EDUCATION, EMPLOYMENT AND TRAINING COMMITTEE

Members present:
Ms KE Richards MP—Chair
Mr JP Lister MP
Mr MA Boothman MP
Mr N Dametto MP
Mr BL O'Rourke MP
Mr JA Sullivan MP

Visiting Member:
Mr JP Bleijie MP

Staff present:
Mr R Hansen—Committee Secretary
Ms R Duncan—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE INDUSTRIAL RELATIONS AND OTHER LEGISLATION AMENDMENT BILL 2022

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 21 JULY 2022

Brisbane

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The committee met at 9.59 am.

CHAIR: Good morning. I declare open this public hearing for the Education, Employment and Training Committee's inquiry into the Industrial Relations and Other Legislation Amendment Bill 2022. I am Kim Richards, the member for Redlands and chair of the committee. I acknowledge that today we are meeting on the lands of the world's oldest continuing living civilisations in Aboriginal and Torres Strait Islander people and I pay my respects to their elders past, present and emerging. We are very fortunate in this country to have two of the world's oldest continuing living cultures in Aboriginal and Torres Strait Islander people.

With me from the committee today are: Mr James Lister, the member for Southern Downs and our deputy chair; Mr Mark Boothman, the member for Theodore; Mr Nick Dametto, the member for Hinchinbrook; Mr Jimmy Sullivan, the member for Stafford; and Mr Barry O'Rourke, the member for Rockhampton. Later today I understand we will also have the Deputy Leader of the Opposition, the member for Kawana, Mr Jarrod Bleijie, who has been granted leave from the committee to attend today's proceedings.

On 23 June 2022 Hon. Grace Grace MP, Minister for Education, Minister for Industrial Relations and Minister for Racing, introduced the Industrial Relations and Other Legislation Amendment Bill 2022 into the Queensland parliament. The parliament subsequently referred the bill to this committee for detailed consideration, with a reporting date of 12 August 2022. The bill's primary objective is to give effect to the Queensland government's response to the recommendations of the *Five-year review of Queensland's Industrial Relations Act 2016: final report*. This bill has implications for organisations registered under the Industrial Relations Act.

As previously declared in other public hearings and available via the ECQ and our register of interests and in the interests of openness and transparency, I would like to put on the record today that I am a member of the United Workers Union and the Electrical Trades Union and have received their support previously in campaigns. Would other members like to make any declarations?

Mr SULLIVAN: I am a proud longstanding member of the Australian Workers' Union.

Mr O'ROURKE: I also am a member of the United Workers Union and was previously a member of the Together union for 30-odd years.

Mr DAMETTO: I made a declaration earlier this morning that I had joined the CFMEU twice over my working career. I am no longer a member.

CHAIR: I note for the committee and those participating today that this morning we have accepted three late submissions to the inquiry which will be published later today on the committee's webpage from the Queensland Police Union, the Queensland Law Society and Professor Peetz from Griffith University. Those will be available later this morning.

The purpose of the hearing today is to hear evidence from stakeholders who made submissions as part of the committee's inquiry into the bill. The committee has authorised the publication of written advice received from the Department of Education in response to issues raised by submitters. This advice is available from the inquiry webpage under 'Related publications'.

The committee's proceedings are proceedings of the Queensland parliament and are subject to its 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. Only the committee and invited witnesses may participate in these proceedings. Witnesses are not required to give evidence under oath, but I remind everyone that intentionally misleading the committee is a serious offence.

The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Those present today should note that it is possible you may be filmed or photographed by the media and images of you may appear on the parliament's website or social media pages. The media rules endorsed by the committee are available from committee staff if required. I ask everyone present to please turn mobiles phones off or turn them to silent mode.

COLLYER, Dr Nick, Director, Queensland Coalition for Sex-Based Rights

GRIBBLE, Professor Karleen, Adjunct Associate Professor, School of Nursing and Midwifery, Western Sydney University (via teleconference)

HUGHES, Ms Stephanie, Co-Founder, Fair Go for Queensland Women (via teleconference)

NORMAN, Mr Rob, State Political Director Qld/NSW/ACT, Australian Christian Lobby

RIDE, Ms Carolyn, Media Spokesperson, Queensland Coalition for Sex-Based Rights

RIGNEY, Mrs Azure, Queensland President, Maternity Choices Australia

CHAIR: Good morning. Would each of you like to make a brief opening statement before the committee has questions for you?

Mr Norman: Let me begin by saying the Australian Christian Lobby currently has around 250,000 supporters Australia-wide, almost 45,000 of whom are Queenslanders. We are one of the largest and most active grassroots movements in Australia.

ACL's objections to the Industrial Relations and Other Legislation Amendment Bill 2022 centre on language that denies both the science of childbirth and the importance of motherhood. As background in her paper, *Dehumanisation in language and thought,* linguist Dr Karen Stollznow says dehumanisation is a central tool of propaganda, war and oppression. The *Merriam-Webster* dictionary says to dehumanise a person is to address or portray them in a way that obscures or demeans that person's humanity or individuality. We submit that in the quest for political correctness of gender-neutral language, this bill exchanges respect and reverence for women and mothers with dehumanising and woke gender ideology. There is a war that, if left unchecked, threatens the heart and soul of Queensland families.

Do we really want a world where mothers are downgraded to genderless objects because of poor choice of language? Replacing the word 'maternity' with 'birth related' and 'she' with 'the employee' is in fact dehumanising. Denying the reality of biological sex and supplanting it with gender-neutral terms is not merely an exercise in political correctness but a violation of the human rights women have fought for and won. Women have fought hard for sex based protections, recognition and equal treatment under law, but many hard fought rights are erased when we fail to recognise the distinct characteristics of women and men. The falsehood that sex is rooted in subjective gender identity instead of objective biology renders all these sex based rights impossible to defend or, in fact, enforce.

Working mothers have never had it easy. We all know that maternity leave is a right: it was hard fought over a century ago by feminists and female trade unionists who fought for the right to paid leave, free medical and the guarantee of a job upon return to work. The Australian Christian Lobby specifically opposes language that fails to recognise mothers as women and dehumanises women by replacing pronouns like 'she' with gender-neutral terms like 'the employee'.

Further, the Australian Christian Lobby also strongly opposes language that dehumanises the birth of a human child by replacing 'maternity leave' with 'birth related' leave. We believe language is important. The ACL strongly urges this committee to support the rights and recognition of women and mothers by retaining language that respects and acknowledges them.

Dr Collyer: Thank you very much for having us here today. We really appreciate the opportunity. I am pretty much going to say what Rob has already said with a slightly different slant. I do not think it is just about being woke—a 30-year member of the ASU right here. We support in principle recommendations 23 and 24 of the five-year review—namely, that language of the Industrial Relations Act should avoid implying gender divisions of parental care; however, implying that there should be no gender divisions should not mean denying that women and mothers give birth, are entitled to take maternity leave or the pronoun 'she'. Why do we think this? We support a gender egalitarian model of parenting to the extent that it means an equal division of labour, but we believe the five-year review failed to take into account an insidious and regressive cultural cross-current these proposals implicitly support, which is the impact of gender identity, ideology and public discourse. The language of law is symbolic and we believe should hold the line against this ideology.

Gender identity ideology implies men can give birth because a woman can simply identify as a man. We are seeing men identifying as women claiming to be pregnant and demanding maternity leave from their employers. We are beginning to see Commonwealth forms asking mothers to identify

themselves as the 'birthing parent' not the 'mother'. This was discussed on Channel 9's *Today* show this morning. Gender ideology asks us to abandon terms like 'maternity', 'mother', 'woman' and 'breastfeeding' for 'birthing', 'gestational parent', 'menstruater' and 'chest-feeding' because some women identify as men and some men who identify as women believe they can get pregnant and breastfeed and that to deny this is hurtful. Meanwhile, women and girls are put in categorical company with livestock and their sex based specificity is erased altogether. This language is not just imprecise; it is dehumanising and insulting. The original sexed meaning of the words is required for precision, accuracy, clarity, cultural empowerment and the protection of women.

The proposed changes are not isolated to industrial relations. The state government has already introduced gender self-ID by including gender identity as a protected characteristic in the Anti-Discrimination Act, with the result that some schools have been forced to retrain staff to deny biological reality and to allow teenage boys into girls' private spaces. Self-ID has regressive effects in other jurisdictions. In Canada, for example, single-sex women's shelters and rape crisis centres no longer exist. Gender identity discrimination provisions there have empowered men to litigate and defund them. Women have fought hard for sex based legal protections. The different reproductive roles of males and females require laws to safeguard women from discrimination in the workplace and elsewhere. The falsehood that sex is rooted in subjective identity instead of objective biology renders all these sex based rights more difficult, if not impossible, to enforce.

In clauses 10 and 11 we oppose the replacement of 'maternity leave' with 'birth related leave' or 'long birthing leave'. We oppose use of the term 'employee' instead of 'she' with reference to a mother or mother-to-be. The specificity and clarity of apt sex based language in no way undermines egalitarian parenting.

Mrs Rigney: MCA has been running for over 35 years, pushing the health department to give us evidence based maternity care. The opposite of that means that the 60,000 women who give birth in Queensland each year are being harmed, and I have some statistics I would like to share.

Most women plan to begin maternity leave at 38 weeks. The average first-time mum births at 41 weeks due to institutional pressure. If they followed best evidence it would be 42 weeks. This leaves 10 weeks of maternity leave. Sixty-five per cent of Queensland mums are sliced open—their clitoral tissue or their bellies. I am still shocked by it even though I look at the data every day in what I do with Queensland Health and the Commonwealth. Of these women who have been cut into, many experience short- and long-term physical complications. Tomorrow the Australian Institute of Health and Welfare are releasing their report saying almost 39 per cent of women are having the caesarean section. Therefore, they are unable to legally drive for six weeks at minimum. Four of Queensland's larger birthing hospitals are under review for high surgical complication rates, and women report being unable to lift their baby for 10 months postnatally.

Some of the 25-plus per cent of women whose perineum is cut report a range of short- and long-term sexual dysfunction. Additionally, 33 per cent of women report trauma and that 75 per cent of that trauma is from care providers' words or actions. Next week the largest birth experience study in the world is coming out showing that 11.9 per cent of women are raped, abused and mistreated in maternity services in Australia. One out of five to one out of 10 report PTSD and, unlike Department of Veterans' Affairs, these victims have no real avenue for recourse and it often takes many years to be diagnosed.

The suggested maternity leave act review does not align with Queensland Health's First 1,000 Days of Life framework for optimal dyad when most of the cohort is physically or emotionally unable to perform basic functions let alone try to focus on the World Health Organisation's top four preventive health strategies such as breastfeeding. Ninety-seven per cent of women want to breastfeed and only five per cent do so to the recommended minimum age according to the Australian Bureau of Statistics in 2010.

In addition to fragmented maternity care and its associated unwarranted interventions, partner support and return to work are the top three leading causes of breastfeeding difficulties and cessation. More information can be found in the National Breastfeeding Strategy. These are just two critical examples to demonstrate how important sexed language is in the act which is designed to protect vulnerable dyads through the world-recognised fourth trimester, which is from birth to when the baby is 12 weeks old. MCA recognises that all families are unique and should be maximally supported to implement basic public health during the journey from maiden to matrescence, particularly in lieu of rising rates of mental health, cancer and acute and chronic health conditions that can be reduced by implementing best practice.

I was going to make a few references to CEDAW and the human rights conventions and the respectful maternity rights charter that I think Australia has signed onto—all of those international frameworks where it is super well recognised that this is such a vulnerable period in women's lives because often when a woman is harmed in these institutions they do not come to us until many years later. When they do come to us, one of the key reasons they do not complain is because they say, 'Oh, I'm going back to work in a few weeks. I'm just not in the head space to make a complaint.' That is why maternity services keep getting away with such poor practice. Nine to 12 per cent of maternity care is based on level 1 evidence and 50 per cent is based on some evidence.

CHAIR: Mrs Rigney, I bring you back to the long title of the bill in terms of your commentary. Did you have anything further you wanted to add in terms of the bill itself?

Mrs Rigney: Yes, just that women well and truly do need that 14 weeks. Like I said, it really is often only 10 weeks to recover, whether it is from the physical or the psychological matters, in my experience as a consumer rep, thank you.

CHAIR: Thank you, Mrs Rigney. Professor Gribble, did you have a statement you would like to make?

Prof. Gribble: Thank you very much. I am very pleased to be able to speak with you this morning. To give you a little bit of background on myself, I was asked by IWD Brisbane region to present on their behalf, but I am not presenting for them; I am presenting as myself. My background is in maternal child health and around the reproductive rights of women and the rights for health of children specifically around breastfeeding. I do this work in Australia and internationally.

I wish to comment, as others have here, on the removal of 'maternity' from the proposed legislation. I do this on two bases. The first basis has been raised by others, and that is in relation to the desexing of the language which, as others have recognised, flows from a prioritisation of gender identity over sex as being the category of importance for this legislation. I direct the committee to a paper that I wrote with nine others in obstetrics, midwifery, breastfeeding, paediatrics, neonatology and nutrition on the importance of sexed language and the risks associated with removing sexed language when communicating about female reproduction.

The second issue is one that is extremely concerning and it came through in the Department of Education's response, which included that the reason for changing this language and removing 'maternity' was to modernise the legislation to ensure consistency with gender egalitarian goals and to remove the notion of gendered divisions of care. I am not sure how well the committee is aware of how quite revolutionary those sentences are. When we are speaking about the care of newborn infants, I am wondering if the government is actually proposing that it should be a goal to have half of newborns being in the primary care of their fathers and half of newborns being in the primary care of their mothers. I do not think this is a discussion that has been had publicly—that people are aware that this is a goal to be had.

It is an absolute fact that both parents are not equally important to infants. When a child is born, they remain not entirely separate from their mother. I think Azure used the word previously—and I do not know if you noticed this—but, talking about the mother-infant dyad, a mother and an infant are both physiologically and psychologically linked. It is in recognition of this that we have a variety of human rights instruments that underline the importance of that and in which the concept of maternity leave sits. The Universal Declaration of Human Rights states that motherhood and childhood are entitled to special care and assistance. CEDAW, the Convention on the Elimination of All Forms of Discrimination Against Women, includes in article 11 maternity leave as a right of women. Finally, the ILO Maternity Protection Convention, which Australia has yet to ratify, says that maternity leave is a universal human labour right.

This bill seems to propose taking the right to maternity leave from women and giving it equally to men. I question whether the impact on the health and wellbeing of women and children has been considered in this. I am not saying that women should be required to take maternity leave or that families should not be able to work between parents in how they want to deal with the care of their baby, but we should be absolutely clear that maternity leave is a right that women hold. To construct legislation that effectively says, 'Well, no, actually, we are going to not recognise that this is a women's rights issue; we are going to say that it is for either parent,' is quite a drastic measure to be taking.

Thinking about what are the implications of this in terms of the health of women and children, they are quite significant because we know that return to work is one of the primary reasons for women to cease breastfeeding and that this has an impact on her child's health, making them more vulnerable to serious infections, requiring hospitalisation, having an impact on their development as

well, but it also has an impact on the health of women. In fact, support for breastfeeding forms a part of supporting the reproductive rights of women, because breastfeeding is a part of the continuation of reproduction.

There are some real alarm bells in this legislation regarding the changes that are being made. These are not small changes. This is actually a massive change, to change the language from speaking about 'maternity leave', and I really hope that it will be very seriously considered. When we are talking about equal care for children, that is not for newborn babies. If we are talking three-, four- and five-year-olds, then having sex equity is a different matter entirely and I think everybody would agree that that would be a good thing. However, when talking about newborns, sex equity is not a goal that any health authority would support and it should not be a goal of the Queensland government. I am happy to answer any further questions the committee may have.

CHAIR: Thank you, Professor Gribble. Ms Hughes, did you have an opening statement you would like to make?

Ms Hughes: Thank you very much for the opportunity to attend today. My name is Steph Hughes. I am co-founder of Fair Go for Queensland Women, formed in 2018 in response to concerns that the primary relevance of sex was being subsumed to gender identity and the accompanying elevation of sexist stereotypes and inclusivity as a means to erase women as a sex class in language, policy and law.

I am a mother. I became a first-time mum via emergency caesarean. One of my first experiences as a mother was asking my lecturer, a well-known male social worker at a prominent Queensland university, for an extension to an assignment that was due that week. I asked for an extension for a few days, given that I had just had major surgery. The social worker, a man of many decades experience who should have been very well versed in the needs of first-time mothers and mothers in general, told me I could not have an extension as essentially I 'should have thought of that'. That was despite my excellent academic track record and obvious commitment to my course. I told that man some things I am going to tell you now.

Motherhood is not a predictable or easy ride. It is physically and emotionally gruelling in ways that partners cannot comprehend or experience. The experiences of my child's father may very well have allowed him to complete that assignment on time, but he was not me. He did not carry and birth that baby; I did. He did not have major surgery; I did. He was not learning how to breastfeed; I was. Partners do not have the same demands upon them that mothers do, and the very physicality and emotional investment required in these acts cannot, and should not, ever be downplayed in any place, much less in legislation.

It is admirable to encourage men to participate in the fourth trimester, to support the mother and to get to know their babies in those very important first few months of life. We should all be encouraging and supporting that. The reality is, however, that the lion's share of the work of parenting falls to women as primary carers, and this is no more obvious than for a breastfeeding mother-baby dyad. Even once babies are grown beyond infancy, women undertake the majority of unpaid household tasks, and that has just recently been confirmed again in the Priceless report. Removing our name from legislation will not change that reality, but it will make it invisible and make it difficult to defend as a matter of sex based rights.

It is uncanny that not five minutes after women are protected from being forced out of the workforce due to marriage, pregnancy or motherhood, we are now being removed in name from the very legislation that protected and supported our employment when becoming mothers. We cannot afford to lose that link to reality or to history. We are aware that certain lobbyists have ingratiated themselves within government over past years with the intent to promote beliefs attached to gender identity ideology in policy and law. We contend that those beliefs are just that—beliefs—and that those beliefs can and should be open to examination and critique just as any other.

The bottom line, therefore, is that maternity leave is primarily a requirement for women and their babies. We firmly believe that more should be done to encourage support of mothers and their babies during those first few months of life, but we absolutely reject the notion that doing so should come at the expense of recognising the primary and pivotal role of women as mothers. As such, we strongly oppose any attempts to remove sexed language from the legislation. Thank you.

CHAIR: Thank you, Ms Hughes. I think everybody has now had an opportunity to make a statement:

Mr LISTER: I do not have questions, but may I just say thank you to everyone present both in person and online for joining us today.

Mr BOOTHMAN: Thank you for coming along and spending the time with us and expressing your viewpoints. I do not have any questions. I certainly understand where you are coming from with your opinions. Thank you for taking the time to make your submission and being here today.

Mr DAMETTO: Mr Norman, can you please describe to us the real value in protecting gender-specific language to society and in particular Queenslanders right now?

Mr Norman: I think that has been fairly well covered. It sounds like we are on a unity ticket, but I have to say that I have only met Azure once over coffee. We all seem to be talking the same language. For me, it is a values issue. When we consider the trauma of childbirth and the process of motherhood, I believe this language basically kicks that to the kerb. I do think it is dehumanising. I think the moment we use language that does not acknowledge a person's sex they are relegated to being an object, and women have certainly suffered enough of that over the last 100 years. The fight for equal rights and freedoms is well documented. It is probably part of the union movement. It is part of recent history. Women have fought hard to achieve the rights they have now. That would be my first point on that question.

The second part of it I think has also been covered, but it relates to the defence of those rights. Again, as other speakers have articulated, when we take away the gendered language—the sexed language, I should say; those two things still mess with my mind a bit—it makes it very hard to defend the rights of women when they have become invisible, when the language has absorbed them and there is no difference between a man and a woman in the birthing process. Those would be my two major issues on that subject. Does that answer the question?

Mr DAMETTO: It certainly does, Mr Norman. Mrs Rigney, firstly, congratulations for bringing your lovely daughter along this morning. She has been very well behaved. This is not a cuteness competition, but she has definitely won it today. She would be very hard to beat. As a woman, can you please describe how removing gender-specific language from the act, including words like 'maternity' and 'breastfeeding', affects the psychological component of childbirth?

Mrs Rigney: I would say most people do not know how non-evidence based childbirth and maternity care are compared to other areas of health. It is already quite invisible, and then there are societal expectations to snap back and do all sorts of things, whether it is with your body or your mind. I will give you a quick anecdote. Elly was born right when the pandemic was called. I was called into a Queensland Health meeting. I am not paid, by the way. I do not get any money for what I do—very small amounts. I remember this neonatologist saying, 'We're going to try to get women to wash their breasts and we're going to try and ban waterbirths.' Waterbirths improve outcomes for women and babies as well as reduce pain relief. If you wash your breasts prior to breastfeeding, that baby is never going to learn to breastfeed because it has to do with all this stuff about the senses. So then six days postnatal I am having to argue with the most senior neonatologist in Queensland. I put the phone on mute after he had a go at me and just started crying. Even though I had the best birth experience in the world—drug-free, damage-free, one-hour labour, best midwives in the world—if I had the experience most women in Australia's maternity system have, I do not think I could have coped. Any one thing can happen to a woman. It is like a cumulative effect: it can just send them down this spiral. Women who come to me are so severely mentally unwell not only because of the physical stuff but it is like they are expected to do all the things.

