

BRIEFING PAPER:**Supplementary Submission Inquiry into the Victorian On-Demand Workforce****Who we are**

WEstjustice and Springvale Monash Legal Service are generalist community legal centres servicing the Western and South Eastern suburbs of Melbourne. We offer assistance in a range of areas of law, but have a demonstrated track record of providing high-quality, targeted employment law legal services and education programs to vulnerable workers. The catchment areas we service have some of the highest rates of casualised, low paid workers, people from newly arrived backgrounds and socio-economic disadvantage. JobWatch is the Victorian specialist, state-wide employment rights, not-for-profit community legal centre.

With Justice Connect, we co-convene the Victorian Employment Law Working Group. Our submission is supported by the Victorian Federation of Community Legal Centres and a number of Victorian CLCs.

What we do

Community legal centres (**CLCs**) provide vital advocacy, education and legal services to some of Australia's most vulnerable workers, including international students, young people, women experiencing family violence and newly arrived migrant and refugee communities (including temporary visa holders). We provide:

- **Direct legal assistance** (legal advice, assistance, representation)
- **Education and engagement** (including information sessions, professional development and Train the Trainer programs)
- **Advocacy** for systemic reform (for the benefit of all Victorian workers)

The problem

We welcome the Report's recommendations, and broadly support each recommendation. However, CLCs are not included in the recommendations as a key (or any) part of the enforcement process.

Without CLCs as a key partner in policy design and delivery, the Report's recommendations will fail to reach the most marginalised workers in the on-demand workforce. Leveraging our strong community connections, we address a critical service gap for those workers who:

- are not yet in a union; and / or
- cannot afford private legal assistance; and / or
- due to cultural, language, literacy and/or practical barriers, are:
 - not able to understand or enforce their workplace rights without support from a trusted community-based service ([Not Just Work](#), pp 86-91; Social Ventures Australia, [School Lawyer Program Framework](#), pp 5, 8-9)
 - unlikely to find or access a government agency's services without targeted education and ongoing support (Not Just Work, pp 129, 102-123)
 - unable to find or access a telephone information line or self-help-based website or who need more assistance than a telephone information or self-help-based advice service alone can provide (Not Just Work, pp 139-147), and
 - in need of in-situ, targeted and timely support to ensure early intervention and resolution of problems before they escalate.

Without our help, the most vulnerable workers simply could not enforce their rights. We offer a unique lens and strong understanding of the trends and common problems vulnerable workers face.

The solution (note our submission addresses each recommendation)

Issue	Report rec.	What more is needed?
Urgent need to act now to address mounting unmet need.	2	<p>COVID-19 has both highlighted and exacerbated the precarious situation of many workers. There is an urgent need for the State Government to act now to address insecure, precarious work and focus the COVID recovery on promotion and attainment of decent work for all. Our services have experienced unprecedented demand.</p> <p>We support the Inquiry's 'six reasons to act now to revise our current system'. We recommend that the Government recognise one further reason to act now: the 'fragmented and limited nature of advice and support for vulnerable workers to enforce their rights and entitlements once status is determined.'</p>
Need to amend the <i>Fair Work Act 2009</i> (Cth) to provide clarity and protection for on-demand workers	6	<p>We support the Inquiry's recommendation to codify work status and clarify the work status test, including express consideration of relative bargaining positions of each party. We recommend adding to this list, an express presumption of an employment relationship, unless proven otherwise: introduce a reverse onus which provides minimum entitlements to all workers (including dependent contractors), but enables principals a defence when they engage genuine contractors (see WEstjustice Submission, p 27 (including drafting suggestions at p 69); JW Submission, p7-8).</p>
Streamlined support agency and any mechanism for the resolution of work status must be accessible to those most vulnerable	8, 9, 10	<p>We welcome the recommendation to create an accessible Streamlined Support Agency to provide information to workers and help resolve work status. To make this service accessible the Government must recognise the unique role of CLCs to reach the most vulnerable workers and to complement/enhance the work of regulators, unions and industry.</p> <p>CLCs assist workers that nobody else sees. Union density has fallen to less than 15% in Australia. Young workers and those in insecure work (including casualised and/or part time roles) are even less likely to be union members. Our on-demand worker clients are often young; in highly fragmented and insecure work; geographically dispersed; and unlikely to be union members.</p>
CLCs are not recognised as a key part of the design / enforcement process	3	<p>Include CLCs in any consultations and collaborations to implement change: Along with Justice Connect, our centres Co-Convene the Victorian Employment Law Working Group, where participation in relevant processes could be coordinated</p>
	9 V6	<p>Consider how to leverage and support CLCs (alongside unions and industry) to help workers understand and resolve questions about work status: This work is already being done by our sector, however we cannot meet demand with current resources.</p>

As at 16 November 2020.

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**WE believe in a fair
and just legal system**