

Report into Fixed-Term Employment in Victorian Catholic Schools



catholic education commission of victoria ltd

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Contents

Foreword	3
Executive Summary	4
1. Background	6
2. <i>The Victorian Catholic Education Multi Enterprise Agreement 2013 (VCEMEA)</i>	8
3. Fixed-term employment in Catholic schools	11
4. Why are fixed-term contracts being used in Victorian Catholic schools?.....	14
5. Victorian Government Inquiry into the Labour Hire Industry and Insecure Work	15
6. Case studies – Employee perspective	18
7. Case studies – Principal perspective	20
8. Reasons for high numbers of employees in fixed-term employment – A Discussion	23
9. Benefits to schools if they review fixed-term arrangements.....	25
10. A way forward – Proposed strategies to deal with fixed-term employment	26
Appendices	28

Foreword

The *Report into Fixed-Term Employment in Victorian Catholic Schools* ('Report') is an initiative between the Catholic Education Commission of Victoria Limited (CECV) and the Independent Education Union Victoria Tasmania (IEU) under clause 11.2(g) of the *Victorian Catholic Education Multi Enterprise Agreement 2013* (VCEMEA).

The VCEMEA is the agreement that regulates the terms and conditions of teaching and non-teaching staff in 492 Victorian Catholic schools. The VCEMEA was approved by the Fair Work Commission in November 2013 and has a nominal expiry date of 31 October 2016.

Clause 11.2(g) states:

During the life of this Agreement, the Employers will, in consultation with the Union, implement pro-active processes to ensure that the use of fixed-term employment is consistent with the criteria set out in clause 11.2(a). The Employers will cause the Union to be provided with relevant data on a quarterly basis.

Fixed-term employment is a legitimate means by which employees can be engaged for a specified period of time to support Victorian Catholic schools in the task of educating students in a Catholic context.

This Report is provided to encourage Victorian Catholic schools to understand the issues facing fixed-term employees, the requirements of fixed-term employment under the VCEMEA and to encourage discussion about security of employment consistent with the values of Catholic education.



Stephen Elder
Executive Director

Executive Summary

Purpose

The *Report into Fixed-Term Employment in Victorian Catholic Schools* (Report) is an initiative between the Catholic Education Commission of Victoria Limited (CECV) and the Independent Education Union Victoria Tasmania (IEU) under clause 11.2(g) of the *Victorian Catholic Education Multi Enterprise Agreement 2013* (VCEMEA).

Fixed-term employment is a legitimate means by which employees can be engaged for a specified period of time to support Victorian Catholic schools in the task of educating students.

This Report is provided to encourage Victorian Catholic schools to understand the issues facing fixed-term employees, the requirements of fixed-term employment under the VCEMEA and to encourage discussion about security of employment consistent with the values of Catholic education.

This Report excludes consideration of casual, casual relieving and principal contracts.

Aims

This Report aims to:

- encourage discussion of the issue of fixed-term employment in Catholic schools
- ensure an understanding of appropriate reasons for appointing employees on a fixed-term basis under the VCEMEA
- encourage compliance with the VCEMEA
- inform bargaining for the replacement of the VCEMEA
- encourage employers to understand their obligations to fixed-term employees
- encourage (where possible) a reduction in the number of employees on fixed-term contracts.

Findings

Throughout this Report the issue of fixed-term employment in Victorian Catholic schools is explored. The following issues have been identified:

1. The number of fixed-term contracts in Victorian Catholic schools is at 21% (at December 2015). This percentage is:
 - higher than the Education and Training industry average of 15%; and
 - significantly higher than the national average of 4% in all industries.
2. Primary schools are more likely to employ staff on a fixed-term contract with 28.7% of staff in April 2015 on fixed-term contracts compared to 10.7% in secondary schools.
3. Staff employed as aides and assistants are the most affected group with 50.7% of all aides and assistants on fixed-term contracts.

While the aforementioned statistics speak to the issue of fixed-term employment, the Report explores the reasons for the statistics (which are often legitimate) and identifies that in some Catholic schools the situation is unavoidable.