Mr DAMETTO: Thank you. That gives me a very good understanding. I am a male; I do not pretend to be a woman. I do not pretend to understand maternity and birthing experiences. That is why I like to hear stories like that.

Mr SULLIVAN: One of the purposes of this legislative reform is to try and remove institutional penalties against women in the workforce. One of the issues we face in Australia and around the world is the continued gender pay gap. It is particularly pronounced at the end of a woman's life or career with a more significant pay gap when it comes to super. Do you accept that men having a greater role in parenting, whether it is six months or a year into a child's life, and allowing women to return to the workforce when they choose is one of those issues in addressing the very significant gender imbalance?

Mrs Rigney: Yes. I think the words used in the legislation are about parents dividing the care and that sort of thing. Yes, I would just say we could use a different word for it, because anyone can parent a two-year-old. I wish it would say, as Karleen might have said, 'newborn care' or something like that. It is very distinctly different. You know how you are paid your superannuation, sick leave and annual leave? What if you were paid your superannuation on your maternity leave so that you are not then out of pocket while the baby is so little? Would that be a way to address the super dip that women have? That way, they can have the best of both worlds for that short period.

Mr SULLIVAN: Do you think there are times when employees who are not women would require leave after the birth of a child?

Mrs Rigney: Yes, and I think we already get that.

Mr SULLIVAN: I address this question to any of you but probably more so to Mr Norman. Do you accept the need to extend parental leave to same-sex couples?

Mr Norman: Yes, we do not have a problem with that. That is already well documented. To us, this is an issue of language. This is about recognising, as I think we have heard clearly this morning, the unique role of mothers in the birthing process and recognising that in language. I think it is a slippery slope. Once we begin to look at modernising language in one particular act, it then obviously flows through to other acts and we justify things in a circular argument. I suspect this needs to stop, at least in this place, so the next time there is legislation we are more mindful of sexed language. I do not have a problem with that, per se.

Mr SULLIVAN: In your submission, and I think in your first answer to a question, you seemed to hang a lot of your organisation's position on the basis of promoting women's rights, but I do not think your organisation extends the focus on women's rights to most areas or many areas of public policy.

Mr Norman: I am sorry, I disagree with that. I will make a similar point. At the office I work in there are six employees. I am the only male in the office and I probably have the lowest IQ. I am very happy with that situation. The Australian Christian Lobby is very egalitarian in the way we approach things.

CHAIR: It is interesting to note that you just called yourself an employee.

Mr Norman: I am an employee, as we all are. Everybody is an employee of something. I work for the Australian Christian Lobby. I am also a pastor. I would work there for nothing, basically, because I enjoy the work, but I am an employee. I am a male and I am referred to as a male. I am respectful of the women whom I work with. My boss is a woman. I would not call her the boss; I would call her by her name. I have no problem with sexed language. I think all we are saying is that to dehumanise people by taking away gendered language is actually an abuse. I think it leads to all sorts of other issues in the future that we can only imagine. We would not normally get involved in the Industrial Relations Act—it is not on our radar—but when it starts talking about removing the rights of women or men we would definitely have an interest.

Ms Ride: I reckon that Mr Norman and I would have very different policies on different things, but most people in Australia, most people in Queensland, do agree with sexed language, do agree with defending women's rights by being able to define them. If we cannot define them, we cannot defend them if you are a birthing person. We have seen that people who are involved in the gender critical side of things are looking at other Commonwealth countries with progressive governments and what has happened to language and women in these countries. This may not be happening in Queensland yet, but we do know it has happened in Victoria, Western Australia and certain places where women cannot defend any sex based base, including women in the maternity ward.

We have seen examples overseas where men who identify as women have demanded care at a maternity hospital. One person in America said that he had been raped and was pregnant and demanded attention at an abortion clinic for low-income women in the US. They said, 'No, we can't do that,' and he is now suing them to either get an amount of money or shut the place down. This is what we have seen in other areas. We have seen this for rape crisis centres and women's shelters. Particularly in Canada, where I was born, they are way ahead of us on gender-neutral language and gender identity politics. As a result, for example, staff in a women's shelter are not allowed to ask if a person is a woman, so men can go after the women who are possibly running away from them. If you are progressive and you are taking note of what is happening interstate and around the world, you probably know how the question 'what is a woman?' has become a huge election issue in the UK. The UK went very far down the gender identity pathway. Now they are back-pedalling because so many things have ended up to the detriment of women. You or I could lose our job for wanting sex-specific language. This is what we have been studying.

CHAIR: In an Australian context—you have some international commentary—are you aware of any cases where the adoption of similar gender-neutral language in the National Employment Standards has led to adverse outcomes here in Australia?

Ms Ride: We have been trying to look at things in the women's space. All I know is that, for example, the Australian Breastfeeding Association has adopted gender-neutral language, and a woman I know whose name is Jasmine Sussex was kicked out of that. It was a volunteer job. Like you, she loved her job. She was a breastfeeding consultant. She was let go.

CHAIR: Was it as a direct result of gender-neutral language that she was kicked out of her job?

Ms Ride: She did not want to use it. She wanted to say that only mothers could have babies.

CHAIR: Bringing it back to the National Employment Standards, are you aware of any adverse outcomes in the use of gender-neutral language? The bill before us relates to industrial relations and employees, so I am just trying to draw you back to the bill.

Ms Ride: Fair enough. The only thing I know is that I have met people who have been fired from their jobs for gender-critical views. That is not directly related to maternity, but it is happening.

Mrs Rigney: I have been asked to leave the Women With Disabilities Australia's policy advisory group because I said one time, 'This is the experience of women'—blah, blah, blah—'and it's awful. If men gave birth, something would be done.' That was my comment and I have now been asked to leave.

CHAIR: What was that organisation?

Mrs Rigney: Women With Disabilities Australia. It is one of the Commonwealth government's six National Women's Alliances.

Mr O'ROURKE: Is there alternative wording we could consider as a committee instead of maternity leave or birth related leave? We want to encourage males to be more supportive and involved in the raising of young children.

Ms Hughes: One suggestion I might make is about using additional language—'maternity' and 'other birth related' for example—retaining the important sex based language and adding additional language.

Mr O'ROURKE: Thank you for that. Any other comments?

Mr Norman: I think the act already has both 'maternity' and 'other'. I would totally agree with the professor. In terms of the word 'she', though, I think that is a non-negotiable. I think when we are talking about women, we address them as 'she' or 'her' and use the correct pronoun. I do not see that that needs to change to 'the employee'. It can be 'she' or 'he' or 'the employee'.

CHAIR: 'The employee' would not be incorrect in the description in an industrial relations context, would it?

Mr Norman: No, it is not incorrect. If it is in direct relation to the woman who has given birth, it would be 'she'.

Mr DAMETTO: My last question is in relation to the language being used around birthing at the moment. In recent times we have had a group of people who believe that people identifying as males can conduct childbirth. In your opinion, should we be changing to gender-neutral language just for this small group of people, especially when most people who give birth identify as women?

Prof. Gribble: I think we need to be really clear. Unfortunately, even this morning the discussion has been a little bit modelled on the difference between gendered and sexed language. In terms of gendered language we would say, 'We shouldn't use gendered language. We shouldn't talk about "policemen" or "chairmen"; we should talk about "police officers" and the "chair" or the "chairperson", because the sex of the person is not relevant in those circumstances.' Gendering, applying a sex stereotype, is not an appropriate thing to do. When we are talking about something that is as inherently sexed as pregnancy, birth and breastfeeding, it is appropriate to use sexed language because to not do so actually obscures what is happening.

You need to be aware of the issue of people who have a gender identity which means that they do not identify with their sex and do not wish to be referred to using terms on a one-to-one basis that refer to their sex. It is really well accepted in terms of health care and just individual interactions that you use the language that works for people individually. If you are looking at things on a broader scale, there are some really significant problems with actually not using sexed language when the sex of the person is central. We have seen that happen.

I just sent through a paper that I mentioned earlier. We outline many examples where desexing language has caused problems. You do have this happening in health care. I have been provided with a communication from a Queensland health professional where their hospital had been directed to actually change the sex markers on individual health records if they had a gender identity that they believed was in conflict with their sex; for example, if they were female, having their sex marker changed to say that they were male. That poses enormous health risks for that person, because your sex is really important when you are receiving health care.

Again, in our paper, we have an example where that occurred—where somebody who was female but who had been taking testosterone and so could be mistaken for a male went to a hospital with abdominal pain. Their sex marker on their health records said that they were male, so it was not identified that they were in fact pregnant; they were in labour. Their baby in fact died because it was not identified early that they had a complication—a prolapsed umbilical cord.

The intentions of being kind to people and of taking into account and minimising the suffering of others are really laudable aims, but it needs to be very clear when it is appropriate to do that, to make compromises. One-on-one, I think that is entirely appropriate. It may also be appropriate for targeted health material. For example, the Australian Breastfeeding Association—it was brought up earlier—has produced a booklet that is specifically targeted at people who do not wish to be referred to by language that references their sex. That has been completely desexed. To do so across the board can cause enormous difficulty.

I will give you an example. It is not from maternity leave legislation. Over the pandemic, one of the issues has been separation of mothers and babies where mothers have COVID-19 but also in neonatal intensive care units, where access to infants was often very highly restricted. In some places, babies were able to have a visitor with them for two 15-minute blocks a day—really highly restricted. Policies that referred to 'parents', rather than prioritising mothers though, resulted in greatly increased mother-infant separation, and that had all sorts of health complications for women and for the babies. Replacing 'mothers' with 'parents' or some such example is actually a massive problem. I would encourage the committee to really consider very carefully whether it is appropriate for us to be using gendered language here if we are dealing with a sexed process or whether sexed language should be being used.

It is not what I was brought in to speak about, but I did notice that the clause in the bill about the gender pay gap was really muddled. Are you wanting to collect data on the sex of people or are you wanting to collect data on the gender identity of people? It matters. Those are two different things. You want to be really clear in your legislation what you are wanting to do there because, as some others have mentioned, when it is absolutely not clear you can end up with all sorts of unintended consequences.

CHAIR: Thank you for that. I have one question to pose to each of you: are you able to point me, within the bill, to where you think a woman will not be able to access leave to care for a newborn?

Prof. Gribble: Can I respond first of all?

CHAIR: Certainly, if you can make it brief, because we are running close to time.

Prof. Gribble: I would say no—

CHAIR: You would say no?

Prof. Gribble: I would say no, but—and it is a big 'but'—the stated intention from the Department of Education is to have equity in infant care. That is indicating why it will not stop women—

CHAIR: Thank you, so—

Prof. Gribble:—from being able to—

CHAIR: But your response—

Prof. Gribble:—access maternity leave. It will encourage—

CHAIR: Thank you. But your response is, no, you cannot point to anywhere in the bill where it would impede a woman access?

Prof. Gribble: My answer is, 'no, but'. The intention is clearly that it will.

CHAIR: Thank you. Anybody else?

Mr Norman: Our submission is not aimed at the material aspects of the bill. We have no comment on that.

Mr SULLIVAN: This is a really broad bill and I know that the morning session is focused on particular elements of it, but, speaking as representatives of organisations, are any of your organisations registered associations under the Associations Incorporation Act?

Dr Collyer: We are not.

Mr SULLIVAN: The ACL is not?

Mr Norman: No.

Mrs Rigney: Can I get back to you?

Mr SULLIVAN: Sure. Thank you; that would be useful. None of your organisations participate in employee/employer relationships as part of the Queensland Industrial Relations Commission?

Dr Collyer: No.

CHAIR: On the line, is anybody part of the QIRC in terms of dealings on behalf of employees or an incorporated association?

Ms Hughes: No.

Mrs Rigney: Chair, I was just going to answer your earlier question. When we did the National Maternity Strategy in Canberra, the whole room had concerns when we said, instead of woman centred care, family centred care. We then changed it back to 'woman' because everyone had agreed that that opens up the can of worms for coercion and domestic violence partners to then prioritise over the woman's health care. In this sort of setting, we are still concerned that in a domestic violence relationship a partner will try to say, 'You have to go back to work. You have to do the breastfeeding. You have to come home and clean the house.' We have seen that on social media and that sort of thing.

CHAIR: Thank you. That concludes this session this morning. I note that we have just one question on notice for Mrs Rigney in terms of her organisation's status as an incorporated association. There were no other questions placed on notice. If you could provide us with the answer to that before Thursday, 28 July 2022, we would be very grateful. Thank you to all of the witnesses for your participation today. It has been very useful and helpful to the committee.

FERGUSON, Mr Brent, Director—Major Cases, Workplace Relations Advocacy and Policy, Australian Industry Group (via teleconference)

CHAIR: Would you like to make a brief opening statement before we start our questions?

Mr Ferguson: Yes, I would, thank you. I want to commence by providing the committee with some brief context regarding my background and experience. I am a workplace relations lawyer, but for the last 15 years or so I have had a particular focus on representing businesses in the road transport and logistics sector and recently the gig sector. Relevantly in that context, I have appeared extensively in proceedings in the New South Wales Industrial Relations Commission under chapter 6 of that state's IR Act. They are the provisions that we understand chapter 10A of the proposed bill has been largely modelled on. I was also heavily involved in virtually all major proceedings in the federal Road Safety Remuneration Tribunal over several years before it was virtually abolished in 2016. Of course, that tribunal was disbanded in the face of significant controversy over the devastating impact that its first order, setting mandatory minimum rates, had on the viability of contract drivers.

We have filed detailed submissions setting out our concerns regarding the bill. They deal extensively with the proposed introduction of chapter 10A. I do not propose to traverse that detail, but we obviously urge the committee to engage with it. I just want to emphasise four brief points, if I can.

Firstly, we are particularly concerned that chapter 10A will give rise to significant complexity and undesirable overlap with other laws regulating contract drivers in other states as well as with the foreshadowed introduction of new regulation in this area by the Commonwealth government. The committee would appreciate that many transport and platform businesses operate at a national level or engage contractors who operate in Queensland as well as other states. It is already difficult for them to navigate different state systems. In that context, we already have different laws in Victoria, New South Wales and Western Australia which all vary markedly from the proposed bill. If there is to be further regulation of the platform and gig sector or indeed further regulation of the road transport contractors generally and their engagement, it is our view that it is important that it be managed at a federal level and that that cover the field in order to avoid simply adding to the regulatory burden and compliance costs of dealing with a patchwork of regulation at the state level. We say that there is particular force to that perspective given that the new federal government has committed to establishing a new system for the regulation of the gig sector or work with employment-like conditions as a priority. We say that it would be a very undesirable outcome for the Queensland government to move ahead of that process to set up a rival system ahead of such an impending development.

Our second major concern that I want to emphasise is that the bill risks replicating the devastating impact of the Road Safety Remuneration Tribunal and some of the problems that have flowed from the current system in New South Wales. To put it in context, the RSRT was empowered to set rates and conditions for contract drivers. In that sense, it is not unlike what is envisaged now for the Queensland IR Commission. After years of deliberations the RSRT issued just one order setting down rates of pay for contractors and, as I say, it had disastrous effects. The rates it set were so high that they would have rendered large numbers of contract drivers unviable overnight. I remember taking phone calls at the time from large transport companies that believed they had no choice but to cease the engagement of longstanding contractors in response to the order. I also remember talking to rooms of owner-drivers who were, frankly, terrified that the order was going to destroy their livelihoods. Ultimately, that culminated in significant protests of owner-drivers outside the Commonwealth parliament and the repeal of that legislation in a very short period after the order commenced effect.

Similarly, chapter 6 in the New South Wales system is a source of significant frustration and discontent in the industry, and that is the point I want to make clear to this committee. It has been around for decades but there are notorious levels of noncompliance with it. It itself has resulted in a patchwork of different contract determinations, covering different sectors, that are extremely complex to interpret and often become quite outdated in their operation. So there is significant concern amongst industry participants who have experience of the New South Wales system that this bill is really just a recipe for replication in Queensland of elements of such a flawed regime.

The third concern I want to raise is that the bill has at least the potential to give effect to a system that will remove the kind of flexibility that is needed for the continued and viable operation of platform businesses, particularly the gig businesses in the food delivery sector. Our concern here is that if the system culminated in the replication in Queensland of the contract determinations currently in force in New South Wales it would very likely undermine the viability of that sector in Queensland. None of those instruments properly reflect the needs of the sector. We think that would be a very

backward step because of the significant number of people who draw an income from the sector and the extent to which it now provides services to individual community members and businesses that service us.

Fourthly and finally, we have also expressed a concern about the way that the bill purports to regulate independent courier drivers and the extent of that coverage. To our mind, it extends well beyond the regulation of contractors performing all services (inaudible)—

CHAIR: I am sorry, Brent. You are breaking up. Could you repeat that?

Mr Ferguson: I apologise. The fourth point that we are trying to make is that we are concerned that the definition, effectively, of independent courier drivers extends the scope of the bill well beyond the regulation of contractors performing what are traditionally thought of as courier services. We are not sure if that was intentional. It is the definition of 'independent courier' and the definition of 'courier vehicle' in the act which we read as being broad enough to effectively enable the regulation of virtually any owner-driver in Queensland, but that falls in the scope of other sections of the act.

In industry there is a well-understood notion of what is a courier. We address that at pages 7 to 10 of our submission in particular. Put simply, courier work is ordinarily conceived of as work involving the delivery of smallgoods by light vehicles, typically less than two-tonne-capacity vehicles, where there is a requirement that that work be done effectively and as quickly as possible or at least on the same day. That sort of definition, for example, is extracted in the contract determination that is made in New South Wales that applies specifically to courier and taxi truck work.

Our concern is really that this bill would enable the Queensland Industrial Relations Commission to make contract determinations regarding the engagement of contractor drivers by all parts of the road transport industry or the industry more generally. To give you an idea, that could include contractors engaged to transport cars, agricultural products or general freight. We are concerned that, really, there has been no case made out for that kind of sweeping reform in Queensland and contend that it certainly should not occur in the legislation. Our view is that, if the legislation is going to be passed, certainly that definition should be amended to confine the scope of 10A's application to contractors who are undertaking courier work as the term is ordinarily understood. That effectively concludes my opening comments, unless there are any questions the committee has.

CHAIR: I am sure there will be questions.

Mr BOOTHMAN: I was talking to a couple of my local cafe and restaurant owners who also shared their concerns about this bill when it comes to delivery drivers. How do you think this will impact small businesses, especially those hospitality businesses that use home-delivery services?

Mr Ferguson: The concern is that it is going to increase the costs, at the very least, of engaging contract drivers to perform those delivery services. Depending on what orders the commission ultimately makes in terms of contract determinations, it could impose all sorts of restrictions on the way those contract drivers can be engaged. The real risk is that, ultimately, it makes the use of those contract drivers unviable, either commercial or from a production perspective. We see that as a very significant risk to those small businesses that increasingly have come to rely on the use of contract couriers, if you will, to deliver their food to individual customers. Of course, that has grown quite significantly.

Mr BOOTHMAN: Would that then decrease the frequency of potential delivery drivers coming to a shop because obviously there will be fewer of them and, therefore, that would have a direct impact on those small businesses?

Mr Ferguson: Yes. The concern is that the growth that has occurred in the sales and delivery of food to people's homes will be undermined so there will be less of that business. What has become an important part of the business for many of those employers in that sector will be potentially undermined.

Mr DAMETTO: My understanding is that, if passed, this legislative change would put more negotiating ability into the hands of those doing the delivery driving. At this point in time, any increase in costs to a small business may result in them no longer providing that service. Could this bill, if passed, have a negative impact on those it is trying to protect?

Mr Ferguson: Yes. It is our concern that, effectively, it will make the engagement of those unviable or will restrict them in the way they can be engaged. It depends on what the commission orders, of course, but if they restricted, for example, the hours they could work or the way they could be engaged then that would undermine the flexibility that many of those drivers enjoy. This is not entirely a hypothetical proposition. The Road Safety Remuneration Tribal set orders regulating minimum work to pay for contract drivers and overnight it rendered huge numbers of them potentially

unviable. That culminated in protests outside Parliament House, where the drivers themselves were fighting for the abolition of the tribunal's order and, of course, it was abolished. That was after years of deliberations. It made its order and within a very short period of it taking effect—days, from recollection—the whole thing was abolished because of that impact. We have an example of the risks.

Mr DAMETTO: Where it has played out before. I have seen it in my local area in a completely separate industry where a similar thing happened. In the fruit-picking industry, everyone is on an hourly rate and they do not get paid per box. The people who are picking more per box and have decided they want to work longer hours are now being disadvantaged. There is an opportunity for them to be disadvantaged in this case. Thank you for that.

CHAIR: It is pretty well known, particularly if you know anybody who drives for Deliveroo or Uber Eats, about the terms of pay and conditions. I think it is well evidenced internationally in terms of low payments amongst gig economy workers. We have had submissions from Deliveroo, DoorDash, Menulog and Uber Eats. They have the Food Delivery Platform National Safety Principles to improve working arrangements and safety for workers. Could you describe to me how you think those safety principles ensure minimum pay and minimum conditions of employment for drivers and riders on those demand platforms? I am keen to hear your perspective.

Mr Ferguson: The problem is that it takes (inaudible) in terms of seeing the detail of those principles. I do not recall from memory whether or not they engaged with the industrial conditions, if you will, of the drivers in terms of pay as opposed to broader safety principles. Another part of AI Group was involved in the preparation of those principles.

