this. Their service to the industry is there.

In terms of your question about whether we have seen these kinds of turnover statistics, the other members that our union supports do not work in industries that have these kinds of turnover rates, so this is the industry that stands out quite significantly for us. I cannot quote categorically, but I believe that similar sorts of turnover rates would occur with contract cleaning, hence its establishment. In terms of our union's scope of coverage, this is the industry that we see it in. It is certainly way outside of any of the other industries that we cover.

**CHAIR:** Michael, you have made the time to come. Thank you so much for putting on record your experience. Leave is always nice to have, but as a worker in the industry why is this so important? You have had nine employers in 25 years. Is it a 'nice to have' or is there a really important reason you are advocating?

**Mr McDonald:** It is another way of preventing burnout and that sort of thing if you get that longer break. I have even had breaks from the industry just to do something else briefly to get away from it, get refreshed and come back. Having long service would give you that way to recoup more and continue on in the industry.

**CHAIR:** Perhaps that is what I am clumsily trying to get at. You mentioned the word burnout. Can you tell us from your personal experience why this job is so tough?

**Mr McDonald:** On the management side it is just skeleton. Particularly now with the NDIS, a lot of it is about money. The less you have, the more money you can make. Working direct care and that sort of thing, it is shiftwork and you are sleeping in another bed that is not your own, and the challenges that can come up with family and clients all adds to it. If you can get a break from that through long service, which most people do not, it just helps you continue on more within the industry. It is always good to have a break. Everyone loves holidays.

**CHAIR:** I am not being flippant, because I think what you are saying is that it is tough.

**Mr McDonald:** Yes. When people are working they can be subject to violence from clients—not just threats but actual headbutts, punches and stuff like that—and also abuse from some clients. It is not all of them, but it really wears on your psyche too.

**CHAIR:** Thank you for your personal experiences. Jenny, I come back to your point about working three jobs. I am a working mother with young children as well. It is incredibly difficult when you are trying to balance all of those interests, but if you have no job security it can also make basic things like getting loans or anything in respect of some sense of safety and continuity of family, I would imagine, very difficult.

**Ms Thomas:** Absolutely.

**Ms Moran:** It absolutely does, and it is also the aspect of the type of work that the service provides. These workers are quite often dealing with people who are in crisis themselves or experiencing crisis, so they are naturally sharing those experiences with the workers. The workers are not just dealing with the problem of 'How do I support this person in terms of the legalities and what I need to do to get them out of crisis?'; they are also having to process and address within themselves the stories they are hearing. There is a lot of emotional impact and mental load that goes onto these workers to perform the work they do in assisting their clients as well as the values they hold. If these people did not hold these values, they would not make good workers for this industry. It is a very taxing situation in an emotional, mental and physical capacity.

**CHAIR:** Thank you very much. Our time is up. What I have noted is that for you it is a matter of equity and ensuring longevity in the sector. It is not nice to have; it is imperative. Thank you all so much for your time. I am sorry we are running late. We will discuss your submission and you will see it go up publically if it is approved.

**MARTIN, Dr John, Research and Policy Officer, Queensland Council of Unions**

**Dr Martin:** Having regard to time constraints, I would rely on our written submission in support of the bill.

**Mr SAUNDERS:** John, do you perceive any negative implications for your members if the proposed long service leave scheme is introduced after the committee hearing?

**Dr Martin:** No, I do not see that as a distinct possibility. This will most definitely be a benefit for workers, many of whom are denied this entitlement. My submission draws parallels with the building and construction industry and the contract cleaning industry. Purely because of turnover that is beyond their control they are denied an entitlement that many workers receive, and from that point of view we would support the bill as drafted.

**CHAIR:** One issue that has been raised this morning concerns the definition of 'community services industry' and who should be captured. You may be aware that in her introductory speech to the House the minister made the point that aged-care and childcare standalone services are not captured by this definition but generally those that are offered in a peripheral respect to community services are. There has been some debate in written submissions and here this morning about who should be captured and who should not. Does the QCU have a view in this regard?

**Dr Martin:** We would certainly defer to TSU. I think that was described by at least one of their witnesses as an inclusive definition. From our perspective, we would ask the parliament to err on the side of providing the condition to the worker rather than excluding someone unnecessarily.