This Report identifies the impacts on staff members on fixed-term contracts. Some fixed-term employees reported feeling disadvantaged, financial hardship and inability to plan for the future. Fixed-term employees also discuss the educational impact on students and the division this creates in schools.

This Report identifies the pressures facing principals as they attempt to manage staff on periods of leave, requests for part-time work, and maintaining the right mix of staff skills. The Report discusses funding, financial constraints, student enrolment and the delivery of education to students and its impact on fixed-term employment.

The VCEMEA provides the reasons when fixed-term contracts can be used. Naming a position as ‘fixed-term’ does not make the position a legitimate fixed-term position.

The VCEMEA provides fixed-term employees with entitlements to protect their rights. It ensures they are not disadvantaged when compared to ongoing staff in terms of their entitlements and on notification of suitable positions that are advertised by the school. It ensures fixed-term employees of an interview and provides preference for ongoing positions.

This Report identifies:

- the need for employers and principals to be educated as to their obligations
- raises awareness of the fixed-term employment issues
- the need to provide assistance to schools in managing budgets to enable staff to be converted to ongoing employment as appropriate.

Next steps

This Report makes a number of recommendations to address the issues identified. A summary is provided below.

1. The *Report into Fixed-Term Employment in Victorian Catholic Schools* will be circulated to employers in Victorian Catholic schools.
2. Victorian Catholic schools will be asked to review staff currently on fixed-term contracts in light of this Report.
3. The CECV will ask principals to consider the number of employees on fixed-term contracts when they have inquiries into that area of the VCEMEA.
4. The CECV will prepare a guide to fixed-term employment that will assist principals in managing the issues discussed within this Report.
5. Education sessions with school leaders will focus on managing fixed-term employment in schools.
6. The Industrial Relations Unit will continue to support principals and encourage them to contact the Industrial Relations Unit when they have issues.
7. The CECV will encourage the enforcement of the VCEMEA.
8. The CECV will encourage the discussion of the issue during enterprise bargaining for a replacement of the VCEMEA.
9. During school visits from Catholic Education Offices’ finance staff, Catholic Education Office staff can follow up on the perceived need for employees being fixed-term.
10. Communication from the Executive Director of the CECV that this is a priority issue.

1. Background

1.1 Why the Report?

The *Report into Fixed-Term Employment in Victorian Catholic Schools* is an initiative between the CECV and IEU under clause 11.2(g) of the *Victorian Catholic Education Multi Enterprise Agreement 2013* (VCEMEA).

Clause 11.2(g) states:

During the life of this Agreement, the Employers will, in consultation with the Union, implement pro-active processes to ensure that the use of fixed-term employment is consistent with the criteria set out in clause 11.2(a). The Employers will cause the Union to be provided with relevant data on a quarterly basis.

This Report is provided to encourage Victorian Catholic schools to understand the issues facing fixed-term employees, the requirements of fixed-term employment under the VCEMEA and to encourage discussion about security of employment consistent with the values of Catholic education.

This Report excludes discussion in relation to principals on fixed-term contracts because this group of employees is paid higher, has greater job security and authority to make decisions. This Report also excludes discussion of short term casual and casual relieving contracts.

1.2 Purpose

This Report is provided to encourage Victorian Catholic schools to understand the issues facing fixed-term employees, the requirements of fixed-term employment under the VCEMEA and to encourage discussion about security of employment consistent with the values of Catholic education.

This Report aims to:

- encourage discussion of the issue of fixed-term employment in Catholic schools
- ensure an understanding of appropriate reasons for appointing employees on a fixed-term basis under the VCEMEA

- encourage compliance with the VCEMEA
- inform bargaining for the replacement of the VCEMEA
- encourage employers to understand their obligations to fixed-term employees
- encourage (where possible) a reduction in the number of employees on fixed-term contracts.