CHAIR: But you are not aware of those principles and what they might look like in terms of minimum conditions?

Mr Ferguson: I am aware of their existence. I do not want to mislead you. I am not sure, from memory, of exactly the content but I do not believe they necessarily went to rates of pay. I can confirm that on notice so I do not mislead you as to what elements they had to that issue, if that is convenient?

CHAIR: Yes. The principles are: training and information, and information can be provided in a range of formats including via email and in app messages; delivery equipment and PPE, and easy access can be either providing discounts through retail partnerships or directly; support, standards and policies; consultation; incident reporting and investigation; and administration. It does not look like it is anywhere within the safety principles. It goes much further than possibly PPE in terms of conditions.

Mr Ferguson: My recollection is that they did deal with safety issues and not with the unrelated issue of remuneration. I think you are right on that, but I can clarify that. It is not in front of me.

Mr SULLIVAN: In your submission you make the argument that there are other things going on in the transport space that this would be a distraction for, such as risk identification and control, improved roads, fatigue management, education and training, drug and alcohol policies et cetera. In the industrial relations space more broadly and in the transport industry more specifically, we are at the stage where we can walk and chew gum at the same time. How would improving the pay and conditions of employees take away from those other elements of improvements, as valid as they may be?

Mr Ferguson: I think it needs to be appreciated that businesses, particularly road transport businesses, are already dealing with an absolute mountain of compliance issues in relation to their operations, particularly around safety. My experience is that they do devote significant resources to not just the compliance with all of those sorts of regimes but also dealing with the underlying safety risks. Understandably and properly, safety is foremost in their minds.

The difficulty is that, particularly for road transport businesses, often they operate on very tight margins and they have limited resources, so putting in place another layer of complex regulation around their rates of pay is going to be a distraction. When you look at the New South Wales system, as an example—and I understand this bill was partly based on that—trying to decipher those contract determinations is incredibly difficult for a layperson. Inevitably, they need to engage professional advisers; they do not have an internal compliance person to focus on that. I think the reality is that it sounds good—the idea that you can just do everything—but companies have limited resources and if they are trying to focus on unnecessarily complex duplication of systems it will be a distraction from their time and resources that could be better directed to squarely putting in place measures to improve safety. The concern that we have partly is that, from the operator's perspective, it is going to be a distraction.

Mr SULLIVAN: On a slightly different element, in your oral submission this morning you spoke about the incoming federal government. If we wait for the perfect time and do not act ourselves, is there an argument that that would be irresponsible of us? More to the point, do you acknowledge that if down the track there is inconsistency between federal legislation and state legislation it is very well settled in the courts as to what regime stands up?

Mr Ferguson: I do not think it would be irresponsible. I think the system that is being established to a large extent will not deliver immediate benefits anyway. It is setting up a system that enables a tribunal, to a significant degree, to inquire into and set contract determinations. I can give you a practical perspective. I was involved in the commission proceedings that just looked to review the lead determination in New South Wales, the General Carriers Contract Determination. We were just amending some things. That took three years. Similarly, I was involved in the review of the carriage contract determination. We were just changing the rates and a few other things. That has taken two years. I do not think this scheme will necessarily deliver significant benefits, if they were to be delivered, overnight. I have concern that they would not deliver them in eventuality anyway, but I do not think it would be irresponsible to wait given that the federal government has indicated that it will look at a federal regime as a priority.

Secondly, I think there is a real benefit to having one regime cover all of these sorts of rules. It is incredibly difficult already trying to work out which state regime applies in some contexts, particularly when you have drivers crossing state borders. Looking at inconsistency between state laws, it ends up being quite a challenging task even for a lawyer let alone a small transport business. I think, to your second point to the extent of inconsistency, one legislative scheme would override another. Of course, it depends on the content of the two schemes as to where that inconsistency will arise, but it is certainly not desirable to put principal contractors in the space of having to trying to work out all of those sorts of issues, or having to gear up for the preparation of one system only to have that overtaken shortly after by another, if that makes sense.

Mr BOOTHMAN: Almost a decade ago we brought in legislation to do with heavy vehicle transport which most of the states did join up with. You were speaking about potential federal legislation. Would you prefer to see that the states all come together to work out one pathway to make it a lot easier for businesses to understand their legal requirements in each and every state?

Mr Ferguson: I think however you get there, the idea of having greater consistency between the approach in regulation, either through a model like the heavy vehicle national law, where there is model legislation and all states pass it, or through the passage of federal legislation which covers the field—either approach if it delivered consistency between the states—would be preferable to, as I put it before, this patchwork of different approaches across different states. If that was done in consultation between all the states then all the better, but at the moment there is a divergence in systems and we do not want to see that problem made worse.

Mr BOOTHMAN: Especially for the Gold Coast region where we have New South Wales in the Tweed and Queensland in Currumbin and it is a major issue down that way.

Mr Ferguson: I note that this legislation—the coverage of drivers potentially caught by it—is broader than we first anticipated. It was framed as tying to couriers. It would catch contractors doing removal work and crossing state borders and then you end up with all sorts of difficult conundrums as to when and in what context one system applies versus the other.

CHAIR: Thank you very much, Brent. You would not be aware, but we have received a late submission from Professor Emeritus David Peetz from Griffith University. Within his submission to us he has made a number of statements in response to the AI Group's submission that I would be very keen to get your response on. We will look to be in touch with you to get some feedback on the comments that he has made and allow you the opportunity to make an additional submission in response to the points he has raised. That submission will be available later this morning on our webpage if you want to take a look at it. We have one question taken on notice. You were going to confirm your understanding of the national safety principles for food delivery platforms and their response in terms of minimum pay and minimum conditions.

Mr Ferguson: Yes.

CHAIR: If you could provide a response to that by Thursday, 28 July so that we can include it in our deliberations that would be terrific. We really appreciate your time today. Thank you very much for appearing before the committee.

Mr Ferguson: Thank you very much. I appreciate it.

Proceedings suspended from 11.20 am to 11.35 am.

GOODE, Mr Tony, Workforce Strategy Executive, Local Government Association of Queensland

CHAIR: Would you like to make a brief opening statement?

Mr Goode: Thank you for the opportunity to come and talk to the bill today. Clearly, we rely on our submission. I do not intend to repeat all those points, but I will touch upon a couple of the salient points. In relation to the sexual harassment element, as we said, we certainly do not oppose bringing sexual harassment into the Industrial Relations Act. We do, however, have some concerns about how it is being introduced into the legislation. In particular, we are concerned about its inclusion in the definition as an industrial matter.

It has always been our understanding that an industrial matter is something that normally occurs between the employer and an employee. While it may only affect one employee, it is essentially about something that might have implications across the board such as payment of allowances, whether an allowance is appropriate or not, or how to interpret an overtime provision or award provisions. However, in the case of sexual harassment it is not so much between an employer and an employee; it is often between two individual employees within that organisation. When we first spoke to the review committee we said that, while we were not opposing its introduction into the IR Act, we thought it would be better aligned with the provisions about workplace bullying. Again, in the case of workplace bullying, it is often between an employee and another employee and is something that can be addressed.

It then raises the question—and this is the part that we do not know the answer to—of how this is going to play out in practice. By its very nature, sexual harassment at times can be a form of bullying. We will have the situation where the same issue will be referred to the commission in two parts—one which is a bullying allegation, which we hear through one part of the act, and then the sexual harassment as an industrial matter, which we will hear through another part of the act. We are concerned that the technicalities of this might become a bit onerous for employers and a bit confusing for employees. Just to repeat, we are not opposing its introduction into the industrial relations bill, but we are concerned about it being introduced as an industrial matter and maybe it should be better addressed in a similar way to what is in the Fair Work Act or in the bullying provisions in the bill.

Naturally, we are concerned about the risk of jurisdiction shopping when it comes to sexual harassment as to whether it goes to the Anti-Discrimination Commission or the Industrial Relations Commission. We have always believed that these matters should be addressed in one jurisdiction and one jurisdiction alone. As I say, we will see how that plays out in practice. They are the reservations we have expressed in our submission and the reservations we mentioned when we spoke to the reviewers. We asked if they could take that on board and maybe include it as part of the bullying provisions.

The other point I would like to raise—and I know that this has been addressed to some extent—is that in our minds sexual harassment is a matter that needs to be addressed quickly—it is not something that can be delayed—because it is such an emotive issue for both complainant and respondent. It is something that as an employer we like to get onto straightaway. We have this residual concern that the broad definition of 'corrupt conduct' might require some of these matters to be referred to the CCC. We raised these concerns with the review team and we raised them with the department. The department is of the view that it probably should not make too much of a difference. The issue is that some councils are already referring some of these matters to the CCC. All that results in is delay. Invariably we know that the CCC will not deal with it because they have more important things to deal with, in their minds. They then refer it back, but that takes six to eight weeks. Those are not the types of delays we like to see when it comes to addressing sexual harassment matters.

We are seeking some form of provision in the bill or, as I said in our submission, even something from the committee to confirm that these are not matters that need to be referred to the CCC. By way of explanation, while we have been told that the CCC does not want to hear them and the department says that maybe they should not have to be referred, CEOs do not have the option to make those decisions; they have to apply the law as it stands literally. CEOs do not want to be in a situation where they can be accused after the event of not referring a matter.

We have had situations of simple little things like an employee fraudulently changing their time sheets two or three times. It is quite a small matter, but legally that constitutes fraud and fraud is required to be referred to the CCC. There is a person who is basically guilty of two or three instances of incorrectly changing their time sheet because they are late and it has been referred to the CCC. There was a case in one council that had been to the CCC. The employer was told it had to be

referred. 'Why?' 'Because it is fraud.' 'What are the details?' 'We cannot tell you.' All they know is that a matter of fraud had been referred. Six weeks later, the referral still had not come back. During that time the person had gone off on sick leave and then they were claiming workers compensation. Six months after the event, that simple little matter, which could have been addressed quite quickly and quite easily between the employee and employer by way of a quick investigation or having a quick chat and probably a chastisement or reprimand and that would be the end of it, was ongoing. Instead, it dragged on. We do not want to see that happening with sexual harassment matters. We would like to see some assurances given or some provision somewhere that says that sexual harassment matters are an industrial matter that should be dealt with immediately and expeditiously by the employer and get on with it.

CHAIR: On that point, what stops the employer conducting its own internal investigation? Is there not a mechanism whereby if that is occurring you would be conducting your own—

Mr Goode: No, you cannot do it simultaneously. Once you refer a matter to the CCC, you are required to do absolutely nothing until the CCC has examined it, reviewed it. Normally, they will write back and say, 'It's not a matter that we want to look at and we will refer it back to you.' The difficulty is the time lag. As I said, we would like to see most of these matters dealt with quickly and expeditiously by the employer and the employees themselves.

The only other thing I would mention is the issue to do with the change in definition of short-term casual and the fact that we are moving the unfair dismissal laws. At the moment a short-term casual has to work for over 12 months before they become subject to the unfair dismissal laws. We are concerned that this bill actually changes that to after six months. We note that the review team looked at this matter. They actually raised this as an option to bring it back to six months, but they never specifically recommended it. We are a bit confused as to why. We have been told by the department that it is simply because it is in the federal system so therefore they decided to include it.

My view is: if the review team did not recommend that as an action, why is it necessary to include it? We have not had the chance to understand the motivations for it. Surely it has to be more than just 'it is a good idea because the federal system does it'. We would like to know a bit more about what is prompting this view that unfair dismissal laws should now extend to people who have been working for over six months as a short-term casual rather than the 12 months as it currently stands. We have casual conversion clauses now whereby after six months, if a person wants to be converted permanently and they have been working continuously in systemic and regular work, they can apply. Unless there are really good reasons, they will be granted permanent status. That is generally what does happen in local government.

Our view is that we should be encouraging people to move from casual status to permanent status. One of the benefits of moving to permanent status is the additional protections people receive as a permanent employee that they not have as a casual. In my view, extending this from the 12- months long-term casuals to six-months short-term casual is going to dissuade people from taking up the option to move from casual to permanent officer.

Just on that, we are not comfortable at all with the way that casuals are defined. Our position—and we have not changed that—has always been that casuals should be defined by the circumstances of their employment rather than the individual choice of the person or of the employer. In other words, whether it be one month, two months, 12 months or two years, if the circumstances pertain more to permanent employment then that is what it should be, not because an employee chooses to be a casual or chooses to be a permanent. It should be the nature of the work. I might leave it at that, if that is okay, and I will take any questions.

Mr BOOTHMAN: You talked about the circumstances of employment for casuals. Can you elaborate on that? What circumstances are you talking about when it comes to the employment? You were talking about permanent casual.

Mr Goode: At the moment, the casual conversion clause effectively says, 'If you are a casual employee and you have been working systemic and regular hours for so long, after six months you can apply to become permanent and the employer has to look at that and, unless there are good reasons why not, effectively you would be converted into permanent,' but it is the choice of the individual employee. If that employee says, 'I do not want to be permanent; I want to stay as a casual regardless of my hours, regardless of the nature of the work,' then they will stay as a casual, they get the 25 per cent loading, they do not get sick leave, they do not get rec leave and they get a lot of other things.

As an employer, we have silly situations where we will have two employees side by side working for the same period of time, and we had one case where two people worked side by side for five years doing exactly the same hours, the same times, but one was a casual and one was a

permanent because one chose to be converted. We find that to be quite ludicrous. We think it should be a reflection of the employment rather than the individual's choice. These clauses continue to promote that individual choice. I should also add that the choice extends sometimes to the employer. Some employers like casuals for the wrong reasons. That is not what local government does. We have a pretty good record. Eight or nine per cent of our staff are casual at any one time. Considering the level of grants that we rely on, it is a pretty good record because local communities want permanent staff.

Mr DAMETTO: Thank you for coming along and giving your evidence this morning and speaking to the bill. Looking at the issues you have raised, you want clarification of the clause to ensure that allegations of sexual harassment do not fall within the definition of corrupt conduct in section 15 of the Crime and Corruption Act 2021. You spoke briefly to that earlier and the problems with drawing that out if it was to fall into that field. Can you expand on that a little further?

Mr Goode: As even the department responded, that particular clause is not black and white; it is open to interpretation. Many of our councillors have found to their chagrin in the past, particularly CEOs, that they have acted on matters and then subsequently found themselves in strife because these matters should have been referred to the CCC. There has become a fairly strong view of 'if in doubt you refer it'. This is the situation here.

Mr DAMETTO: That would be clogging the system up, I would imagine.

Mr Goode: Absolutely. It clogs up the system because it also means the CCC have to spend time reviewing it and then they have to make that decision, write the appropriate correspondence and send it back. It is unnecessary work on the part of the council for referring it and unnecessary work on the part of the CCC, who really do not want to be involved in these matters. I just think we should get some form of clarification to make it clear to all that these matters should not have to be referred to the CCC and they should be dealt with quickly and expeditiously by the employer as soon as a complaint comes to hand. Obviously if it gets to a stage where we are talking some form of assault or something like that, that is when we bring the CCC and the police into it, but we are just talking about the majority of the sexual harassment complaints. When it first came up I started to get concerned about it and I raised it with a few councils and I was informed by one quite large south-east council that we currently refer these matters to the CCC and they invariably send them back to us anywhere between a month to two months later for us to deal with, but there is that two months of delay which is unnecessary, particular on sexual harassment matters.

Mr DAMETTO: Thank you. That clarifies that for me.

Mr SULLIVAN: Do you find that that behaviour of councils or CEOs in particular in terms of their referral practice or inclinations varies greatly across councils?

Mr Goode: I cannot comment on every council because obviously we do not see every referral or nonreferral. We can only go on when I talk to HR managers in large councils or CEOs in some of those smaller councils. I can say that I have seen lots of examples where it has gone to the CCC, in my mind unnecessarily, but a lot of these councils have gone and sought independent legal advice on that interpretation. I have seen some of those legal opinions and the legal opinions are that it is open to interpretation so, as I said, because of the history of referrals, councils will invariably err on the side of caution and refer it. I just do not think it is necessary. No-one wants to do that—not in these matters.

CHAIR: Have you had a chance to review the department's responses to your submission?

Mr Goode: Yes. I have had a number of discussions with the department on this and they have looked at it. The responses vary: 'Well, putting it in the act is not going to change the world. If they were being referred previously then this is not going to make them not referred; if they were not referred previously this will not make them refer it.' They are saying in terms of the referral that this should not make too big a difference. My concern is that we are making this whole issue of sexual harassment so much more prominent. It has now been listed as a matter for summary dismissal, and if you look at the definition of 'corrupt conduct' one of the requirements is that it could lead to dismissal. The fact that we are including sexual harassment now as a ground for summary dismissal we think will make it more prominent to people. Maybe some of those councils in the past that had not referred, that just assumed they did not have to, will now think, 'Maybe we should.' That is what concerns us.

The department also has said, 'We have looked and we do not necessarily think it should be referred, but the difficulty with sexual harassment, as you would be aware, is "how long is a piece of string?"' I do not want to make it sound trivial, because no sexual harassment is trivial, but it can be pretty serious to less than serious and council CEOs do not want to get to a situation where they have to draw a line in the sand and say what is and what is not serious before they refer it. We think these

matters are such that they need to be addressed and they need to be addressed quickly if we are going to get really serious about this.

CHAIR: Thank you very much. Somebody tells me that you are retiring tomorrow. On behalf of the committee, I wish you all the very best in that retirement.

Mr Goode: Thank you so much. It is my last day tomorrow.

Mr DAMETTO: You are about to engage in the busiest part of your life, I hear.

CHAIR: You are going out on a high note.

CULLINAN, Mr Josh, Secretary, Retail and Fast Food Workers Union Inc. (via teleconference)

McGUIRE, Mr Jack, Managing Director, Red Union Support Hub

CHAIR: Mr McGuire, would you like to make an opening statement?

Mr McGuire: My name is Jack McGuire. I am director of the Red Union Support Hub, which provides services to a number of unions that I am speaking on behalf of today. Over 17,000 workers are under attack under this bill. Hundreds of thousands of workers in Queensland are having their right to choose their representative taken away from them and their human rights stomped on. The NPAQ has over 10,000 members; the Teachers' Professional Association of Queensland has over 3,500 members; the Professional Drivers' Association of Australia has over 400 members; the Australian Medical Professionals' Society for doctors has over 500 members; the Sworn Officers' Professional Association of Australia has over 400 members; the Independent Workers' Union of Australia has 1,500 members.

This is the most anti-worker bill ever introduced into this parliament and if any members here got elected off the back of the worker they should be ashamed that a supposed Labor government would even draft this bill. It is steeped in cronyism. It is steeped in corruption. It makes a mockery of human rights. It makes a mockery of Gough Whitlam. What this bill hopes to do is shut down independent unions—unions that dissent against the government. It grants power to legacy unions to make an application that they are ineligible entities—ineligible for registration. The pathway to registration has been restricted and made impossible because our unions are incorporated associations and they have stopped that.

Further to that, with the convenient 'right to belong' rule, it would now mean that we have to either do a deal with the Queensland nurses union, where they have coverage north of Brisbane and we have got everything south, or we have to make an application to deregister the Queensland nurses union, which we would never do because we respect the right of those nurses who are under the Queensland nurses union to stay with the Queensland nurses union.

Further, it rips away protections previously given to industrial associations and leaves workers stranded. All we want is choice. It then further gives a commissioner the power to grant ancillary orders—orders that our staff cannot represent members, office bearers cannot represent members. We cannot even arrange an agent to represent members and we cannot hold out membership on the basis of saying that we can represent members in the QIRC. We have almost 1,000 matters listed before the QIRC right now, as we speak. We can and we do represent people in the Queensland Industrial Relations Commission. We support and fund the individual. If we breach these orders, extraordinarily, not only is it a hefty fine but also it forces the Industrial Registrar to write to the Office of Fair Trading to wind up the incorporation status of these unions, meaning that members become vulnerable to litigation threat. Even beyond that, it limits law-abiding associations and their members from updating their constitutions to say that they want to look after the interests of workers.

Let us talk about the money, because that is what it is really about after all. Independent unions can run on $442 per annum. We have proven that by existing for eight years. Other unions charge double but at least $250 per annum extra. With our Red Union members freely leaving legacy unions for whatever reason they choose, that is $12 million per annum that no longer goes to the legacy unions and $4.5 million per annum that no longer benefits the ALP.

It is also about limiting the choice of 110,000 nurses and teachers in Queensland from joining an outfit that will not force them to donate money or election support to the ALP. That is $27.5 million per annum that is being spent on ALP electioneering. Why is this government afraid of giving workers choice? This is not about us or me or the NPAQ or the TPAQ; it is about vindictive coercion and punishing those nurses who dared to leave the Queensland nurses union and forcing them back into paying double to keep that ALP gravy train going. Corruption!

Speaking of corruption, how is this: the long run-up to this bill started with a memorandum titled 'The Nurses' Professional Association of Queensland' sent to every nurse in Queensland Health. It culminates in the line 'the NPAQ cannot represent or advocate on behalf of an employee in relation to an employment matter'. Rumours are that came out of the Deputy Premier's office, but I do not know that for sure. It was acknowledged as being misleading—

CHAIR: We might keep to the facts then. If you cannot substantiate what you are making statements about, then you should not.