**Mr HEALY:** Submissions to the inquiry have proposed that the community services portable long service leave scheme be retrospective. What are your views on that?

**Dr Martin:** I am not in a position to provide. Retrospective legislation is not always to the benefit of the union movement. I would need to seek instructions before we adopt a position one way or another as to the retrospectivity of any piece of legislation. I thought that might have been more insofar as the retrospectivity of the amendment regarding Schipp.

**CHAIR:** Were you talking about all employees in the scheme generally or in regard to David Schipp?

**Mr HEALY:** No, I was talking broadly—not specifically to David.

**Dr Martin:** I would not feel comfortable providing. That is a policy position that I would be exceeding my authority to provide a view with respect to.

**CHAIR:** I was going to ask a question about retrospectivity. It is in regard to the outcome of Schipp and Anor v The Star Entertainment Queensland Ltd. You addressed that briefly in your submission. Do you have any views in regard to Mr Schipp's request that anomaly in the legislation be applied retrospectively?

**Dr Martin:** I would provide a very similar answer as I provided to the member for Cairns. As I said, retrospective legislation has not always been beneficial to the union movement. Clearly, you have the capacity to do it. In that particular set of circumstances, it was to overcome what was quite clearly an absurdity in the legislation. I would not be in a position to say that we would be supporting retrospective legislation of any kind.

**CHAIR:** You are not saying that you do not support it; you are just saying that you do not have a view?

**Dr Martin:** I am just saying that I do not have a view but noting the set of circumstances in which that individual found themselves.

**CHAIR:** I refer to the observations you have made about the industry for community services workers generally. You were here when representatives of the Services Union spoke and when some workers in the sector spoke about the complexities that led to this bill. Do you have any additional comments about what members may have raised with the QCU or your experience in this regard as to why this scheme is a good thing? Is it an important thing or just a 'nice to have' thing? What are your views?

**Dr Martin:** It does go to competitive tendering. The example that seems to be at the forefront here is: what gives way is workers' conditions, specifically long service leave. I was very interested to hear the discussion around the accounting methods. If I take the example back to contract cleaning, an industry with which I am far more familiar, the way in which people would tender, if it were not for portable long service leave and the requirement to make a contribution, would be not to include long

service leave and take the punt that they will never have to pay it. Therefore, that is pushing down the tender price at the expense of workers' conditions. From that perspective, that is why we are generally supportive of the bill. This is yet another industry that fits in neatly with the set of circumstances where the employers of workers in the industry change for no reason or through no fault of the worker. The way in which long service leave legislation currently exists, they miss out on an entitlement that other employees would receive.

**CHAIR:** What I am hearing is that you feel like the Services Union has argued before you that this is a matter of equity in respect of workers accessing an entitlement.

**Dr Martin:** Yes, and in a predominantly female industry. The concept of portable long service leave had its genesis in coalmining and in building and construction, which are highly unionised, male dominated industries. Some 50 or 60 years later, a similar condition is being passed on to this predominantly female workforce which we would support for reasons of equity.

**CHAIR:** That is an interesting point. Are you inferring that those in this industry, because they are not as organised in that respect, have missed out on the entitlement?

**Dr Martin:** From the research I have done that was the background to the submission, this industry has evolved and is evolving, whereas building and construction is as old as time. It seems like in the 1970s and 1980s the community sector grew as a result of a whole range of government policies. I guess it has taken this long for the conclusion to be drawn that this is an entitlement that always should have been there for people—as I go back to—whose employer will change for reasons beyond their control.

**CHAIR:** Thank you. I take the point that you have raised that in your submission, too. When I say 'organised', I certainly mean with regard to having that collective voice because, by nature, it is quite a disparate, short-term, casual and part-time industry.

**Dr Martin:** Yes. A large number of small employers is infinitely more difficult to organise than a small number of large employers that might comprise the major project sector of the building and construction industry.

**CHAIR:** Thank you. They are fair points to make in regard to the structure of the industry generally—certainly it was made in the submissions but has not necessarily been mentioned today; Justine from the Services Union may have mentioned it—in that it is mostly female and short term, no job security and all those sorts of things which makes workers particularly vulnerable as well. Thank you so much, John. We appreciate your submission from the QCU. I declare the public hearing closed.

**The committee adjourned at 11.54 am.**