1.3 Fixed-term employment myths

The default form of employment in Victorian Catholic schools is ongoing. This means that all positions required at Victorian Catholic schools will be offered on an ongoing basis except as provided for under the VCEMEA. This is confirmed by clause 11.1 of the VCEMEA, which states:

11.1 General provisions

(a) *Employment under this Agreement shall be of an ongoing nature, except as provided under this agreement for:*

- Employment for a specified period of time;*
- Casual Relieving Employees;*
- Emergency Teachers; or*
- Casual Education Support, School Services Officers or CEO Employees (Casual Employees).*

The VCEMEA provides seven reasons why employment may be for a specified period of time or fixed-term. They are discussed in Section 2.3.

The IEU and the CECV have received anecdotal accounts of reasons why employees have been placed on fixed-term contracts that are not in accordance with the seven reasons provided under the VCEMEA. For example:

- the employee is a new graduate
- new employees must be on a trial before being provided with an ongoing employment contract (i.e. 'try before you buy')
- funding for students with learning needs varies from year to year

- learning support officers are always fixed-term
- employees must have accreditation to teach in a Catholic school prior to ongoing employment contracts
- not all staff in the school can be ongoing
- avoidance of managing employment concerns
- fixed-term employment protects the school against budget fluctuations (insurance policy)
- if I say a staff member is fixed-term, it will be a fixed-term under the VCCEMA
- I did not know about the limited reasons to use fixed-term contracts
- I inherited all my fixed-term staff and I don't know which staff members to make ongoing (so no action is taken)
- there's a quota of staff that can be employed on ongoing contracts, so the rest can be fixed-term
- it's the way we have always done it (custom and practice).

The historical misunderstanding about reasons to use fixed-term contracts may lead to the misuse of fixed-term employment and is an area that requires attention. If fixed-term contracts are being used for reasons other than those allowed under the VCCEMA, this is a breach of the VCCEMA which leaves schools open to legal action under the *Fair Work Act 2009* (Cth).

1.4 Efforts undertaken so far

Throughout the life of the VCCEMA a number of initiatives have been undertaken to address the number of fixed-term employees and explore the issue. One initiative is that clause 11.2(g) of the VCCEMA includes the provision of quarterly data on the number of fixed-term employees. In addition the Industrial Relations Unit and IEU visited six Victorian Catholic schools to discuss the use of fixed-term employment in those schools.

The efforts undertaken so far to address the issue of the possible misuse of fixed-term contracts has focused on collaborative and educative approaches by the CECV and the IEU to address the issue prior to October 2016.

2. The Victorian Catholic Education Multi Enterprise Agreement 2013 (VCEMEA)

2.1 What is a fixed-term contract?

A fixed-term contract is an employment contract for a specified period of time, project or task. It can be full-time or part-time. By its definition, fixed-term contract employees do not have a guarantee to further employment after their contract ends.

2.2 Ongoing employment

The default form of employment in Victorian Catholic schools is ongoing. This means that all positions required at schools will be offered on an ongoing basis except as provided for under the VCEMEA. This is confirmed by clause 11.1 of the VCEMEA, which states:

11.1 General provisions

(a) *Employment under this Agreement shall be of an ongoing nature, except as provided under this agreement for:*

- (i) *Employment for a specified period of time;*
- (ii) *Casual Relieving Employees;*
- (iii) *Emergency Teachers; or*
- (iv) *Casual Education Support, School Services Officers or CEO Employees (Casual Employees).*

2.3 Reasons under the VCEMEA for fixed-term contracts

Employees at Catholic schools can be employed on fixed-term contracts under clause 11.2(a) of the VCEMEA. A copy of clause 11.2 is included in Appendix A.

The VCEMEA places restrictions on when a fixed-term contract can be used. Fixed-term contracts **can only** be used for the reasons outlined in clause 11.2(a). The seven reasons for engaging an employee on a fixed-term contract are:

1. For a specific project for which funding has been made available for a specified period of time.

2. For a specific task with a limited period of operation.
3. To replace an employee on approved leave for not less than 11 weeks.
4. To replace an employee whose employment was terminated after the commencement of the school year.
5. To avoid a redundancy situation.
6. For placed teachers, primary principals or school advisers.
7. For employees with Permission To Teach (PTT).