Mr McGuire: I will; thank you, Chair. It was acknowledged as being misleading during cross-examination in the Gilbert matter. It was drafted by [redacted], acting director of employment relations. A few short years earlier she was one of the highest paid solicitors of the

Queensland nurses union. Then the memo was cleared by legals. Afterwards it was sent to the Queensland nurses union, which marks up changes and gives them back. It does not go past legals again and adopts the beefed-up version of the memo, if you like. It is then sent out to a wider audience, meaning it was always intended simply to be a propaganda piece.

My true concerns with this bill come back to this: in 1973 Prime Minister Whitlam signed us up to a number of ILO conventions. They are mentioned at the beginning of the act in section 4, I believe. Principally, article 2 of convention No. 87 states—

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3 states—

2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Article 4 states—

Workers' ... organisations shall not be liable to be dissolved or suspended by administrative authority.

You might ask: what is a workers organisation? Article 10 states—

In this Convention the term ***organisation*** means any organisation of workers ... for furthering and defending the interests of workers or of employers.

To conclude I would like to quote from a poem some members may be familiar with: the *Ballad of 1891*—

'Then if Nordenfeldt and Gatling won't bring you to your knees

We'll find a law,' the squatters said, 'that's made for times like these!'

The registered organisations could not kill us with litigation and lawfare. They could not coerce our members back into their organisations so now they have come crawling to parliament and drafted this bill. The poem continues—

To trial in Rockhampton the 14 men were brought.

The judge had got his orders; the squatters owned the court.

We do not want standing. We do not want to bring matters to the QIRC on behalf of our members because, to be honest, it puts a target on their backs and the commissioners will know whom to give a black eye to. I honestly believe the commission is packed with former registered organisation officials—the very same registered organisation officials who want to see us shut down. The poem concludes—

But for every one was sentenced, a thousand won't forget.

When they gaol a man for striking, it's a rich man's country yet!

I will never stop trying to defend our members. I will never stop defending our unions. If you do want to stop me then you'd better make it a crime.

CHAIR: Mr Cullinan, do you have an opening statement? There will be questions asked after your opening statement. We have just heard from Mr McGuire. We are giving you the same opportunity.

Mr Cullinan: I have not participated in an inquiry before where parties are lumped together in such a way. Obviously we are a union and we are very different to Mr McGuire's organisations.

We have three points to make. Our submission deals with our concerns about the proposed legislation. I think it is important to note that the public inquiry process which was already held seemed to misrepresent some of the most extraordinary elements. The most extraordinary element I think is the exclusive representation orders which allow for ancillary orders, which would effectively ban a worker from having a representative of their choice. We have never seen anything like that. It seems to be an outrageous intrusion on the right of workers to be represented by their representative of choice. It seems to be entirely without foundation and contradicts the entire premise of legislation which would empower workers who are experiencing sexual harassment or a range of other workplace issues. To block them through the provision of such ancillary orders just seems to be utterly bizarre, anti worker and anti union, which is the premise of this legislation.

The second thing is that in one of the responses we read a couple of the comments made about the RAFFWU submission. I would just like to clarify. It is not that we question the reliance on Gilbert. What we say is that Gilbert in and of itself identified that there did not need to be change on one level; on the second level what it identified was a loophole and requires correction by a modern democratic pro-worker, pro-union definition of union and association.

The other element is that there was a reference made to RAFFWU identifying that it is not affected by the bill. What we say is that our members will be able to be represented on the issues that matter to them through the federal jurisdiction. It is not that retail fast-food workers are not affected; it is just that they have the benefit of central legislation when it comes to harassment in the workplace and other things. Obviously we would prefer to have available to our members and workers—and our members and workers would prefer to have available to them—all of the elements of the legislation. It is just that we can continue to fairly, professionally and successfully represent our members in the federal jurisdiction.

The other thing we want to raise is contained in a number of submissions and seems to be a premise of this legislation: the 'conveniently belong' argument. That any organisation of workers that wants to be a genuine union merely has to apply to the commission and it would be registered as long as it met some basic tests is an absolute furphy. There is a reason those applications are not made and have not been made in very many years. To expect groups of workers to spend millions of dollars and years of time trying to overcome some of those administrative hurdles from a bygone era is just nonsense, and anyone who relies on that really is doing a massive disservice to workers and genuine unions. We just want to make those points. Our submission deals with all of the other issues that we think are important for the committee to hear.

Mr BOOTHMAN: We talk about human rights and the rights of the individual to make a choice about how they live their lives; therefore, with regard to the NPAQ why have 10,000 people decided to join your organisation over the old union guard?

Mr McGuire: I would say because we are better advocates. For many years the registered organisations, particularly those that represent members in the public sector, have not had reasonable advocacy. I will take a step back. I believe that sunlight is the best disinfectant. The media plays a very important role in society by highlighting bad issues that often are left to fester by registered organisations because they do not want to embarrass their mates in parliament. We come along without any allegiance to any political party—in fact, our constitutions prevent that—and we give fearless advocacy. We have fixed quite a lot of issues, including ones that have been brought to this place by the media. Further to that, nurses do not want to be coerced into giving money to a particular political party. They would rather keep their politics and their work separate. Even if they are a card-carrying member of the Labor Party I would implore them to join the Nurses' Professional Association of Queensland, save $400 per annum and give that $400 to the ALP yourself.

Mr BOOTHMAN: You give no money to any political party whatsoever?

Mr McGuire: Correct. The constitutions of the NPAQ, TPAQ and any other organisation that wants to fall under a similar umbrella start out by saying that there is a prohibition on both financial support and in-kind support, and it would take a super majority of members to vote otherwise.

Mr BOOTHMAN: Therefore, just going back to independence and allowing an individual to have a choice, your members themselves obviously make the choice to be a part of your organisation because they feel it is important as their human right. Do you feel it is like a breach of their human rights to take this choice away?

Mr McGuire: Absolutely. Going back to the ILO provisions that Goss signed us up to, that has then been brought into the Fair Work Act. 'Trade union' or 'worker organisation' in the ILO provisions are synonymous with either trade union or industrial association. Then for want of a better word you can have a super union, which is a registered organisation that has monopoly coverage over a particular area. That grants them a number of things: having an automatic seat at the bargaining table; being a party to disputes even though it may not concern their members, as we have often seen; right of entry and those sorts of things, which we do not need to discharge our duties to our members at all.

CHAIR: You refer throughout your submission to the independence of the unions as part of the Red Union Support Hub. Is it correct that along with being the managing director of the Red Union Support Hub you have or currently hold executive positions in terms of secretary or treasurer of the Australian Medical Professionals' Society, the Sworn Officers' Professional Association, the Independent Workers Union of Australia and the Teachers' Professional Association of Queensland?

Mr McGuire: Yes.

CHAIR: Is it fair to say that red unions are not independent at all and are centrally financed and run by the Red Union Support Hub?

Mr McGuire: Not at all. If I could explain?

CHAIR: Sure.

Mr McGuire: I guess we assist the unions with a number of different services—industrial support et cetera. Administration and keeping the unions running and compliant with the Office of Fair Trading requires a secretary, so that is done usually by someone nominated by the Red Union Support Hub. It needs to be ratified and accepted by members that they can take that position, and the secretary does not get voting privileges on the executive.

CHAIR: Currently you are the managing director of the Red Union Support Hub. Are you currently a secretary or treasurer of any of those unions that sit under it?

Mr McGuire: Yes, I believe so.

CHAIR: Which ones?

Mr McGuire: The ones that are currently in the firing line that we need to protect.

CHAIR: Do you want to tell us which ones you are treasurer for?

Mr McGuire: For instance, the Australian Medical Professionals' Society has, if you like, a shadow executive of doctors who are too afraid at the moment to take those positions for fear of Ahpra retribution.

CHAIR: My question is very specific, Mr McGuire. You are secretary for which ones?

Mr McGuire: The Australian Medical Professionals' Society, I believe others.

CHAIR: You either are or are not a secretary or a treasurer of specific unions.

Mr McGuire: Yes. I believe Graeme is the secretary, but I may be the treasurer.

CHAIR: You are not sure if you are the treasurer?

Mr McGuire: We are there simply to take the bullets and slings and arrows of the media and provide protection for doctors and police officers.

CHAIR: Mr McGuire, I am asking you which unions you are secretary for.

Mr McGuire: I can get that for you if you like.

CHAIR: You do not have that? You are not aware of which ones?

Mr McGuire: I can get that for you.

CHAIR: That would be terrific, thank you very much.

Mr DAMETTO: Mr McGuire, my question to you relates to some of the practical problems that would arise from being represented by a union that has given support to government over the years, in this case the state Labor government, when representing in front of the QIRC against an employer that is a department of state government. Can you tell us about some of the practical problems that may arise from having representation from somebody who has supported that organisation which then controls or runs that department as a member of parliament?

Mr McGuire: Yes, of course—for instance, running dead on media issues, which I have spoken about previously, and even the extraordinary case of Gilbert, which I am happy to go into further. It is madness that it is seeking to be codified while it is still before Davis and his decision is to be handed down. Effectively, the Queensland nurses union is trying to intervene to try to undermine our members' right to have a trade union. Effectively, they are allowed to represent our members even though they are not a member of the Queensland nurses union. Some of the commissioners were formerly with registered organisations appointed by an ALP government, which gets elected by these registered organisations. I guess it is more of a 'tail that wags the dog' situation and running dead on certain issues. For instance, usually you only see registered organisations come out and picket, get loud and get active during an alternative government when it is not their mates in the ALP. We have seen that recently with the teachers union getting a very raw deal, I might add, for pay increases—and not even a peep from them, even advocating a vote 'yes'—that pay less and that are less than inflation.

Mr DAMETTO: It is a completely different scenario, of course—it is a court of law I am talking about—but it would be like going in as a defendant and asking the DPP to represent you as a defendant as well. It would be very odd to expect that in a criminal matter. This seems like a similar thing playing out in the QIRC. Thank you.

Mr SULLIVAN: In relation to the various bodies that you are interfacing with, to get a clear idea of where they sit, is the Red Union Support Hub an incorporated association itself?

Mr McGuire: No.

Mr SULLIVAN: Is it a private entity that then services associations?

Mr McGuire: Yes.

Mr SULLIVAN: Who are the shareholders of the Red Union Support Hub?

Mr McGuire: Myself, Graeme and Kath—one of the ladies who started it. May I explain how it works?

Mr SULLIVAN: Sure.

Mr McGuire: The registered organisations look after policy and service provision. The various unions and the Red Union Support Hub, for now—it may change in the future; the NPAQ is probably getting big enough that it may not need the Red Union Support Hub anymore. The Red Union Support Hub provides services so that various unions can tack on—you can tack on a new union to the service provider, which then lowers the barrier to entry for workers who want to create an alternative union. The Nurses' Professional Association of Queensland has a voting executive of nurses. Teachers are the same. They control the policy direction and they control where the money goes, effectively. Then the company, I guess, is akin to, say, Hall Payne Lawyers. We try to be a bit of a one-stop shop for unions where we can do industrial support or maybe some website management. All of those things would be done and outsourced traditionally by a union movement anyway. We just try and be that platform for them.

Mr SULLIVAN: Are shareholders dispensed with wages or are they dispensed with profit share?

Mr McGuire: Wages, I believe.

Mr SULLIVAN: Or dividends?

Mr McGuire: No, no dividends.

CHAIR: No shareholder dividends? Are you a director of any of those shareholder entities?

Mr McGuire: Yes, I am.

CHAIR: You are?

Mr McGuire: Yes. As I said at the start, I am a director. That is how I introduced myself—as the Red Union Support Hub director.

Mr SULLIVAN: What relationship does the Red Union Support Hub have with the Queensland Association Services Group Pty Ltd?

Mr McGuire: Wholly owned subsidiary.

Mr SULLIVAN: Which way, sorry?

Mr McGuire: The Red Union Support Hub is a wholly owned subsidiary of QAS Group.

Mr SULLIVAN: Who are the shareholders of QAS Group?

Mr McGuire: The ones that I said: myself, Graeme and Kath.

Mr SULLIVAN: The three of you own the Queensland Association Services Group, which then wholly owns Red Hub?

Mr McGuire: Yes.

Mr SULLIVAN: Do any of those individuals have office bearer positions in the incorporated associations that are—

Mr McGuire: I would have to get back to you. I believe so, but I would have to get back to you.

Mr SULLIVAN: That would be great. If you could take that on notice for the three of those names, that would be great. In layman's terms, incorporated associations pay a fee for service to your hub?

Mr McGuire: Yes.

Mr SULLIVAN: For services provided. Your hub is wholly owned by the Queensland Association Services Group?

Mr McGuire: Yes.

Mr SULLIVAN: In relation to the incorporated associations that you are referring to—you have listed a few of them—how are their executives appointed?

Mr McGuire: At an AGM election of members.

Mr SULLIVAN: It is an annual election of members?

Mr McGuire: Yes, by delegates. Delegates get to vote and then they vote at an AGM and they get elected.

Mr SULLIVAN: Are those elections conducted by the ECQ or the AEC?

Mr McGuire: No, they are not. It is not required by the Associations Incorporation Act.

Mr SULLIVAN: Those associations do not have the requirements that registered organisations have?

Mr McGuire: But they can be taken to the Supreme Court. They can be taken to the Office of Fair Trading and have their constitutions upheld. One of the perverse things, if you were to unincorporate these bodies, is that you would have a Supreme Court which has said from time to time that it does not want to get involved with unincorporated associations and making sure their constitutions are adhered to. If we remain incorporated associations, the constitutions must be adhered to.

Mr SULLIVAN: Are the wages of incorporated associations' directors or staff published?

Mr McGuire: No, I do not believe so.

CHAIR: The financials are not publicly disclosed, to your knowledge?

Mr McGuire: No, but I can tell you that we are not making much money, because we have taken on so much litigation in the past two years defending members who have been left for dead by the other unions.

CHAIR: To be clear, you are not publicly disclosing the financials of those entities?

Mr McGuire: Members can seek them but not publicly.

CHAIR: Have any members sought?

Mr McGuire: I would have to take that on notice. I do not know.

CHAIR: If you could take that on notice, that would be great.

Mr McGuire: I would have to ask the staff.

Mr SULLIVAN: In relation to the financials and internal elections, you acknowledge that incorporated associations do not have the same requirements as registered organisations?

Mr McGuire: No, and I do not suggest that they do. The registration process provides some benefits to them: they get a privileged position to be able to breach property rights and have right of entry, they are able to have an automatic seat at the bargaining table—all of these sorts of things. You would expect them to have a higher level of regulation.

Mr SULLIVAN: That is right: they do have a higher level of regulation.

Mr O'ROURKE: Are there any additional fees members pay when they need assistance or representation through your organisation?

Mr McGuire: If it is a pre-existing issue. I guess it is akin to if your kitchen was on fire and you called up to insure your entire house. They would say, 'No, go away.' We are, I guess, silly enough to say, 'We will take on your matter.' We did that in a big way over the last six to nine months. We took on 2½ thousand members with pre-existing issues. If we did not charge them something more than membership—it is not a fee; it is, 'If we are successful in your claim, would you mind kicking back'—I cannot even remember what the percentage is—'some small percentage into the kitty to go back into our litigation war chest to help with these workplace issues?'

CHAIR: So you have no clear structure? You are saying it is not a fee for service; it is, 'If you win you pay,' but you are not sure of what that—

Mr McGuire: If it is a pre-existing issue. I think it is something like—

CHAIR: What you are saying is that there is no structured fee for service. Is it a set percentage that you would apply to a successful—

Mr McGuire: Yes, it is. That is all in the contract.

CHAIR: What does that—

Mr McGuire: I do not want to mislead, but off the top of my head I think if they pay an annual membership it is something like 15 per cent or 10 per cent and then it scales up to something like 30 per cent if they come on at the last minute. We are only just now getting around to filing something like 1,600 human rights cases and there may be some similarly extraordinary number filed in the Fair Work Commission. If they have only been a member for, say, a couple of months prior to us lodging those and they are only paying monthly, it might from scale up to 30.

CHAIR: Thank you. Would you be able to provide on notice documentation of—you are saying it is not a fee for service—what that structure looks like in terms of your membership?

Mr McGuire: Am I obliged to? Is that not commercial-in-confidence? Our members know that because they have signed up to that.

CHAIR: I would have thought that that was a fair and reasonable request in terms of being transparent as an organisation.

Mr McGuire: I will have a think about it.

Mr SULLIVAN: Sunlight is the best disinfectant!

CHAIR: Sunlight is the best disinfectant; you are right.

Mr McGuire: Can I say: that is only for members with pre-existing issues. Anyone who is a member prior to facing a workplace issue is totally looked after.

CHAIR: We are just asking on the basis of transparency and accountability. Thank you.

Mr BOOTHMAN: Are you aware that the Queensland nurses union secretary is paid? Do you know what pay bracket she would be on?

Mr McGuire: No, but it is something extraordinary.

Mr BOOTHMAN: I was just looking at an article from 2013 that states $205,894. I just put on the record that they are certainly a paid individual. You briefly mentioned the teachers agreement when it comes to their award and pay bracket. You said that it was dismally unfair for them. Can you elaborate on that? I have spoken to a few teachers who are very dismayed because some of their concerns were not addressed.

Mr McGuire: It is interesting. We spoke to a QC who is very senior in the industrial space. He said that individuals in the certified agreement area are a party to the agreement and, therefore, if they are a party to the agreement, they should have right to be able to negotiate. In circumstances where we do not necessarily want 3,000 individuals going in and negotiating an agreement, because it might be difficult, they were happy to appoint a singular point of reference, all of which were denied by the department. There is probably a legal fight that can be had there, but we want to spend money on more productive things. The reason they can get away with doing such a sub-par deal is that there is not someone else at the bargaining table. These deals are done behind closed doors between registered organisations and directors-general. Often, as we have seen with the Gilbert case, we have union officials who go and then work in the department, in very senior positions. Again, it is a very closed shop.

I do not want to speak for my friend Josh Cullinan on the line, but one of the great things about having another voice in the room is that you can blow up dodgy deals like the SDA-Coles agreement by having someone like RAFFWU at the table, and workers end up getting a better deal—competing unions competing against each other and putting upward inflationary pressure on wages. Why wouldn't you let more people be at the table? That would allow for views to be heard that otherwise would have been silenced by the union because it does not reach the collective consensus.

Mr BOOTHMAN: In other words, you are saying that if we stayed back in the era of having all of our telecommunications through Telecom we would be paying a lot more for our communication expenses?

Mr McGuire: For less. You get less of a service.

Mr DAMETTO: Without speaking about specific member cases, could you give an example of a case where the traditional union was not able to represent the worker in the QIRC for whatever reason and the red union was then able to prosecute their case?

Mr McGuire: The mandates might be a pertinent issue. There are about a thousand members who are currently before the QIRC with issues, answering a very important question about whether delegated authority existed from the director-general to the people who made the decisions about exemptions in the HHSs. It is a legal argument that should be had, and rightly had. They deserve their day in court. The traditional union movement ran dead in the water—not even dead in the water; they were complicit. We are now seeing the greatest period of industrial carnage ever seen in this state, presided over by a Labor government soon to see thousands of nurses sacked. We are the only bulwark.

Mr SULLIVAN: Where is red hub physically located? Where do you work from?

Mr McGuire: Bowen Hills.

Mr SULLIVAN: Are you co-located with the Queensland Association Services Group? Do they have a separate physical location?

Mr McGuire: One and the same.

Mr SULLIVAN: Where are the incorporated associations located?

Mr McGuire: In the same building.

Mr SULLIVAN: There is obviously the parent company as well as the incorporated associations themselves?

Mr McGuire: A very similar set-up to Peel Street.

Mr O'ROURKE: With regard to your membership—you spoke about the numbers across all those organisations—how many would be financial members?

Mr McGuire: All of them. They are not a member if they are not financial members.

Mr O'ROURKE: They have to all be financial?

Mr McGuire: Correct.

Mr O'ROURKE: So if they are non-financial, they are not included in that count?

Mr McGuire: Correct. They are not a member.

Mr SULLIVAN: You just gave the analogy of Peel Street. Are those incorporated associations formal affiliates to the red hub?

Mr McGuire: No, totally separate.

Mr SULLIVAN: So QCU have affiliates and they have an organisational structure, right?

Mr McGuire: Sorry?

Mr SULLIVAN: You commented about Peel Street, where the QCU is based. I assume that is what you are referring to.

Mr McGuire: My understanding is that Hall Payne and other lawyers et cetera operate out of Peel Street, similar to those unions and even, I think, the ALP might be headquartered in the same building as those unions. It just makes sense to have the convenience of location.

Mr SULLIVAN: My question was: are those incorporated associations formally affiliated to the red hub or is it just a service relationship?

Mr McGuire: It is just a service relationship, as I have said ad nauseam. They can choose at any time to seek services elsewhere. That is the individual union's prerogative.

CHAIR: Mr McGuire, this morning we received a late submission from the Queensland Law Society, supportive of some correspondence received from Justice Davis that has been on our website for a number of days now. Have you had a chance to review those submissions? I seek your thoughts on those.

Mr McGuire: From the Law Society or from President Davis?

CHAIR: From President Davis. You might not have seen the Law Society submission. It has only come in.

Mr McGuire: I think it would be inappropriate for me to comment given that he currently has the Gilbert decision in his hands or is drafting that Gilbert decision.

CHAIR: That concludes our session for today.

Mr Cullinan: Chair, there were a couple of questions posed that did not directly refer to the Red group. I was not sure if it was important in the context for RAFFWU to provide a response?

CHAIR: I am certainly happy to take any response you would like to give, Mr Cullinan.

Mr Cullinan: There are probably two elements. One is the reference to regulation, and I think it needs to be understood in the specific context of Mr McGuire's organisation. RAFFWU is an Australian registered body. We are overseen by ASIC as well as an incorporated association in the state of Victoria. We do not agree that there is a higher level of regulation on registered organisations. In fact, in a number of ways registered organisations like the SDA have a lower level of regulation than RAFFWU. The only other thing that I wanted to mention was that—and I am sure it was mentioned in the context of a law room or a courtroom—Mr McGuire is not my friend.

CHAIR: Thank you very much for clarifying that, Mr Cullinan. Four questions have been taken on notice. They will be clear in the transcript. The secretariat will be in contact with you, Mr McGuire, for a response to the four questions taken on notice, if you have not taken them down already. The responses to the questions taken on notice will be due back to the committee by Thursday, 28 July 2022 so that we can include them in our deliberations. Thank you very much, Mr McGuire and Mr Cullinan, for your participation today.

PYERS-TAUREREWA, Mr Ezra, Employment Relations Manager, Queensland Trucking Association Ltd

CHAIR: Welcome. Thank you very much for joining us today. Would you like to make a brief opening statement?

Mr Pyers-Taurerewa: Thank you very much for this opportunity. You heard earlier from other associations that are having the same issues that we are. The changes that are proposed as they relate to 10A—so that is the introduction of what is basically a rewording of the chapter 6 model of the New South Wales Industrial Relations Act—we oppose. We oppose them on the grounds that we are not seeking further conflict between states. We do not need that. We do not need further complexity. It would only make, I guess, the operations of transport operators more difficult.

This is a nationwide issue. Safety in the road transport industry is nationwide. The concerns are there. We are not going to deny that they are there. We appreciate them and we appreciate where this is coming from. We understand that it seems very appealing to read submissions that would say that making these changes would make our roads safer, particularly when we are looking at the gig economy and platform workers. I am not here to speak on their behalf. They are generally not members of ours. However, we are concerned that if you introduce these laws then they will affect truck drivers and the road freight industry outside of the platform operators and the gig economy overwhelmingly more so. In doing so it is not going to have the intended effect by introducing this amendment.

I understand from the outset the amendment's intended use was acknowledging that the roads have become less safe as a result of certain business practices related to the gig economy and platform operators. We have not seen and there is no evidence before the government that would demonstrate that there has been a rise in safety concerns amongst the road freight industry at large, outside of the concerns in the gig economy. On that basis, we think that if you are going to do anything then it should be focused on them without having to bring into effect changes that would predominantly affect us.

It is very clear and we can see by the acts on a federal level so far, just with this new government, that they are going to very likely seek to introduce a new RSRT. Later on you have the TWU who can speak to the same. We are fully of the understanding that they are going to do that. We are not in opposition in principle to the idea of managing remuneration on a national level and safety on a national level. Again, we understand the safety concerns and we are not here to take away from efforts to try to address those.

We also understand that on a national level they were looking to introduce laws that will seek to manage employment-like conditions. In their case, 'employment-like conditions' will likely mean your gig economy workers. That means by the time those changes roll around—and in the very likely chance that those changes will come around—it will leave just us, the road transport and road freight industry, outside of the economy affected by this rule over these changes, but we were not seeking them and there is no justification made in the first place to say why that must happen now.

I believe it was the member for Stafford who said earlier not to let perfect get in the way of good. I think that was probably the sentiment. I appreciate that. Why would we hold off making changes that might improve road safety and might improve the conditions for courier drivers in Queensland now when we do not know exactly what is going to happen on a national level? I understand that. If that was a concern then it would be reasonable to take the approach of either looking at whether or not safety is going to be the actual outcome of this now, before we start putting it into place, and then considering whether or not—I will leave it at that.

I believe Professor Peetz made submissions and those have been released today. I had a chance to look over them earlier. What I think might be remarkable to look at there—and obviously this goes to the initial reason we are looking to introduce this—as well as the TWU's submission, is that the findings of chapter 6 to the New South Wales Industrial Relations Act do not demonstrate in a remarkably overwhelming way that it has improved road safety. If we look at the numbers that he provided, they show moderate at best. Moderate at best might mean a few lives, and I appreciate that. We should do everything to look at that. However, whether or not we do that again, over a 32-year period make a moderate change that would throw into chaos many businesses and potentially throw people out of jobs, as you have heard earlier—that is not something that we need to be doing right now.

Mr BOOTHMAN: Thank you for taking the time to present at the committee. What amendments would you like to see to clause 66, which inserts new chapter 10A, when considering unintended impacts for non-gig courier drivers? Are there any amendments that you would like to see?

Mr Pyers-Taurerewa: Save saying we oppose the whole thing, if you were to find a way to introduce only for gig workers, your best way would be to find a way to define 'gig work' and 'platform economy'. They are doing their own job in trying to define it themselves so I will let them do that. Alternatively, you could look at the size of the vehicle. The majority of our operators are not driving around on scooters. That is a way; it is not a preferred way. Again, I guess, it is a further complexity at the moment. They might try to find a way around it and start operating in bigger vehicles. Our biggest concern when it comes to the sorts of members that I represent, the Amazon Flex drivers, is that the majority of them will drive a car rather than any sort of heavy rigid or anything like that—or not rigid even. That is a way to consider it.

Mr DAMETTO: Have you had a chance to do an impact study or put a value on what this may cost the industry that you represent?

Mr Pyers-Taurerewa: No.

Mr O'ROURKE: Is there a formula around pay and conditions for owner-drivers?

Mr Pyers-Taurerewa: There is not, no. They operate as their own businesses so they make their own decisions. Obviously there are different principals who would look to impose certain ways they would want to pay and we have plenty of examples of that. From an industry-wide point, no. That would likely be something that would fall into the national level should the RSRT 2.0 take place.

CHAIR: So it is very market driven?

Mr Pyers-Taurerewa: It is market driven, yes.

Mr O'ROURKE: I used to offside on a semi with a mate of mine who was an owner-driver. He used to do interstate. On one trip he commented that if you are one of the delivery companies—I cannot remember the names of them—

CHAIR: Like Toll?

Mr O'ROURKE: Toll or one of those. They would actually get a penalty if they were running late when making their delivery to the location on time. Is that still the case now?

Mr Pyers-Taurerewa: I am not aware. In short, no, I am not aware.

Mr BOOTHMAN: The previous submitters spoke about the potential national laws coming in. I gave the example that back in 2013 we brought in the national heavy vehicle road freight transport legislation that streamlined it. I believe Western Australia never signed up to it. Would your members prefer to wait for some type of federal regulation to make it easier if their businesses go interstate, as they have to understand different legislation requirements? Would they prefer to have a flat legislation requirement across the country?

Mr Pyers-Taurerewa: The biggest concern if we were to do it on a state based level is confusion. Also, one concern we have not discussed yet is about managing compliance: who is going to be on the roads actually making sure this is happening, that people are paying their way? In most cases if it is going to be going to the Queensland Industrial Relations Commission, it will require a complaint to be made about the nature of it. That would mean that a lot just do not get addressed in the same way that the RSRT or the national heavy vehicle laws operate. They do not require that necessarily; it has to go before the commission for this to be actually addressed.

Mr BOOTHMAN: It would be far more prudent to wait to see what the federal government is going to do and work as a team with other states to streamline everything. It would be far more prudent.

Mr Pyers-Taurerewa: Yes.

CHAIR: Would it be fair to say that if the result is that there are cost impacts, presumably in a market driven situation, they would be passed on to the end consumer?

Mr Pyers-Taurerewa: Yes. We have already seen that through the bill. The exact example we have just seen is that businesses went under—I cannot speak to the number but a number of businesses went under—because they just could not afford to pass the fuel cost on most recently or, alternatively, they passed it on and then we have seen the cost of lettuce go up.

Mr DAMETTO: Once again, a lot of small businesses and single-person operators would be affected by this change to the IR legislation if this bill were to pass. What support would your organisation be giving to your members to ensure they are able to adhere to and understand the new laws if they do go through?

Mr Pyers-Taurerewa: It would be about extensive education and then any advocacy they need to go through if they do have to go through any processes and then if we need to set things up such as templates—basically, we would walk them through the entire process. We do not want anyone to be left out of this.

Mr DAMETTO: I understand you would have notified your members of these proposed changes thus far?

Mr Pyers-Taurerewa: Yes.

Mr DAMETTO: Have you had any negative feedback so far on how this would affect their businesses?

Mr Pyers-Taurerewa: Yes. They absolutely are concerned.

Mr DAMETTO: They are very concerned?

Mr Pyers-Taurerewa: Yes. In all cases we represent both the owner-operators—we do not have a large number of owner-operators but we do have owner-operators—and the ones who would seek to engage them. They are all concerned. The first thing they were concerned about was the compliance side, because it is not a level playing field if they all do the right thing. You join an employer association generally knowing that you are doing the right thing or trying to do the right thing. No matter what, we are already going to be dealing with the better lot anyway. They are concerned that they are going to try to do the right thing but they are the ones who are going to be most impacted because they will have to engage more people to do the new parallels, basically.

The only way this works is to run a whole separate parallel system for these owner-operators. They will have to submit time sheets, which is not what they are used to doing and not what they want to do, because that is the only way you can ensure they are better off or at least no worse off. That is an expense that the employer is going to have to pay and is a whole system of administration they do not already have. They will have to run a separate pay system compared to what they are already doing for their own employees. They are going to have to monitor in ways they have not previously where they have run it commercially; they have let people make the decisions on how they operate. Those things are concerning. Just generally, there will be a cost, more to administer than anything else, because most of them already pay what is reasonable.

CHAIR: Thank you very much for appearing before us today. We are very grateful for your time today.

Proceedings suspended from 12.48 pm to 1.30 pm.

BRUNNER, Ms Pia, Head of Public Policy and Government Affairs, ANZ, Uber Australia (via teleconference)

HAY, Ms Libby, Head of Corporate Affairs, Deliveroo (via teleconference)

LLOYD, Ms Maggie, Public Policy, DoorDash Australia (via teleconference)

McMANUS, Mr Ed, Chief Executive Officer, Deliveroo (via teleconference)

NYST, Ms Bec, General Manager of the Uber Delivery Business, ANZ, Uber Australia (via teleconference)

CHAIR: Good afternoon. Would each of you like to make a brief opening statement before we start our questions?

Ms Nyst: Thank you, Chair and honourable members of the committee, for your time. I am Bec Nyst, General Manager of the Uber Delivery Business in Australia. I am joined today by Pia Brunner, Head of Public Policy and Government Affairs. We appreciate the opportunity to appear before the committee's inquiry into the Industrial Relations and Other Legislation Amendment Bill. Before I begin, I would also like to acknowledge that Pia and I are phoning in today from Gadigal land of the Eora nation.

We appear before the committee not only on behalf of Uber as a platform but also on behalf of over 100,000 earners who use our technology to access earnings opportunity each week in Australia. They have told us what works for them and they have told us what they would most like to see from us and from policymakers in Australia. According to recently commissioned research, flexibility is crucial for delivery people. Earners want flexibility to be preserved in any legislative reform by policymakers, earners prefer to be independent, and earners want flexibility and benefit in any legislative solution. With these expectations from earners in mind, we want to create a better future for independent workers not only in Queensland but also across Australia.

Uber has recently signed an agreement with the Transport Workers Union. This agreement articulates joint support for the federal government to establish an independent body to define benefits and entitlements for platform workers in rideshare and delivery. The proposed reforms are national in scope and demonstrate a clear commitment from Uber to improving conditions for earners in Australia. On that basis, and in favour of national reform, we respectfully submit that chapter 10A of the proposed bill be removed and that the committee support the Albanese government to deliver on its election commitment to regulate workers across the gig economy. We believe a federal approach will best serve the national interest and create a future of independent work from which all Australians can benefit. Thank you, and I welcome questions from the chair and the committee.

Mr McManus: Thank you for the opportunity to appear with you. I am here with my colleague Libby Hay, Head of Corporate Affairs. I draw the committee's attention to a couple of key points. First I will say a quick word about us and the way we work. Deliveroo was founded nine years ago in London. We operate across 11 countries and in Australia, including Queensland—Brisbane, Gold Coast, Sunshine Coast, Ipswich, Toowoomba, Townsville and Cairns—working with 13,000 restaurants nationwide. Our original founder in London, Will Shu, was the company's first ever rider and, as we have grown, our riders have remained very central to our business.

I think what has often been overlooked in debates about the gig economy is that our riders prioritise flexibility. They are really actively looking for work that provides something different to traditional employment. They choose this work because they can fit it in around other commitments such as study or caring responsibilities. Alongside this flexibility, we have long argued for riders' benefits and security in a way that is suitable for the way they choose to work. Since our arrival in Australia we have provided insurance coverage for all riders, and we were the first platform to provide personal injury and income protection insurance. In September 2021 we introduced one-off parental payments upon the birth or adoption of a child. We also want riders to be safe. All riders receive safety training before their first ride and regular updates. We were the first food delivery platform to establish a rider safety advisory panel, which provides riders with a voice on safety issues.

We want to go further in improving our offer to riders, yet to do this under the current legislation would risk the flexibility they value. Deliveroo would welcome constructive reform. We believe that a form of minimum standards needs to be applied to ensure riders are supported. We would welcome legislative changes that allow platforms like ours to offer more security to self-employed riders; however, the changes must reflect the way riders work.

As drafted, the legislation would remove the flexibility the riders value and force the relationship to one akin to an employer and employee with set shifts. This relationship between a platform like Deliveroo and a rider is fundamentally different to that of an employer and an employee. To expand a little, riders can choose today where and when to work; riders can choose to accept and reject every order with no penalty; and, really importantly, riders can choose to work with other companies like Uber and DoorDash at the same time within the same hour period that they are working for us. We believe it is really critical to retain the flexibility because that is what our riders want. This is not a cost consideration; it is about attracting people to do this work at scale. We do not believe that this will be possible under the proposed legislation. Riders would leave the workforce and look for alternative opportunities.

We are also of the firm view that any changes to industrial relations laws affecting riders should occur at the national level for three reasons: firstly, all riders should have minimum standards that apply nationally; secondly, the patchwork of various state regulations would make it very difficult for a national business like ours to operate without any certainty; and, thirdly, the new federal Labor government has been very clear in its reform agenda for the gig economy and we believe state legislation should not pre-empt this reform. We are really committed to working with the Albanese government and other stakeholders to deliver a framework that provides additional benefits and entitlements to riders while retaining the flexibility that is integral to the way riders work.

Secondly, and really quickly, I would like to touch on the impact the proposed changes would have on the hospitality and tourism sector, which has a big underpinning effect on the Queensland economy. We work with over 13,000 restaurants, as I mentioned, across 22 cities. We are really proud of this contribution. We have restaurants, including many small family businesses, which diversify their revenue streams with additional income.

I do not need to tell you that the last two years have been very tough for restaurants. Just as they thought they were clear of this pandemic, inflationary cost pressures, staff shortages and interest rate rises have dealt further blows to their recovery. In the face of these economic headwinds, 62 per cent of restaurant owners said Deliveroo would become even more integral to their operations than before as they look to offset rising input costs. There would be dire implications for the hospitality and tourism industry if the online food delivery sector were unable to operate the way it does today and had to adopt employee-equivalent terms and conditions. In short, we would be forced to reduce the number of riders we engage, which means fewer orders delivered, and restaurant sales would be capped by the number of riders working a set shift, restricting restaurant revenues at what is an already very challenging time.

I seek leave to table a letter to the committee from the Restaurant and Catering Association, who were not initially invited to comment on the bill, but they have expressed their concern when we explained the impacts that this proposed legislation would have on the sector. Rather than read that out, we have asked the secretariat to circulate this to each of the members.

Finally, as I have already said, true reform must take into account how the online food delivery sector operates in the way self-employed riders prefer to work, and it is our very strong preference that this is done at the federal level to ensure consistency. Thank you very much and I look forward to expanding on our views further.

CHAIR: Thank you. Is leave granted for the document to be tabled? Leave is granted.

Ms Lloyd: Thank you to members of the committee for the invitation to the hearing today and the opportunity to contribute to your thinking on this bill, specifically chapter 10A, which is the main topic of our recent submission. DoorDash launched in Australia in 2019 and we are now operating in all states and territories, serving over 25,000 local businesses including more than 5,000 in Queensland. We are proud that in just three short years we have been able to connect so many Australians with their favourite local restaurants and provide earning opportunities to thousands of delivery riders and drivers. Whether it be students, retirees, small business people or parents, we know that work through our app, DoorDash, appeals to many because it can fit around their lives and around other commitments. On average, we see that delivery riders and drivers working with DoorDash are working less than three hours per week, and many are regularly taking the option to pause work for weeks or even months at a time, but it is often providing a critical source of extra income that allows people to cover an unexpected expense or to ensure bills are paid on time.

As you well know, independent workers engaging with platforms like ours are making an immense contribution in our communities and to our economy, but, while platforms have been and continue to be—I hope continue to be—powerful forces for creating economic opportunity, we also want to ensure that independent workers can rely on standards and protections and access more benefits without sacrificing the autonomy and flexibility that they tell us they value.

We regularly seek the feedback of delivery workers using our phone app to see what we can do to improve the experience they have with us. We also have a role in advocating for their needs as stakeholders and policymakers, and that is why we started discussions with the Transport Workers Union on this topic some time ago. On 9 May, after several of months of discussion, we agreed an industry-leading joint set of principles with the Transport Workers Union which seeks to ensure safety and fairness for people in this evolving, on-demand economy. In that, we found common ground that the binary choice between working as an employee or working as an independent contractor that the current law provides does not reflect the needs of the modern workforce. We agree that we should recognise the value that workers derive from this new and unique form of work while creating a flexible framework that allows workers to maintain their independence while accessing new protections and benefits, including the need for industry-wide standards set by an independent body. We are pleased that, since then, other industry participants have made similar commitments, which shows that consensus is building. We are now working with the TWU on more detailed discussion as to the standards that would apply under this framework. This is all in addition, of course, to commitments made by the newly elected Labor government both before and since the election about pursuing reform in this same area.

As we said in our submission, with these developments underway, we are concerned that chapter 10A in Queensland has the potential to interfere with important work towards the national framework and will ultimately result in inconsistencies with the coming federal reform. I think in some respects there are similarities in at least the policy intent for what is proposed here in Queensland and what is also being considered federally, but a single national framework such as that which exists for employees under the Fair Work Act would plainly be better than a patchwork of incongruous rules across different jurisdictions.

Finally, as the national framework is developed, it would be important to ensure that all relevant stakeholders are clearly heard in the development of any new reform. We are talking about a relatively new way of accessing work that is fulfilling a real need in the labour market and we see, even in a very tight jobs market, more people signing up to platforms like DoorDash to get work through the app. Therefore, we need to ensure that the development of any standards also balances the needs for people to work flexibly and autonomously because, clearly, that is serving an important purpose. I look forward to getting into more of the detail on these topics today. Thank you again for having me.

Mr SULLIVAN: Thank you for the indulgence, Chair. It is the member for Stafford here, Jimmy Sullivan, Maggie. I recognised your voice and thought I should put on the record that you and I worked in Canberra 10 years ago.

Ms Lloyd: Yes, that is right.

Mr SULLIVAN: Maggie and I worked together some years ago, but it in no way impedes my ability to fulfil my role on the committee.

CHAIR: Thank you, member for Stafford.

Mr BOOTHMAN: My question goes to the impact that the changes at 10A will have on small businesses, specifically in the Gold Coast area for tourism. You and members have alluded to the impact of COVID, especially on the tourism industry, over a long period of time. If these changes go in, how much of an impact will it have on local businesses to actually get product from the kitchen to the door?

Mr McManus: I think there would absolutely be knock-on impacts for Australia's hospitality sector. With fewer riders we would be unable to deliver at the same rate and cover the same number of customers. Without the really agile nature of a self-employed rider fleet we could not meet fluctuations in demand, which means restaurant sales would be capped by the number of riders working a set shift—akin to a traditional employment model—which absolutely would restrict restaurant revenues. As I think I said in my opening statement—and I am sure I do not need to tell any members of the committee this—these are very challenging times for the restaurant industry. As I said, shifts are just not flexible enough to meet unexpected spikes in demand.

Mr BOOTHMAN: Mr McManus, what is the busiest time for delivery operators?

Mr McManus: It would vary slightly by geography, but typically it will be a Friday or Saturday evening between maybe 4 pm and 8 pm, that sort of time, or it could be even tighter. It would vary by weather and time of year, but usually there is a peak of 30 minutes to an hour right on what you would expect evening meal time would be on a Friday or Saturday night.

Mr BOOTHMAN: Within that short period of time you would need a maximum number of delivery operators out there on the road moving those goods.

Mr McManus: As I think we have explained, most riders do what we call in the industry multi-apping, so they will have multiple apps open on their phone. They may take a delivery from Deliveroo, then do another Deliveroo or one from Uber Eats or DoorDash, so absolutely. Riders across the industry will themselves respond to work at peak times because that is when they can maximise their earnings. They are choosing to work at those times.

Mr DAMETTO: My question is to the representatives from Uber Australia. Going off the past record of Uber in Queensland in particular and Uber's complete disregard to other legislation when aggressively moving into different spaces, when did you become interested in this industrial relations bill and how it may affect your workers in the future, seeing that Uber has gone against legislation in the past?