If an appropriate reason under the agreement is not provided, then the status of the employee is assumed to be ongoing. This is irrespective of the letter of appointment.

2.4 What protections are provided to employees during fixed-term contracts?

The VCEMEA, in addition to providing only seven reasons for fixed-term contracts, provides five additional protections to employees during a fixed-term contract. These are contained in clause 11.2(b)–(f) and include:

1. Fixed-term contracts must not be set to avoid payment of entitlements that would be payable to ongoing employees (clause 11.2(b)).
2. Fixed-term employment counts as service (clause 11.2(c)).
3. Employees who have been at a school for three (3) years on fixed-term appointments and who apply for an appropriate position will be given preference over other applicants, all other things being equal (clause 11.2(d)).
4. Employers must notify employees on fixed-term contracts, in writing, of a position they may be qualified for prior to it being advertised; and must interview the employee if they apply (clause 11.2(e)).

5. Employers must notify an employee, by letter, not less than seven weeks prior to the conclusion of the contract, if their fixed-term contract is not going to be extended. If the letter is not issued, the employee will be paid a part of the seven weeks' notice not provided (clause 11.2(f)).

2.5 Employer obligations regarding fixed-term contracts during the VCEMEA

Clause 11.2(g) requires employers, during the life of the VCEMEA, to provide the IEU with quarterly data on fixed-term contracts, and implement proactive processes to ensure the reasons for fixed-term contracts are consistent with clause 11.2(a). It should be noted that this Report is one initiative under clause 11.2(6).

2.6 Letters of appointment

Clause 12 of the VCEMEA requires employers to provide staff with appointment letters that include specific information. In addition to these requirements, clause 12.1(d) requires further and specific information to be provided to an employee who is appointed on a fixed-term contract as to why their employment is fixed-term. This information includes:

1. Reasons why the employment is fixed-term with reference to clause 11.2(a) – reasons for fixed-term contract
2. Details of relevant circumstances that give rise to those reasons
3. The date of commencement of employment and the date of cessation of employment
4. Where the contract is to replace a staff member under sub-clause 11.2(a)(iii), an outline of the rights under the VCEMEA of the employee being replaced.

This information enables staff to confirm the nature of their fixed-term contract and to raise any concerns they may have about it being a genuine arrangement.

2.7 What changes were made in the VCEMEA to fixed-term employment?

The level of protection to employees under the VCEMEA has increased since the *Victorian Catholic Education Multi Employer Agreement 2008*. The inclusion of additional obligations includes the following:

1. Clause 11.2(b) requires that fixed-term employment cannot be used to avoid entitlements that would be otherwise payable to an ongoing employee.
2. Clause 11.2(c) confirms that employees on fixed-term contracts can accumulate service.
3. Clause 11.2(e) alerts fixed-term employees to ongoing vacancies in the school and requires, where an application is lodged, that they are interviewed for ongoing positions.
4. Clause 11.2(f) gives fixed-term employees notice if their contract is not extended, therefore reducing the financial impact at the end of a contract.
5. Clause 11.2(g) ensures reporting on the number of fixed-term contracts and development of further initiatives such as this Report.
6. Clause 12.1(d) provides an employee with the reason they are fixed-term. The clause also requires the employer to specify one of the reasons under the agreement for the employment being fixed-term, and provide some detail of the circumstances that give rise to that reason. This is to ensure that the reason is clear and, where appropriate, can be scrutinised. Where a fixed-term employee replaces an ongoing employee who is on leave, this clause also requires that the letter of appointment provides the fixed-term employee with an understanding of the ongoing employee's rights; for example, the ongoing employee is on parental leave and is expected to return on a specific date but they may extend that leave. This information confirms the nature of the fixed-term contract and the employee does not need to seek it from their employer.

7. Clause 4 (11) of Appendix 1 of the VCCEMA confirms that fixed-term employees who are entitled to paid parental or partner leave will receive the same entitlements as an ongoing employee even if their contract ends during the paid leave. For example, if an employee's fixed-term contract ends during their paid parental leave they will receive the remainder of their entitlements as a lump sum.
8. While not contained in the agreement, the Online Staffing Return (OSR) requires that all fixed-term employees' records include a code indicating the reason the employment is fixed-term. This enables office staff to confirm the fixed-term reason against the letter of appointment and enables reporting to take place.
9. The CECV's development of a Salary Assessment Calculator, which schools are asked to use prior to issuing a teacher's fixed-term contract, provides a means to ensure that the teacher's years of experience will be recognised as per the VCCEMA so that they will receive the correct salary entitlements.

2.8 What is the difference between fixed-term, ongoing, casual relieving and casual employee entitlements under the VCCEMA?

In accordance with clause 11.2(b) the table below demonstrates that fixed-term employees under the VCCEMA receive the same entitlements as ongoing employees (excluding redundancy).

	Ongoing	Fixed-term	Casual	Casual relieving
Receives a loading	X	X	✓	✓
Receives accident make-up pay	✓	✓	X	X
Annual leave (if applicable)	✓	✓	X	X
School holiday pay (if applicable)	✓	✓	X	X
Leave loading	✓	✓	X	X
Personal leave	✓	✓	X	X
Examination leave	✓	✓	X	X
Parental leave	✓*	✓*	X	X
Notice of termination	✓	✓**	X	X
Infectious disease leave	✓	✓	X	X
Degree and diploma leave	✓	✓	X	X
Redundancy	✓	X	X	X

*If they have completed 42 school weeks or 4 school terms of continuous service.

**Notice at the end of the contract and on termination.

3. Fixed-term employment in Victorian Catholic schools

3.1 Fixed-term employment in education and training

Fixed-term contracts are more prevalent in the education and training industry when compared to the rest of the Australian economy. According to the Australian Bureau of Statistics' *Characteristics of Employment Survey of Employees* in August 2014 (published October 2015), only 4% of the Australian workforce was employed on a fixed-term contract. However of the 4%, 36% worked in the education and training industry.¹ In review of the data approximately 15% of employees in the education and training sector were on fixed-term contracts, contrasted to 4% of the rest of the Australian workforce.²

3.2 Fixed-term contracts in Victorian government schools

The number of fixed-term contracts in use for teachers in Victorian government schools is currently similar to those in Victorian Catholic schools. Over the past 10 years the number of teachers in Victorian government schools on

fixed-term contracts has varied between 16.8% in 2006 to 19.4% in 2008. For the last five years (2008–2013) they have remained stable at about 18–19%.³

The Australian Education Union (AEU), in their Secure Employment campaign, state that of the members surveyed, 65% of new teachers and almost 40% of education support staff are on short term contacts.⁴

3.3 Fixed-term contracts in Catholic education

The number of staff on fixed-term contracts in Victorian Catholic schools is above the education and training average and is at 21% compared to 15%. However, the percentage of teachers on fixed-term contracts is similar in both sectors at about 19%.

The table below (Figure A) demonstrates that at December 2015, 6,932 employees were on a fixed-term contract, which accounts for 4,519 full-time equivalent roles.

Figure A: Number of staff on fixed-term contracts, by Diocese, in December 2015

Diocese		Fixed-Term	Ongoing	Total
Archdiocese of Melbourne	Head Count	4,847	14,718	19,565
	FTE	3,206	12,514	15,720
Diocese of Ballarat	Head Count	788	1,908	2,696
	FTE	492	1,585	2,077
Diocese of Sale	Head Count	589	1,681	2,270
	FTE	386	1,397	1,783
Diocese of Sandhurst	Head Count	699	1,756	2,455
	FTE	434	1,499	1,933
Total	Head Count	6,923	20,063	26,986
	FTE	4,518	16,994	21,512

¹Australian Bureau of Statistics, #6333.0 – *Characteristics of Employment, Australia, August 2014*, <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6333.0>>.

²Australian Bureau of Statistics, #6333.0 – *Characteristics of Employment, Australia, August 2014 Cube data table 33.1*, <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6333.0>>.