Ms Nyst: We are committed to collaborative reform. We want to collaborate here in Queensland; we want to collaborate with the federal government. As you will have seen, recently we created a deal with the Transport Workers Union, demonstrating our intent to collaborate with key stakeholders. We are committed to working with stakeholders and government to create industry-wide reform in the sector.

Mr DAMETTO: If the legislation does change, is this something Uber will adhere to? Will it continue to do what it wants to do, or has there been a policy change within the organisation?

Mr Nyst: Yes, of course. If the legislation is to change, Uber will of course adhere to the legislation.

Mr SULLIVAN: This is an issue that I put to witnesses from the transport industry in earlier sessions today so I thought I should put it to you collectively because it is one that all three brought up; that is, the issue of putting all of our eggs in the basket of an incoming Commonwealth government. There are two points. Do you acknowledge that some benefits could occur, at least in our jurisdiction, until something is done sometime in the future and that perfect should not be the enemy of good? Secondly, in terms of overlapping issues, it is settled constitutionally. If a future Commonwealth legislative system was put in place there is no doubt as to which one would be recognised. Do you acknowledge those two points?

Mr McManus: Would you mind repeating your first point? It just broke up a bit as you made your first point.

Mr SULLIVAN: My apologies. All three in various ways made reference to the incoming Labor government and work that will happen in the future in that space. In the meantime, this legislation is here ready to go. It has been introduced in the House and can benefit at least the Queensland jurisdiction until such time as a future national regime or national reform occurs and, should it occur nationally, is overlapped. My second point is that there is no doubt constitutionally as to which regime would be enforced, but until such time as that occurs in the hypothetical future we are at least doing our job here in the Queensland jurisdiction.

Mr McManus: I understand. Our view would be that we would like to have a better level of consultation and a more thorough understanding of the impacts this legislation would have on our sector in the restaurant industry. I understand the point you are making around all the eggs in one basket. One of the things that might be useful for the committee to consider is that in Victoria a couple of years ago—it is nearly two to three years ago now—the Labor Victorian state government kicked off an independent inquiry into the on-demand economy, which of course includes food delivery. Very broadly speaking, the findings of that inquiry were that this sector needs reform. All of the topics that I am sure have been discussed by the committee and some of us were raised, but the recommendations to the Victorian government, which they broadly accepted, were that that reform would be better done at the federal level; however, should that reform not be done at the federal level it should be done in Victoria—so essentially giving the federal government a chance to do this. Now with the change of federal government that is much more likely to happen, but should it not happen over some time period the Victorian government would attempt to do something themselves. I am not a constitutional law expert in terms of which one would apply. I would like to put it to the committee that maybe that is an approach Queensland could take.

In summary, what I am saying is: do a more thorough analysis of the impacts of this legislation. I cannot speak for the other reasons to do this legislation from other transport sectors outside of food delivery, but maybe hold off on the food delivery part and give the federal government a chance to do their work. If it does not happen or it is not to the standard you would like then perhaps you go forward. I hope that perspective is helpful.

Mr O'ROURKE: On average, how much would delivery drivers earn per hour? That is working time, not just when they are logged on to the app. Do you have any idea of an approximate average income per hour?

Ms Nyst: I can provide a figure for Uber Eats. Average earnings per hour on our platform are around $27.50. This was based on a period from 18 April to 30 May.

Ms Lloyd: I can provide the figure for active hours, which is time on a trip from when you accept a trip to when you complete a delivery, and that is $32 per hour on average. I would be happy to get the latest additional information for you for the full hour if that is helpful.

Mr McManus: I will have to take it on notice for a precise figure, but let me explain how the system works. The system ensures that for riders during the estimated order duration earnings are minimum wage plus cost. That is how the system works. I will get you a figure. We will take that on notice. Again I go back to what I described—apologies for repeating myself—as multi-apping. The typical experience, as I said, is that a rider will work across the multiple platforms here today, so really what we need is to have an industry-wide earnings per hour figure that takes into account someone who does multiple delivery of orders during an hour across Uber Eats, Deliveroo and DoorDash as well as other platforms that are not here today. Of course, there are enormous data and privacy challenges as to how you would actually come up with that figure, but that is the reality of how the system works today.

Ms Nyst: May I also just clarify on behalf of Uber Eats that $27.50 is for all online time, all hours. That includes time logged on to the app both on a delivery and not on a delivery, so in that period.

CHAIR: Ms Lloyd, can I just confirm that you have given us an approximation of $32 an hour but you want to take that on notice and come back to us with a more detailed response?

Ms Lloyd: Yes. If you are asking for a full hour of time online I will have to take that on notice, but for average active time it is $32 per hour.

Mr BOOTHMAN: You mentioned riders and drivers using multiple apps. If this legislation were to pass, how would that work for those riders or drivers? Obviously, an order will come through on one app and there may not be any orders for quite some time on another app. I am just a bit confused. How will this legislation work if these riders are using multiple apps?

Mr McManus: In short, it will not work. We believe what will happen is that, as drafted, the minimum rates for this sector will be mapped to the closest modern award for employees, which would mean minimum four-hour set shifts. Of course, as an employee you cannot work for another employer over a four-hour set shift during that time. What that would mean is that a rider would have to commit to a four-hour shift with Deliveroo, for example, and only do Deliveroo orders during that time. For all of the reasons my colleagues from other companies and I have outlined, it just would not work.

CHAIR: Within your statements and submissions you have suggested that there would be an impact on livelihoods and employment. Given that much of this has been modelled on New South Wales' chapter 6, can you talk about your experiences—from Uber, Deliveroo and DoorDash's point of view—in terms of the legislation New South Wales has implemented?

Ms Nyst: Uber's position is that chapter 6 in New South Wales does not apply to our delivery system by virtue of being an exception in the act.

Mr McManus: The same position from Deliveroo.

Ms Lloyd: The same for DoorDash.

Mr DAMETTO: Do your organisations have any cases before the QIRC currently on employees disputing their pay?

Mr McManus: Not for Deliveroo.

Ms Lloyd: Not that I am aware of for DoorDash either.

Ms Nyst: From Uber's point of view we would have to take that on notice. There have been none that I am aware of, but I will clarify that and come back to the committee.

Mr O'ROURKE: Do you have any data about the number of your drivers who rely on on-demand work as their primary source of income?

Ms Nyst: We have research that says 60 per cent of delivery partners at Uber Eats are working an average of 20 hours or less and 45 per cent are working less than 10 hours per week.

Ms Lloyd: I can add to that more anecdotally. In the conversations I have with delivery people, to provide some colour, many are, for example, students who are fitting working around their studies. Another delivery person I was talking to recently is a mother and works it in around her family commitments. We frequently see this being something that people are doing alongside other

commitments in their lives and other interests, and that is why we so frequently hear this point about flexibility reiterated by delivery partners as being something they value so much about this kind of work.

Mr McManus: I do not have a lot to add. Our figures are similar to Uber and the anecdotal experience is similar to what Maggie has outlined. A reasonable majority of delivery riders are students. Aside from that, riders would have other forms of traditional employment and they are doing this on top or, similar to what Maggie has outlined, caring responsibilities. I have nothing more to add.

CHAIR: Thank you very much for your time today. I note that there have been three questions taken on notice which will be available in the transcript. The secretariat will be in contact with regard to responses to those. I think they are around the hourly rates for Deliveroo and for DoorDash, and then the pay disputes before the Queensland Industrial Relations Committee. Could you provide the responses to those questions taken on notice by Thursday, 28 July 2022 so that we can include them in our deliberations? Thank you very much for your time today.

Proceedings suspended from 2.02 pm to 2.34 pm.

KING, Ms Jacqueline, Assistant General Secretary, Queensland Council of Unions

MILLROY, Mr Joshua, Political and Campaigns Director, Transport Workers' Union NSW/QLD Interim Governance Branch

OLSEN, Mr Richard, State Secretary, Transport Workers' Union

PURTON, Ms Stephanie, Industrial Officer, Shop Distributive & Allied Employees Association

SCHMIDT, Dr Adele, Research Officer, Independent Education Union of Australia—Queensland and Northern Territory Branch

SPRIGGS, Mr John, Senior Industrial Officer, Independent Education Union of Australia—Queensland and Northern Territory Branch

THAKER, Mr Margesh, Owner-Driver and TWU Member, Transport Workers' Union NSW/QLD Interim Governance Branch

CHAIR: I welcome the member for Kawana, Jarrod Bleijie, who has just joined us. I also welcome our next group of witnesses. Ms King, would you like to make the first opening statement?

Ms King: Thank you for the opportunity to make a submission and to address the committee this afternoon. There are a number of key things that are included in this bill which we welcome and applaud in terms of the government leading in this space, in particular in terms of the sexual harassment and sex and gender based harassment provisions which, to put it mildly, are nation leading in this space. These things arose out of the Respect@Work national report from 2020. They are better suited to our state industrial relations jurisdiction and they are welcomed by the majority of all industrial parties. This is one piece in the puzzle in terms of the legislative reforms in this space. We have been working with government in terms of the review of the Anti-Discrimination Act, and there are matters in this space to do with work health and safety because this is a cross-jurisdictional issue. This is the first tranche of those reforms which is coming through. They are quite important and they are important for the workers who are subject to these things.

The Respect@Work report found that there were two in five women and one in four men who had experienced sexual harassment at some point in their working lives in the previous five years. The people who were most likely to have been harassed in their workplaces were young people under the age of 30; women, obviously; people who were in insecure forms of work; First Nations people; and workers with disabilities—so people who are probably in more vulnerable positions. That is, I think, the importance of having strong laws, to be able to defend those who cannot always speak up for themselves. We welcome that.

The second part of the bill, which we think is also important, is the changes to equal remuneration and pay equity. Again, this is something that we fully support. There are a lot of changes that need to happen in this space. I think in our submissions we have outlined what equal remuneration is, what the gender pay gap is, and we still have a long way to go in this space. The gender pay gap has not reduced significantly over the last 25 or 30 years. It has almost stayed static. It goes up and down a little bit from year to year. The reform that is in here is really about trying to get the industrial parties focused on the gender pay gap and what that means before they start bargaining so that it is front and centre in terms of those issues and that the information and the analysis is being done. I think you will find some of these things are also happening. While this reform is in this bill and will help drive these reforms in terms of local government and the public sector, there are other issues where these matters are also being pursued out in the private sector. We welcome them. There is a lot of work that needs to be done in this space. This is really about trying to get the parties to look at these issues and address them through the bargaining process so it is not entrenching further pay inequity.

The third issue that I would like to talk to is the parental leave changes. I understand that you had a number of different organisations on the agenda talking to this this morning. I just wanted to outline our support for the parental leave changes and not make this a political issue or an anti-trans-women issue or anything of that nature. These are reforms which, interestingly enough, at a base level reflect exactly the same changes that apply in the National Employment Standards in the Fair Work Act.

In some sense we are playing a little bit of catch-up here in Queensland in this space and there are some important reforms that are in addition to that. We can now have concurrent leave. All of the issues and the emotional debate from some groups around leave arrangements and whether we have maternity leave or we have birth related leave or whatever we call it: the reality is that what has tried to be done in here—and we were arguing strongly through our submission from the outside—is to allow parents to make choices that suit them. Currently parents cannot take concurrent leave in terms of that first 52 weeks. If they choose to want to take that same time off, why shouldn't they be able to take that time off? We should not allow laws to impede or restrict parents' choices. I think that is a really important reform. Allowing people to have birth related leave in terms of having a stillborn child is also important. Again, these were things that were reflected in the federal legislation last year.

Something that the QCU and Together union argued very strongly for was more flexible work options to allow people to work part-time. I think we have given an example in our submission. If that was me and I was the birth mother and I took 52 weeks unpaid leave, I chose to return to work and worked full-time in year 2 while my partner had year 2 off and looked after the child, when year 3 came I would not get the option currently to apply to work part-time, which I might want to do up until the time the child is of school age. The bill facilitates that. Again, it is just recognising that there should be different options and different choices and it is really about the choices of parents in this space. It is not a conspiracy about taking away women's rights. I am very strong on women's rights and a strong feminist and I can tell you that we would not be doing anything in that space to intrude into there. It is very much to the contrary and it is very much about choices.

The other important reform in that area—I think these really need to be considered in this—is the adoption leave. Currently you can only take parental leave if you adopt a child and the child is up to school age. This will extend it up to 16. I can tell you from personal experience. I have fostered children. If you chose to adopt a foster-child who was aged 10 or 12, under the current legislation you would not be able to take parental leave. This will allow those choices and support for all different types of families, no matter whether they are adoption, surrogacy, cultural leave or normal parental leave—for any type of family.

That brings me to another controversial issue for some people. I do not think it is that controversial, but it is the registered organisations component of the bill. Our view is that this is essentially reflecting what is already in the legislation and it is tightening it up. We have a whole range of things that have been happening out there where we have organisations, as we know, that are incorporated under a different piece of legislation that have been seeking to have the same rights as unions that are registered under the Industrial Relations Act. It essentially means that you are either one or the other and if you want the protections and you want all of the rights and entitlements of one particular piece of legislation you should not be able to then hop, skip and choose whichever one you want.

We say that there are some important reforms also to this in terms of consumer law protection. A lot of workers are being, I think, misled in the sense of what other organisations purport to do. I think the new misrepresentation offence should make it a bit harder for people to go out there and mislead. We know that there are common law rights in this space—we have Australian Consumer Law—but this is allowing people to access a low-cost jurisdiction to get their issues heard if this is going on.

The committee obviously has the bill. We will not go into all of the changes that are here. Obviously, we support them. Unions have been registered under industrial law for over 100 years nationally as well as here in Queensland. Essentially—I think we put it in our submission—we as unions are subject to very strict and very tight accountability and governance rules which make up over one-third of the provisions in the act. They are significantly more strict and stringent than the Associations Incorporation Act, which is intended for charities. We are different bodies. If you want to be a charity, be a charity. If you want to be a union then play and be a union under the Industrial Relations Act or in the federal jurisdiction. I will leave our submissions there.

Mr Spriggs: I thank the committee for the opportunity to appear before it this afternoon. As we have identified, our union and its federally registered counterpart represents teachers and school officers in a range of non-government education settings throughout Queensland. We want to identify our support for changes proposed by the bill, which will have a positive impact on both working conditions for employees and on employees' capacity to have their industrial interests represented by appropriately registered and regulated employee organisations. We support the verbal and written submissions of the Queensland Council of Unions.

In terms of the general changes that affect working conditions, we support changes consistent with the goal of preventing and eliminating harassment, discrimination, bullying and other unfair treatment. We also support measures which will refine the parental leave provisions and measures

to address the gender pay gap. We strongly support changes designed to provide minimum entitlements and conditions for independent courier drivers as a clear signal that exploitation of vulnerable workers is not acceptable.

In relation to the changes regarding registered organisations, we are of the opinion that the proposed changes will help to ensure that only organisations with the highest standards of transparency, accountability and integrity are able to represent employees in an industrial context.

Mr Olsen: Thank you for the opportunity to address the committee this afternoon. The Transport Workers' Union represents over 70,000 men and women in the transport industry across this country. We were formed by small businesses, although back in those days horse and cart was the main form of transport. We are proudly the largest representative of small businesses in this country. The small businesses we represent are as small as they come—often a husband-and-wife team that transports goods for principal contractors all around this country.

We want to start by congratulating the government on introducing a bill that will benefit small businesses by bringing certainty to their work and provide them with necessary protections to deal with the inherent imbalance of power that often exists in the relationship between them and their principal contractor. These reforms are necessary and long overdue. While this bill unashamedly helps small businesses, it also helps the transport industry as a whole by stabilising the market, stopping the race to the bottom and helping curb deadly pressures. Tragically, transport remains the most deadly industry in this country. It is also the industry responsible for more bankruptcies than any other. This mostly involves the small businesses that this bill will protect.

Importantly, this is not a radical piece of new or untested legislation. It is based on chapter 6 of the New South Wales Industrial Relations Act. This is legislation that has existed in some form since the 1960s but in its enlarged current form since 1979. It was established by the Wran Labor government and maintained the by the coalition Greiner government, and the last two substantial improvements were introduced in 1993 and 1994 by the coalition Fahey government. The next Labor government then maintained chapter 6 as part of its suite of IR reforms, while the current coalition government has continued to support it during its near 12 years in power. It is to state the obvious to say that this important piece of protection for small businesses enjoys bipartisan support in New South Wales.

Research carried out by Professor David Peetz looks at crashes involving articulated vehicles for the period 1989 to 2021, a period where chapter 6 industrial instruments made under this were in full swing. His research concluded that during this period fatal crashes involving articulated vehicles in New South Wales fell at a greater level than the national average. His estimate is that 205 New South Wales lives were saved and, given that every state has the same access to better roads, safer vehicles and improved technology, he concludes this that this must be at least partly attributed to the existence of chapter 6 in New South Wales.

The right form of legislation can lead to both market stabilisation and fewer industrial disputes. A few months ago there had been a big national dispute involving owner-drivers in the car-carrying sector. This involved a unilateral decision by a company to cut pay and conditions for owner-drivers and owner-drivers ultimately refusing to work because they were earning more money parked up than they would have from working. One jurisdiction in which this did not occur was New South Wales because of the existence of the car-carrying contract determination, the instrument that provides underlying and enforceable minimum standards in the car-carrying industry. Put simply, this particular company could not legally push rates and conditions below this industry minimum and were under less pressure to do so in any case because every competing company had to abide by the same standards, thus providing a stable market.

At the moment there is no safety net for these workers but also no safety net for those companies and principal contractors that aim to do the right thing. Through our negotiations with the largest transport companies in Australia, many are attempting or wish to implement substandard rates and piece rates to compete with the likes of Amazon, who are driving down wages and conditions with deadly consequences.

Our submissions outline a number of suggestions we have made to the committee regarding amendments to the bill. Whilst we take the submissions as read, the only key point I want to emphasise is the importance of applying chapter 9 right of entry and inspections to the proposed chapter 10A. Many drivers are too scared to confront their principal contracts over pay and issues due to the fear of losing their contracts. It is critical that the union or drivers are able to recover those payment records; otherwise, it is likely that exploitation will remain and determinations may be at risk of being unenforceable. I urge the committee to consider this in its deliberations. We again commend the government on introducing this bill.

Mr Thaker: I am Margesh. I am an owner-driver who supports this legislation because it gives drivers like me protection from unfair termination and a right to negotiate fair rates. This legislation levels the playing field for drivers like myself, will protect the investment I have made in the transport industry and helps to recover the operating cost. When I worked at Amazon I had my access to the app removed and went without income because I could not deliver packages as they were business packages and the businesses were closed on Saturdays. I thought this was completely unfair. I was unable to appeal the removal of my access to the app and I had no choice for the losses I had incurred. Now I work in a much better transport company where the working conditions are much better, but I remain concerned that these poor practices will take over the industry because the good employers will not be able to compete with this Amazon-like model.

When I worked at Amazon I was only getting paid around $25 to $27 an hour. This is only barely minimum wages for the employee. On top I had to pay for my van, for the fuel and for ongoing maintenance—registration and so on. That is not including superannuation and WorkCover. I am an owner-driver. I see lots of owner-drivers struggling to recover the costs of providing the transport such as wages, running costs, repair and maintenance. I speak to a lot of couriers regularly who are on the verge of bankruptcy right now. With extreme time pressure, low wages and skyrocketing costs—as we know, the price of diesel and fuel is going up—all of the independent couriers are at risk of failing to recover the cost of working, which is below minimum wage. I believe that this legislation will provide security for me and many other small business people in Queensland. I thank the state government for acting on our behalf.

Ms Purton: Thanks for the opportunity to speak. Obviously you have our submission, so we will take that as read. The SDA represents approximately 33,000 essential retail, fast-food and warehouse employees across a range of both large and small enterprises. The SDA views its primary role as being one of ensuring that our members are protected from the erosion of working conditions. We also strive to improve those working conditions for our members. Such interests are fundamentally entwined within any of these proposed legislative amendments that affect the industrial relations framework for these workers.

The strengthening of this legislation, which will benefit our members, is most welcomed. Overall, there are a large number of young workers, vulnerable workers, working parents and sole parents who work in industries we cover, many of whom will benefit from the changes proposed by the amendments to the IR Act. We further would like to acknowledge that we see these amendments as an additional supporting framework to the already existing legislation, such as discrimination and work health and safety. These are not a replacement but offer additional protection for supporting employees in their employment.

In terms of the workplace sexual harassment amendments, the SDA endeavours to ensure that workplaces are free from all forms of harassment and discrimination. With the majority of our members being women, this is definitely the focus of the work that we do in addressing the removal of sexual harassment in the workplace. In 2019 the SDA commissioned a Human Rights Commission member survey, which found that 28 per cent of our SDA members had made formal reports or complaints and the complainant was not removed from the workplace. The additional clarification in the amendments that specify that it can be considered serious misconduct and worthy of termination is definitely a welcomed change for those employees. As such, we support those changes to sexual harassment and gender based harassment.

As the SDA is a registered organisation, we understand the importance and support the inclusion of the changes to ensure that only those organisations that are registered are given access to the recognition of protecting and representing members as outlined in the legislative framework. As we know, unregistered organisations are not required to adhere to the full responsibility of compliance and good governance when it comes to reporting, as is required by these organisations. However, the other organisations wish to seek the benefits of representing that without any accountability.

The SDA has always ensured and will continue to ensure that workers are protected in the workplace and will continue to act in members' best interests, seeking underpayments, providing assistance in WorkCover claims, representing them in bargaining legal disputes and improving wages and conditions. It is imperative that there is a penalty for the unregistered organisations if they misrepresent the status of their ability to represent employees so that employees are adequately protected in their jobs.

In terms of the minimum employment standards, we absolutely support the aligning of the IR Act to be either equal to or more favourable than the Fair Work Act. As we understand, the cost of living is definitely increasing for many of our members, and any additional remuneration that our members have is very welcomed. As our members generally are not even earning enough to cover

weekly bills, it is important that the change of evidence required for the standard of being a reasonable person, rather than the doctor requirement, would definitely save on those doctor bills and allow them to obtain free evidence to prove their absence from work.

In terms of the parental leave, in relation to these changes the increased flexibility of leave and access to leave is definitely a welcomed change. In early 2021, the SDA conducted a national survey of its members that explored their ability to interact work with their caring responsibilities. As we know, a number of our members access these provisions, often more than once. The importance of having that leave and also ongoing flexibility in terms of interacting that role of caring while being able to work and having increased access to part-time work is definitely a good amendment. It will give those members the ability to remain in the workforce while still being able to contribute to and look after their family or children in that situation on an ongoing basis.

In conclusion, we confirm the submission and the comments and support the changes. We commend the Queensland government for putting through these amendments. The SDA does believe that this change is necessary to improve the working lives of Queensland workers and protect Queensland workers into the future as well.

CHAIR: I will open to the committee for questions. Member for Theodore?

Mr BOOTHMAN: I will pass to the member for Kawana.

Mr BLEIJIE: Ms King, can you advise the committee how many affiliated unions the QCU has in Queensland?

Ms King: Twenty-six.

Mr BLEIJIE: Of those 26 affiliated unions, what fee do they pay to be affiliated with the QCU?

Ms King: I will have to take that on notice, through the chair.

Mr BLEIJIE: They do pay a fee but you will take on notice how much it is that each union pays?

Ms King: Yes.

Mr BLEIJIE: Does the QCU donate to the Labor Party, or has it in the past?

Ms King: It may have in the past. These are all matters of public record, so the Electoral Commission of Queensland—these matters are published, like any other organisation publishes theirs.

Mr BLEIJIE: How much has the QCU spent on political campaigns?

Ms King: It depends on how you define a political campaign. The QCU is the modern-day name of the Trades and Labor Council, which was formed in 1885. I think in our founding, what we do and how we present ourselves is that we campaign and we advocate for industrial, social and political issues so I guess you would say that politics is in our DNA. We are here today to address a committee, which is about a political issue, on a workplace issue to make sure that we get legislation to strengthen important worker rights.

When it comes to what you are trying to allude to, which is election campaigns, of course we advocate in that space, and it is more than likely that we advocate against the LNP because the LNP does not have pro-worker policies, from our perspective. Those are matters that are talked about and discussed at length from time to time. We are here today to see some progressive legislation. We have also been here, and predecessors of mine have been here, before these committees to argue against regressive worker legislation that the LNP has introduced. I do not see, in my mind, that there is a difference between industrial, political and social. Those are the three things that we do. We do not walk away from that; we never have. That is what we have done since 1885.

Mr BLEIJIE: I take a different view to you in terms of what this legislation does. To me, this legislation enshrines the monopoly that the union movement has in Queensland and actually denies workers the ability and the right to have better organisations represent them. My question was: can you advise the committee how much a year, in the last 12 months, the QCU has spent on political campaigns?

Ms King: No, I cannot because I do not have that information before me. As I have said to you before, that information will be available from the Electoral Commission of Queensland in terms of the returns, so it is publicly available.

Mr BLEIJIE: Are you aware that with your 26 affiliated unions—for instance, if I have a look at the ECQ one, which I have in front of me—the Queensland Teachers' Union donated to the QCU $115,000 and the Nurses and Midwives' Union donated $110,000 in one year. If they are paying membership fees and affiliation fees, why are they donating through the QCU disclosure? Why do they have to then donate politically to the QCU if they are already paying membership fees?

Ms King: They do not have to donate. We have an affiliation fee. When there are political campaigns or when there are other types of campaigns, if they are not election related, which goes on from time to time, and if they are something that is additional and unions come together and decide that they wish to campaign against an LNP government being re-elected because they will slash worker jobs and they will introduce regressive industrial relations legislation—

Mr BLEIJIE: That is your opinion. I recall the unions campaigned against the Labor Party for asset sales as well—

Ms King: Of course we did, for those reasons; that is right.

Mr BLEIJIE:—because they were slashing jobs and things like that.

Ms King: That is right. Asset sales—

Mr BLEIJIE: Be careful of the testimony you give to the committee. I issue a warning to you in terms of your testimony and your allegations.

Ms King: Through the chair—

CHAIR: Member for Kawana—

Mr BLEIJIE: The witness is making allegations against the LNP. I think I am in a better position to advise you what LNP policies are than you are.

Ms King: I think it is the reverse, actually. You are trying to tell me what the QCU position—

Mr BLEIJIE: No, I am just telling you what the ECQ disclosures—

Ms King: I am trying to answer it.

Mr BLEIJIE: I see all the campaigns—

Ms King: Can we have a respectful discussion?

CHAIR: Member for Kawana, you can stop using those as props. You can put them down now. That is probably your first and final warning on the use of material as props. It has not been done to date in a committee meeting so far. I ask you to control waving papers in front of everybody. Member for Hinchinbrook, do you have a question?

Mr BLEIJIE: Chair, I do not think my question was answered about the political—

CHAIR: I believe it was.

Mr BLEIJIE: I am sorry: for the last 12 months, what was the political campaign expenditure from the QCU?

Ms King: Can I answer through the chair?

CHAIR: Certainly.

Ms King: At the QCU we start all of our meetings and our gatherings with a statement of safety and respect so that we can have robust discussion but it should be done in a respectful manner. I was trying to answer the member's questions but I was being interrupted. As I had said, when there are political campaigns on and people choose and decide that they want to campaign against, in this particular case, an LNP government for whatever reasons—whether that is anti-worker legislation or whether that is privatisation of assets—we will do so and we will come together as unions and talk about those matters and campaign. I think it is pretty basic and it is pretty clear what we do. This is in our DNA. We are there to represent workers.

Mr BLEIJIE: I get that, but my question—

Ms King: When we get political parties who oppose us, we will campaign against them.

Mr BLEIJIE: My question was how much. I just want a figure.

Ms King: You have the figures right in front of you. You have the disclosure documents.

Mr BLEIJIE: No, that is the donations from the affiliated unions to the QCU. I am asking you specifically: in the past 12 months, how much has the QCU spent on political campaigns?

Ms King: And I have answered that question. You will have to go to the Electoral—

Mr BLEIJIE: You do not have the figure?

Ms King: I do not have the figure, no.

CHAIR: Member for Kawana—

Mr BLEIJIE: Can you take it on notice?

Ms King: No. This is the third time now that I have said this: you can go and find public records for this.

CHAIR: Ms King and member for Kawana—

Mr BLEIJIE: I would rather you tell me. That is why I am here asking you the question.

CHAIR: Member for Kawana and Ms King, I am calling this to order. The witness has answered your question. You might not like the answer but it has been answered. Member for Hinchinbrook, do you have a question?

Mr DAMETTO: Thank you, Chair. Mr Spriggs, I have a question in relation to the Teachers' Union. If a worker who is a member of the Teachers' Union has an issue with, for example, the Department of Education and the union is not willing to represent them on that issue, what choice does the member have in finding representation on that issue with, say, Queensland Education?

Mr Spriggs: Firstly, our organisation represents non-government education so we do not deal with problems with the Department of Education.

Mr DAMETTO: Then my question is probably better redirected, if that is okay.

CHAIR: Certainly.

Mr DAMETTO: Ms King, if a member of the Teachers' Union has an issue that they would like to take up with the Department of Education, what choices does that member have if the Teachers' Union decides not to represent them on that?

Ms King: They can always get an agent, I guess. They can get a lawyer. They can advocate. The first stage if someone is a member of any union, whether that is the Queensland Teachers' Union or any other union for that matter, is to raise those issues within their union. In the majority of cases those matters are advocated. Sometimes, however—and I have been there in the past—a member does not wish to take advice where they clearly do not have a case to proceed with. We have all seen evidence of those where a member wants to continue in that space.

We have costs in a cost jurisdiction. It is a low-cost jurisdiction but there are still costs so you cannot take every single case every time, but the majority of unions will take those matters. In the first instance, my advice to that person would be to take the matter up, prosecute it and advocate for it within your own union, but we do not have competitive unionism. I think this is what you guys are getting at. We do not have competitive unionism in our legislation. By and large we have not had it not because of the union movement but because of employers, interestingly enough. I spent most of my time in the 1990s working in unions where we were subject to demarcation disputes, where legislation allowed certain unions or employers to bring orders to demark unions out of certain industries.

Mr DAMETTO: That would stand to reason if the union was representing a group of people that was being employed by the government, right?

Ms King: No. This was a matter when I used to work with the AMWU. There were matters with Mount Isa Mines at the time and the sugar industry, where they were trying to demark out a number of unions. It was a national thing as well. It was employers who were pushing and advocating for those types of models.

I think you will find—and this is not my view—that the legislation is about having a cooperative workplace relations framework. One of the fundamentals of the legislation is around collective bargaining. Even under the fair work system it is about collective bargaining. That requires having accountable organisations that are recognised under legislation, because that legislation also extends protection to employees who participate in things like protected industrial action. Part of the collective bargaining process is that employees and workers have the right to take protected action, but to take protected action you have to go through a fairly complicated process—it is not overly, but there is still a complicated process in terms of applying for ballot orders. They can only take it within certain periods of time. That protection actually protects the workers against common law actions.

Mr DAMETTO: To come back to the question, if they do not have their union back them on a particular issue then they have to back themselves?

Ms King: It is just like a non-member. Not every person is a union member. You have those choices at that time as a non-member. No-one is precluded from having access to their rights or their industrial rights. They have a choice to join a union in a cooperative workplace relations model.

Mr DAMETTO: I think what has happened in recent times, though, is that we have a group of teachers, for example, who were not represented by their union when it came to vaccination mandates. That is why I believe we have seen a rise of different union-style movements. Shouldn't that be seen as an option for those teachers who do not feel their current traditional union represents their view, en masse?

Ms King: I will not speak on behalf of the Queensland Teachers' Union. They are affiliate of ours, but this has been an issue. The QCU does not have a particular strict policy about vaccinations other than that we support vaccinations, but different unions have adopted, through their governance arrangements—so through their committees of management or their state executives and through consultation with their members—particular positions. Some of that has been about supporting the mandates, particularly in the health system and also in education. Those are matters for those unions, but they are done—and this is, I think, a point that needs to be made—through democratic processes where the state executives or the committees of management are elected from the membership. They are not appointed at an AGM process, like an incorporated association does, but they are quite extensive industrial issues. If that union has chosen that they support the mandates, then that is a matter for that union to have done in consultation with its membership. Other unions have not taken the same approach and they are probably less related to the health and education and the frontline type areas in that space. Again, we would support that that is a matter for those unions collectively to make a decision on a collective basis. There has been a lot of media in this space. You said that there is a recent rise in other unions or movements—

Mr DAMETTO: Members voting with their feet, of course.

Ms King: They have walked out the door and, yes, in those cases for the anti-vaccinations but where have they got?

Mr DAMETTO: Where else are they going?

Ms King: This is it. The legal options were very limited to start with, so I would hazard a guess that there has been a little bit of misrepresentation in this space, too, with respect, in terms of what those organisations thought they could offer. We have had Supreme Court and Federal Court decisions in this space. They have not been positive for those workers. We are in the middle of a pandemic and we accept that we, as unions, play a big role in this in frontline workplaces. When the majority of workers make a decision in a workplace that they support mandatory vaccinations, that also should be respected. This is not about individual rights rising above the safety of the collective. I think it is pretty basic, from that perspective.

Mr DAMETTO: I appreciate your answer.

Ms King: Thank you.

Mr SULLIVAN: Thank you, Ms King, for the movement's leadership on that issue, too. I am proud that I got my fourth booster yesterday and I take my role as a community leader very seriously as well on that issue. I thank everybody for their presentations today. I will direct my first question to the TWU on quite a discrete matter and thank you, in particular, Mr Thaker, for your personal story today; it is very useful. I want to put an issue that was put in previous sessions to members of the transport industry, both in the heavy vehicle and in the gig space when it comes to transport. A lot of them were saying that they did not have an issue necessarily but wanted to wait for the work of the incoming Albanese government and that we should put our eggs in that basket and wait for that to occur. Can you talk to that in terms of if you think this legislation can deliver real protection for workers in Queensland now? Secondly, to that point, is your organisation prepared to work in goodwill with the incoming federal government anyway, despite whatever protections we can secure here?

Mr Millroy: There are a few things I would say on that. Firstly, we are glad now that gig companies and other transport companies would like a federal system in place because that has not always been the case. We are always very pleased to see that. We have heard that that legislation may come, but there is no detail yet. We are hearing that there may be a system, that people will be consulted, but we are not aware of any drafting at this stage. We think that just waiting and seeing is not enough in this scenario. It is based on legislation that does not yet exist. We do not know yet how expansive it will be, what exemptions there will be, what carve-outs there will be, and what powers any such body would have. Transport, as we mentioned earlier, is the most deadly industry in the country and it is responsible for more bankruptcies than any other sector. The evidence shows that in New South Wales bankruptcies have gone down, and we believe there is strong evidence to suggest that fatalities have gone down as well. We do not think there should be any hesitation here in legislating, because we know that the New South Wales system works well, even with what is now a federal industrial relations supremacy.

A state system as well is always going to be better for certain elements of the economy. Just as we have state and federal governments and a federal system, some systems are better dealt with locally. If we look to the example of Sydney, there is a general carriers contract determination for Greater Sydney which factors in a lot of the extra expenses that go into Sydney—tolls, fuel, urban environment costs. Sometimes it is better to have a system that can be hyperlocal and only reflect one small agreement or one small geographic area, but also we are very happy and very excited to see a federal system on the cards, and we look forward to reviewing that in due course. At this stage we believe there is a strong imperative to legislate at the state level. Obviously we will work cooperatively with any government to bring it in at the federal level, and obviously any federal law would override state rule to the extent of the inconsistency.

Mr O'ROURKE: My question is directed to the Transport Workers' Union and Mr Thaker, if you wish to comment. Can you give the committee a sense of the hourly rates and other work conditions that courier drivers are currently getting in Queensland when they are engaged by contractors on a job-to-job basis? Secondly, can you explain the importance of setting minimum pay and conditions for courier drivers to reduce their crash risk, injuries and fatalities? I made a comment in one of the earlier sessions that a very good friend of mine is one of those small businesses—a husband-and-wife team that are owner-drivers—and spoke about some of the challenges they experience in that industry.

Mr Millroy: If I may, I will touch first on Margesh's example. He says that for most shifts the average is between $25 and $27 an hour. We know that in transport the minimum award wage is around $23.33 an hour. We know that these contractor workers, who receive no leave entitlements, no superannuation and no other benefits, are receiving a couple of dollars above the award. What most people do not realise is that they are paying for their own fuel—and we all know how expensive fuel is at the moment—they are paying for their own maintenance, they are paying for their own safety costs, they are paying for their own administration, their tax, their insurance, their licences and their registration.

What is happening in reality across the sector is the Amazon effect, as the TWU calls it. Amazon have pioneered this model of exploitation of workers that is leading to this severe undercutting that is going on. In reality, most of these workers are only earning $10 to $12 an hour. Research from the TWU has shown that food delivery drivers are often earning in reality $10 to $12 an hour, and there have been a number of studies done on that in Sydney to show that. There is a lot of historical evidence and research that we put in our submission, and also in our submission to the review of the act, that demonstrates the link between these extreme pressures where most workers are stuck in debt traps where they are having to service a vehicle loan and service their repayments, which they can barely afford to continue doing but they cannot afford to stop. It is those economic pressures which lead to things like delaying safety, delaying repairing tyres, delaying getting your vehicle serviced, having to drive for 14, 15 or 16 hours that are resulting in these tragic safety outcomes. Does that answer your question?

Mr O'ROURKE: Yes, thank you.

Mr BLEIJIE: Ms King, you mentioned before that when you look at the political campaigning from the QCU and take an anti-LNP view on certain things for political campaigns—you said it was in the DNA of the QCU. Is it fair to say that those couple of amounts that I mentioned—$110,000 from the Nurses and Midwives' Union and $115,000 from the Teachers' Union, donating to the QCU—would be used in some form of political campaigning? Is that what these funds go to: political campaigning?

Ms King: Without having it in front of me, I would only hazard a guess, so do not quote me strictly on this. For instance, if we are talking in the last 12 months, we are talking about a federal election campaign. The QCU campaign that I can talk about was about secure work and for secure jobs. We were highlighting throughout Queensland and, for instance, in Central Queensland—

Mr BLEIJIE: Sorry, Ms King, it may help; I have the date here. It is 8 October 2020, so just before the state election, not the federal election.

Ms King: Similar issues, actually. I will just switch to the state election.

Mr BLEIJIE: Please.

Ms King: Very similar issues, actually. We found that it is the same issue that has been resonating at the state level and at the federal level in terms of workers having insecure jobs. As I was about to say before, in Central Queensland our research, which is based off ABS research, now

shows that one in two workers in the whole of Central Queensland is in insecure forms of work, whether that is labour hire, casual or temporary fixed-term rolling contracts. That means that those workers find it very difficult to get a mortgage or to get a lease on a house. We have people in aged care who were working nine hour per fortnight contracts that were having to work across three different aged-care centres just to make a basic minimum wage. We had people in the mining industry on labour hire being paid 30 to 40 per cent less than what a full-time worker they were working alongside was getting. These things are important for us. They are important for workers. They impact on our communities.

When I say one in two in Central Queensland, it is one in three for all of Queensland. Our state election campaign was about jobs. Our more recent federal election campaign was about secure work, which means that we need to look at changing the laws in terms of making sure we have more secure forms of employment. We proudly stand behind that, as do our unions—and I am sure that I can speak for the nurses union and Teachers' Union in this context, that they also support secure jobs and they support the employment of thousands of workers throughout Queensland.

Mr BLEIJIE: Would a teacher working in a state school at the moment be told that the Teachers' Union have donated some $115,000 to the QCU that would then be used for political campaigns? Would they be told where their money is going?

Ms King: That would be available to them through their own union.

Mr BLEIJIE: Ms King, you mentioned before—and just correct me on the wording you used. I think the member for Hinchinbrook asked you a question and you said, 'We do not have a competitive environment for unions.' Were those the words you used, or what were the words you used?

Ms King: No. I said that we do not have a competitive union model. If you want to take away all of the accountabilities of unions, you are going to strip away things like protected industrial action which are linked to collective bargaining. If you want to take all of that away and say that we do not have to register and have a completely competitive model, there would be a whole lot less things that we would have to do as unions in that space. That is not what has been put forward. A competitive unionism model is still a regulated type model. We moved away from that because the employers do not like it because it is disruptive to workplaces, particularly where we have a system that is based on collective bargaining, not about individual bargaining.

We certainly, as unions, do not support individual bargaining; we are big advocates, and have always been, for collective bargaining. If you pull away all of that, I think what some people are saying anyway is, 'We want to sit on the outside of that system. We want to come in there and have the general protections. We want to be able to do all of these things in the industrial relations system but, by the way, we do not want to have to register or we do not want to have to comply with all of these other things. We do not want to have elections. By the way, we want to have a trademark that says we are a small business union and at the same time we are also a worker-friendly union' or, 'We represent workers in the transport industry' or, 'We represent workers who will stick up another brand name for someone else.' In reality, it is one organisation with a couple of brand names on it, representing employers and representing workers, which is in breach of the freedom of association principles of the ILO. I am not quite sure where that argument goes when you have people who sit out there and who want all of those protections yet not the accountabilities. They expect everyone who is in the system to play by the system, but they do not want to play by the system.

Mr BLEIJIE: Ms King, I think the committee was told this morning that the Teachers' Professional Association of Queensland, which is one of the incorporated associations you were talking about, and the Nurses' Professional Association Queensland, NPAQ, have 10,000 members. Some 10,000 nurses in Queensland have chosen to leave the Queensland Nurses and Midwives' Union and join the Nurses' Professional Association Queensland. My question is: why would unions—

Ms King: That is a matter of debate.

Mr BLEIJIE: Why would unions be so scared of competition?

Ms King: We are not scared of competition. My point before was that you have competition if that is the model that you want to go to. We have not, and we have not done that. I will continue to reiterate it because we have employers and we have unions. This is about a cooperative, productive workplace relations system that we have had for eons in that sense. We have had different little episodes where we have had competitive unionism, demarcations and all of those things that have happened. It is very disruptive to employers. It is very disruptive to unions. We walked away from it and said that it does not work—status quo in the sense that existing unions in different industry tends to work.

As I said before, that system is also intrinsically wound up in freedom of association and the collective bargaining principles are two of the founding principles of the ILO going back to the 1940s. They go hand in hand. Freedom of association is not about individuals running out there, starting and joining their own individual organisations or forming and whatever. We have a regulated system here in Australia—

Mr BLEIJIE: Why?