³Department of Education and Training, September 2015, *Victorian Teacher Supply and Demand Report 2010 and 2013*, <<http://www.education.vic.gov.au/Documents/about/careers/teaching/TeacherSupplyDemandRpt2012and2013.pdf>>.

⁴Australian Education Union, *Secure Employment Campaign*, <<http://www.aeuvic.asn.au/104974.html>>.

Figure B demonstrates that at April 2015 the highest percentage of fixed-term employees were in primary schools, with 27% on a fixed-term contract. This is nearly three times the percentage in secondary schools (10%).

Figure B: Percentage of staff on fixed-term contracts, by school type, in April 2015

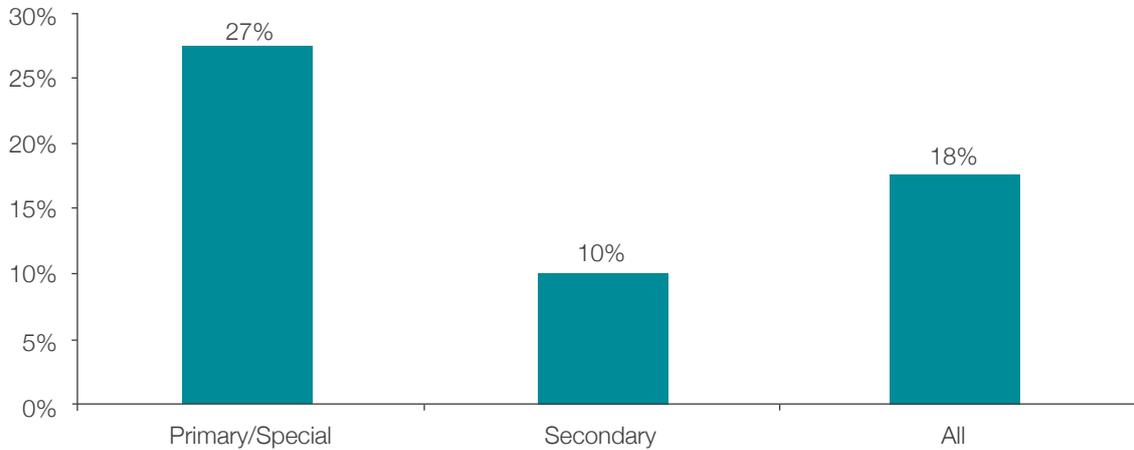


Figure C illustrates that the highest percentage of fixed-term employees are Education Support employees in primary schools, followed by School Services Officers in primary schools. The next highest group is teachers in primary schools. In relation to secondary schools Education Support Employees have the highest incidences of fixed-term employment.

Figure C: Percentage of staff on fixed-term contracts, by employment category and school type, in December 2015