Ms King: Because we have a regulated system here in Australia—because of cooperative workplace relations.

Mr BLEIJIE: It can change. If there are organisations offering—

Ms King: How are we going to change it if we are going to have people who are on the outside of it claiming that they should be on the inside?

Mr BLEIJIE: Can you explain to the committee, then, the 'conveniently belong' rule in the Industrial Relations Act of Queensland? Can you give a quick indication about that?

Ms King: I think you will find that I gave it in quite some detail in our submission. The 'conveniently belong' rule is a longstanding rule that all unions have to comply with. When you meet other criteria you can apply to become an organisation, but if there is another union to which someone can conveniently belong then that is—

Mr BLEIJIE: Correct. That is my point, Ms King.

Ms King: No.

Mr BLEIJIE: That is my point.

Ms King: No, you asked me the question. Let me answer.

Mr BLEIJIE: The impact—

CHAIR: Member for Kawana! I am calling the public hearing to order. Member for Kawana, please let Ms King finish her response and then you can continue. Ms King?

Ms King: Thank you, Chair. I just wanted to make the point that there are two provisions—and I have done that in our submission—to the 'conveniently belong' rule. The second part, which is subsection (b), allows an applicant to argue that

(ii) there is no organisation to which the members could conveniently belong that would effectively represent them in a way consistent with the objects of this Act;

You might want to refer back to the trademarked organisations you were referring to before. There is an opportunity for them to apply. They just have to make an application and it will be up to the Queensland Industrial Relations Commission whether or not they will accept it.

Mr BLEIJIE: Thank you. I know exactly how it operates. You have the Nurses' Professional Association of Queensland with 10,000 members; you have the Nurses and Midwives' Union—

Ms King: That is debatable.

Mr BLEIJIE: Let me finish my question, thank you.

CHAIR: Member for Kawana, that is not a question; you are actually making a statement. Get to the point of your question.

Mr BLEIJIE: I am about to get to the question. Then I was interrupted, thank you. How on earth would the Nurses' Professional Association of Queensland ever be able to register when the Nurses and Midwives' Union of Queensland is already there and will be able to establish the 'conveniently belong' rule? You will never have the competition and you will never have these organisations being registered, because they will not be able to meet the threshold of other organisations not existing, therefore enshrining the anti-competitive monopoly that exists in Queensland which feathers the Labor Party nest because you, through your unions, donate to the Labor Party. Isn't that the case?

CHAIR: Member for Kawana!

Mr BLEIJIE: Isn't that the case?

CHAIR: Member for Kawana!

Mr BLEIJIE: Thank you, I am asking my question. Isn't that the case?

CHAIR: Member for Kawana, I am addressing you. Member for Kawana—

Mr BLEIJIE: Thank you, Madam Chair. I ask again: have you disclosed your union—

CHAIR: Member for Kawana! I am addressing you.

Mr BLEIJIE: Point of order. Have you disclosed your union membership to this committee today, Madam Chair?

CHAIR: Yes I have, member for Kawana. Thank you very much for asking.

Mr BLEIJIE: Thank you.

CHAIR: Member for Kawana, can you look at the way you are putting your questions to the witnesses?

Mr BLEIJIE: No.

CHAIR: They could be done in a much better way.

Mr BLEIJIE: Madam Chair, the standing orders do not allow you to tell me how I frame or do not frame my questions.

CHAIR: I am suggesting to you that you could put them in a better manner. Thank you very much, member for Kawana.

Mr BLEIJIE: Thank you. I am happy with how I frame my questions. I am keen to hear the answer about the monopoly that exists, why unions hate competition in Queensland and why these other organisations will never be able to register.

Ms King: Are you now speaking on my behalf, are you? Would you like to answer the question, because you just started to answer my question?

Mr BLEIJIE: I think I have answered your question, but I am very keen to hear what you would like to say.

CHAIR: We will move on. Member for Hinchinbrook, do you have a question?

Mr BLEIJIE: What about the answer?

Ms King: The chair just overruled you, I think.

Mr BLEIJIE: You are running the show now, are you?

CHAIR: Member for Kawana and Ms King, I am chairing this meeting and I am asking the member for Hinchinbrook: do you have a question?

Mr DAMETTO: Ms King, have you ever heard of a scenario that has arisen from a member of any union that has had their union donate to the state Labor Party that has a problem with a department which has been overseen by a state government minister? Have you ever had a scenario arise where there has been a conflict? Do you see a conflict between the union representing a worker who has a problem with that department and the fact that that union also donates to that party?

Ms King: I think we have a separation between state and politicians, don't we? Are we talking about Queensland Health or what department?

Mr DAMETTO: Say for example you had a person who was a nurse who had a problem with Queensland Health who was also part of the Queensland nurses union. Would there be a problem with the representation that the union would give that member if they had a dispute with Queensland Health? Would you see a conflict there?

Ms King: No, I would see that there is no conflict because the dispute would be with Queensland Health. I can assure you that we do not give kind favours to the Labor government on these types of issues. We advocate and prosecute on behalf of our members no matter what type of government we have in that space. It is about representation.

Mr DAMETTO: There is never a scenario playing out where the union may go soft on the department—Queensland Health in this example—because of the government of the time?

Ms King: I have never heard of it, and I have been around since—when did I start?—1990. I have never heard or seen that happen from any of the unions that I have ever worked for and certainly not through the QCU.

Mr DAMETTO: There have been allegations from members, though?

Ms King: Not that I am aware of, no.

Mr BLEIJIE: They will be kicked out of the union if they do!

CHAIR: Member for Kawana! Member for Stafford?

Mr SULLIVAN: Thank you, Chair. Ms King, in your opening statement you touched on how this bill tries to address the gender pay gap. There are two elements I want to ask you about. One is bringing that issue forward in the negotiation time frame. You also touched on birth related leave. The

gender pay gap we see is also very pronounced when it comes to superannuation at the end of a woman's career, and a lot of that is obviously to do with time out of the workforce. Do you or perhaps the independent teachers union and the shoppies, which both have very high women membership rates, want to talk about how that gender pay gap is being addressed in the bill?

Ms King: The gender pay gap that is being addressed in the bill really relates to bargaining. The bargaining can obviously occur around wages and allowances. In the current round of bargaining, I think the QNMU with Queensland Health have removed a pay inequity that has existed through the QSuper deed for quite a long period of time whereby shift allowances are not regarded as ordinary time earnings, whereas if you are an employee under the superannuation guarantee act the ATO definition includes shift allowances. The QNMU, ourselves and all other unions have been involved in negotiations with the government around improving superannuation outcomes in the current rounds of bargaining. The QNMU has delivered the OTE so that its members will be getting paid superannuation on their ordinary shift allowances. That is a pay equity issue, particularly when you look at nurses, who are predominantly women, and you compare them to other sectors that are getting these issues.

For us in terms of the state legislation, it is really about highlighting this right at the beginning of bargaining. Certainly, we have been engaging with the government in a bargaining framework for a good 12 months in this space and talking with government about what is the gender pay gap. We have the new special commissioner, and her task has been working across agencies looking at administrative arrangements. These matters were outlined in the Industrial Relations Act review report.

In understanding the level of detail and having those figures, you really have to drill down. We have a gender pay gap Australia-wide of about 13.8 per cent. That does not mean anything when you sit down to bargain. What means something is when you get the comparisons about what is going on within an organisation—when you can look at all different classification levels and when you can compare different cohorts of workers against each other. This bill will actually do that by allowing people. We have an agreement. This is happening in the public sector. This will allow this to occur in local government. I do believe that the Services Union is engaging with the LGAQ around a similar sort of system so that there is some consistency of information.

Until you do that deep dive and get down there, you do not really know what is going on; you just know the top-level kind of figure. If you want to make systemic change, you need to get into that. There is some really important stuff in this space. That will include things like super. As I say, there could be different things like allowances. We often find that, for instance, school cleaners only work for fixed terms or certain jobs are part-time or they butt up against and you can only go so far up a classification scale. They are the sorts of things that unions have been sitting down, pulling apart and negotiating around in this space.

Mr Spriggs: I take your question as relating to the new subsection (2A) of 173. You identified superannuation. Not so much in our sector, but some employers have acceded to unions' claims that superannuation be paid for the full 12 months of a woman's absence when she has accessed leave related to the birth of a child. We have included that in a number of our claims as well. That type of thing sends a positive message to the person concerned that their employer values them.

Mr SULLIVAN: Do you think the change in language in this bill, about men standing up and taking responsibility for child care and providing women to get back to work in their time or by their choice, is also a pretty strong message when it comes to what will add up over a lifetime?

Mr Spriggs: I think it is a very strong message. We are very big on parenting being the role of the parents. It is not just one parent; it is the role of the parents. Personal circumstances might mean that one person as opposed to the other is better placed to do it, but that should not be determined totally or fully by the gender of the person.

Mr BLEIJIE: Ms King, my question is in relation to the 'conveniently belong' rule we talked about before. If you have a situation where the nurses union of Queensland is registered, the 'conveniently belong' rule is not there and you are able to register the Nurses' Professional Association of Queensland—so there were two bodies, the NPAQ with 10,000 members and the Nurses the Midwives' Union with however many members it has—what would be wrong with that for the worker?

Ms King: Well, that is not what the bill proposes. What is wrong with that for the worker? I will go back to the 10,000. I have raised this a couple of times. We do not know the veracity of that. It is just a claim of NPAQ. Unions have to have public records. We put in our notices to the registrar every year. We go through processes. Our records can be vetted. We can actually look at what is going on

in them in a publicly accountable kind of way. I suspect that, in terms of the membership of NPAQ to which you are referring, they probably had a slight spike in their membership—but nowhere near the 10,000 mark—around what the other member was referring to with mandates. We do accept that that happened. A number of unions made some tough decisions in that space based on the pandemic and health responses and what they believed was the appropriate thing to do.

We have had lots of people who have gone there and tried the experience and come back. There is a little bit of that going on. I think the 10,000 claim is probably more likely 3,000 or 4,000 maximum. But in terms of where the drop-off is going to be—those people did not get anything out of joining them because they were not able to overturn the mandates, which were legal questions. It is a little spike because they joined them for a court case. We saw some of their Facebook ads. This is the misrepresentation and the deception that goes on in this space because what they were touting was not what the so-called members were actually getting.

Mr BLEIJIE: My question is: if you levelled the playing field, would the QCU oppose it if they had a level playing field?

Ms King: Any preregistration organisation under the bill will be able to apply, as any union can make an intervention and argue that they should not apply under subsection (b) of that rule. There is capacity there now. If someone wants to take an application then they could do it under the current act. You have to argue the toss, though. It is not a competitive unionism model. We can go back to that same conversation. We do not support competitive unionism. It is not a matter that competition gives people better choices or competition is giving people representation.

There is no protection for those people who have gone over there. A lot of those people who went over there over the mandates and the vaccination issue have lost their jobs and they are not going to get representation. They did not get fair representation in a court. It is misrepresentation to say, 'We're going to take your money because we're going to go and win these things' when all of the legal advice around the country—all of the legal advice around the country—was that the mandates would hold up in a court of law. As I said before, we do not pursue every single case. Sometimes the legal advice tells you that you are just not going to win.

In the particular case of the mandates and the vaccination debate—again, we are in a pandemic. I appreciate that people have different views on this issue. Our unions, amongst our affiliates, have different views on this issue. The one fundamental thing that we do all abide to is that we do support vaccinations. It is a public health measure. It is also one of the health and safety measures that we have in our workplaces. We would be remiss, as unions, to stand there and say that individuals have a right not to be mandated when all of the public health advice around the country was saying that vaccination was a really important measure for people who are working with other people and working with vulnerable people.

We are talking about nurses going into aged-care homes and demanding that they do not have to be vaccinated. We have had people saying, 'It's my personal and individual right not to wear a mask and I should be able to go to work in those places.' Yet the public health law is saying, 'For aged care, no, you have to have a flu shot, you have to have a vaccination, your vaccinations have to be to date, you have to wear a mask, you have to wear PPE.' That is all part of health and safety protection, not just for the workers but also for the very vulnerable clients who are in those situations. It is the same in public hospitals.

The mandates were not across every single workplace. In a lot of cases other unions have challenged them. In the mining industry they challenged the mandates and how they were being applied. Other employers chose to do things in consultation, but the health mandates forced these things to happen. An organisation, an association that is not a union—let us be really frank: they are not a union—has gone out there and misrepresented people by saying, 'Sign up in effect for a class action and we will get you your jobs back' when there was no legal way possible that that was going to occur in those circumstances.

Mr BLEIJIE: Ms King, I did not really ask about mandates. My point is that this committee has the power, in its report, to recommend changes to this bill. Yes, we deal with what is in the bill but if other issues come up we can recommend changes to government and the parliament will ultimately decide where this bill goes. If it is the case, though, that the Nurses' Professional Association of Queensland, with 10,000 members—let us be frank—will never be registered as a registered organisation because of the 'conveniently belong' rule, would the QCU support this: if we believe that nurses and teachers should have real choice about the organisations that represent them, this committee could actually recommend to government that we get rid of the 'conveniently belong' rule

and allow the Nurses' Professional Association of Queensland and the Nurses and Midwives' Union to be equal and compete amongst themselves and then let the nurses and teachers of Queensland decide where they want to put their money?

CHAIR: I believe the QCU has addressed that within their submission, member for Kawana.

Mr BLEIJIE: I am sorry, but I have just asked the question. This committee can recommend that change to government. If this committee recommended that the 'conveniently belong' rule goes to allow competition and choice for Queensland workers, would the QCU support that?

Ms King: I think you should put that question to the employers. I am going to take you back, again: we have a system of cooperative workplaces in industrial relations, which is to support employers and workers—

Mr BLEIJIE: With respect, if I wanted to put, Ms King—

Ms King: I have not finished. You are talking over the top of me.

Mr BLEIJIE: I—

CHAIR: Member for Kawana—

Mr BLEIJIE: Madam Chair—

CHAIR: No, member for Kawana——

Mr BLEIJIE: Point of order. My question is not to the employer. My question is to Ms King, who is representing the Queensland Council of Unions.

CHAIR: Member for Kawana, you are interjecting while Ms King is trying to respond to you. It is disrespectful to the witness. I ask you to stop interjecting on her and allow her to finish answering your question.

Mr BLEIJIE: I am sorry, Madam Chair, but the witness cannot ask me a question. I am asking the question.

CHAIR: Member for Kawana, in the context of your question Ms King is responding accordingly.

Mr BLEIJIE: Here we go. Okay.

Ms King: Thank you, Chair. As I said—and I will continue to repeat myself—this is a matter for employers, unions and workers who are the players and the key stakeholders in terms of the workplaces in the industrial relations systems. It is a cooperative model that we currently have. If you would like to recommend—and you can recommend it; I am not going to recommend it—that you rip up that system and introduce a competitive unionism model then I would suggest that there will be happy days in Queensland in terms of the front page of the *Courier-Mail* as there will be demarcation disputes and strikes and all sorts of things happening all over the place. Employers will be in an uproar. My response to you is that the employers themselves will not support such a concept.

We have always had this system of cooperative industrial relations. The reason we have that and the reason we have collective bargaining and we have legislation around protected action is to protect employees. It is to not allow employees to go too far, because there are protections in that system if you have essential services. For instance, if the electricity industry went out on strike and did not give notice and all of those sorts of things, our system and our legislation allows some recourse for that to be prevented. It tries to balance the rights of individual workers with those of the collective. Again, you cannot just walk out the gate, so to speak, and go home for the day, as we had in the heyday of the 1970s. We do not have that system anymore and probably for some good reasons.

Again, I am going to say that we support and the QCU supports a cooperative industrial relations system that balances the rights of employers and workers and unions and registered unions that are accountable in that system and are heavily regulated in that system—the only parties that should be recognised as the key players in terms of collective bargaining and representation of workers. Thank you, Chair.

Mr SULLIVAN: My question is probably directed to Ms King to start with but each of the unions can answer. You raised very briefly, Ms King, the issue of internal democracy. Are your executives elected by membership? Are your internal elections run by the ECQ?

Ms King: I will answer briefly and then hand over because each union can speak for themselves. Each union has a democratic election process and I believe that for the overwhelming majority of unions their elections are run through the ECQ. Yes, they are again heavily regulated and overseen by external bodies.

Mr Spriggs: I can confirm that our elections are run by the Electoral Commission.

Ms Purton: I can confirm that that is correct for the SDA as well.

Mr Millroy: We have direct elections for our committee of management and for our national council that is the supreme decision-making body of our union. We regularly have contested elections across our union. We welcome that. We welcome members having the opportunity to run for positions. Ours are usually administered by the AEC.

Mr SULLIVAN: For the benefit of the member of Kawana, I declared my union membership of the AWU this morning. I neglected to declare that when I was working in retail at Stafford City Shopping Centre I was a proud member of the SDA. I should have said that this morning as well.

CHAIR: Thank you for clarifying that, member for Stafford.

Mr BLEIJIE: I am happy to declare that I have never been a member of a union.

Mr O'ROURKE: Ms King, you partly touched on this already but could you explain your concerns about clause 26 and the amendments that you proposed in your submission?

Ms King: Can you refer me to a page?

Mr O'ROURKE: It is that the parties must negotiate in good faith. Clause 26 also defines the gender pay gap.

Ms King: This is an issue that we have raised with government. This is a matter to do with the gender pay gap. Currently, the drafting covers the gender pay gap for employees who will be covered by the proposed agreement. Our only real concern with that—and I will give a real example in local government—is that the white-collar workforce is often subject to a separate scope order and a separate agreement to the blue-collar workforce.

When you look at the gender pay gap across an organisation, you will see that the blue-collar versus white-collar will skew. It will depend on the organisation. If you are only looking at the white-collar, which for instance could be 90 per cent female, you are not actually going to see if there is really a gender pay gap in the whole organisation; you need to compare all of the different parts of the organisation. It was really about the reality of what is happening in local government, in particular, to say that we should be able to look outside of that and have that option to address that particular point. It is that thing about having to dig deep and having to get all of the information on the table about the gender pay gap if you are actually going to address it properly.

Mr DAMETTO: Ms King, earlier in your opening statement you said that you are a fierce advocate for women's rights.

Ms King: Yes.

Mr DAMETTO: Can you please explain to the committee how removing gender-specific language around maternity leave aids in the fight for equality for women in this space?

Ms King: Maternity leave was first introduced as a concept back in the 1970s. That was at a time when women were the only people who were the child carers. That was reflective of the community at that point in time. In my case, my mother was a teacher and took time off until I was of school age. She had access to maternity leave. Not long prior to that, however, women in the Public Service had to resign their jobs if they got married so were not actually in the workforce itself. It is not that long ago, for some of us anyway, when we think back.

Mr DAMETTO: I remember the fight.

Ms King: That is right. We have progressed along since then. In the 1990s we were campaigning for paternity leave for men in that space because men did not have access or any choice for any type of leave to take at that time. Initially, that was really short birth related leave. You will see that it is still in the legislation. We have extended that out there.

In the late 1990s we started to look at things. I was an adviser for a former minister at the time. I can proudly say that in 1999 we took legislation to the House in the Industrial Relations Act of the time. We were the first state and jurisdiction to introduce parental leave for same-sex couples. At that point in time people were making similar types of analogies and saying, 'Same-sex couples cannot physically have babies.' We said, 'I'm sorry, but you really need to'—and I am not saying this to you but this is back in those times—'reflect what is happening in a contemporary society.'

The reason we are removing things like 'maternity' and 'paternity' is because they are social constructs that come back to only women being the primary caregivers. That is not the case for everybody. If a woman choses to be the primary caregiver, we fully support that. This bill tries to remove that language that was removed from the Fair Work Act. The Fair Work Act was implemented

in 2009. It is the same language that is used there. It is about trying to dispel myths about who should be the carer, who gets only short leave, who gets long leave and all of that. It is about providing those choices to people. I have had my children, but if I was having a child now I might have a very busy year coming up and I might choose to take short leave for six weeks and then go back to work full-time. If I had a partner I could say to them, 'For this year the option is that you take leave for the first 12 months.' This actually recognises that people can make all of those choices.

CHAIR: It is very important.

Mr SULLIVAN: People can come and go.

Ms King: Yes.

CHAIR: It is very important for families.

Mr DAMETTO: Thank you for the commentary from the rest of the committee. I think I hear a cheer squad.

CHAIR: Having not asked a question in this session, I would like to say that I think this provision will be of enormous benefit to Queensland families. Mums and dads and carers, whoever they are, will be able to have choice.

Ms King: Yes. For me, as a strong women's advocate but also as a worker advocate, it is also about giving rights to dads and recognising different family compositions and makeups and not superimposing through the law that this is what you have to do. It removes those barriers. It is about taking away the barriers and giving that choice, which ultimately should be the choice of individuals and families to make together.

CHAIR: Thank you very much. We are right out of time. Ms King, I note that there has been one question taken on notice about QCU fees for affiliations.

Ms King: I am wondering if that is for NPAQ! We will get that information.

CHAIR: Could we have your answer to that by Thursday, 28 July 2022 so that we can include it in our deliberations? I thank everybody for their time. Thank you very much, Mr Thaker, for your very personal contribution. That concludes our public hearing for today.

The committee adjourned at 4.02 pm.