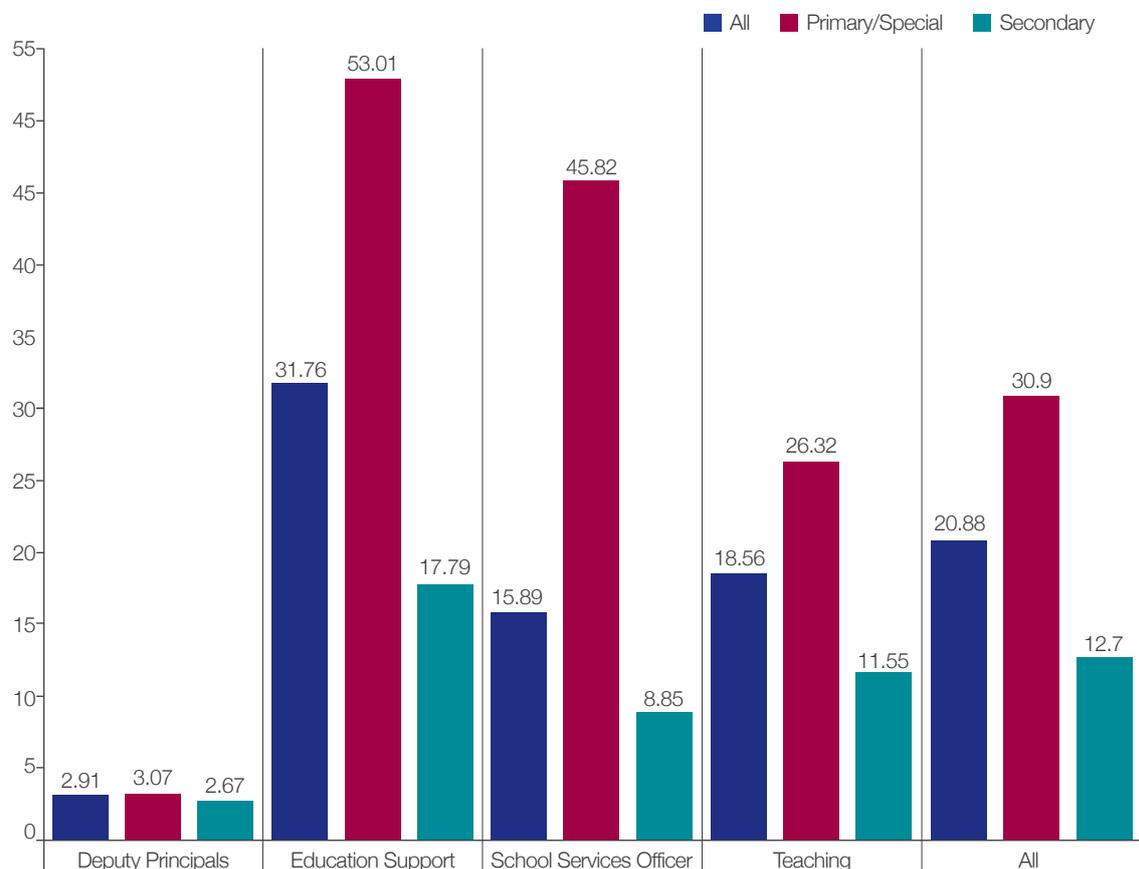


Figure D demonstrates that as teachers become more experienced they are more likely to become ongoing. This may be due to teachers who are less experienced applying for fixed-term positions.

Figure D: Percentage of teachers on fixed-term contracts, by level of experience, in Term 1, 2014 and Term 1, 2015

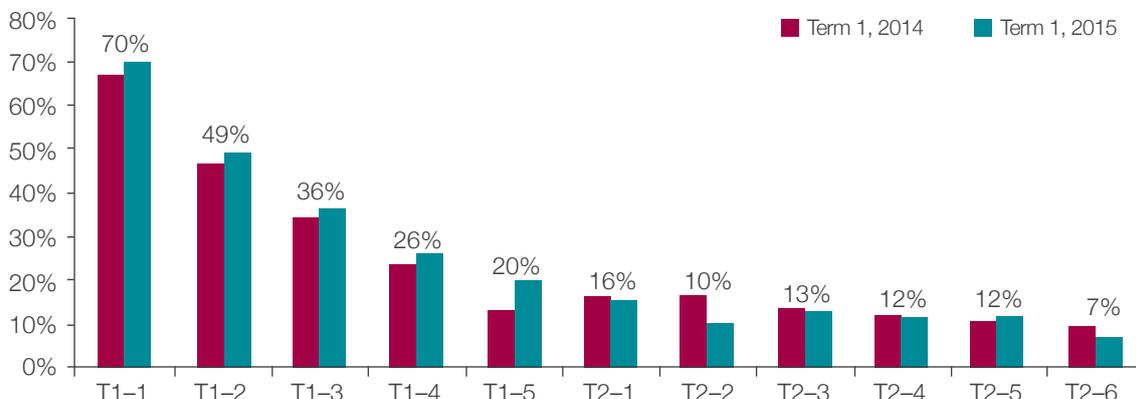


Figure E demonstrates that the highest percentage of fixed-term employees are employed as Aides and Assistants, which is almost double the percentage of Specialist Support Staff.

Figure E: Percentage of staff on fixed-term contracts, by role, in April 2015

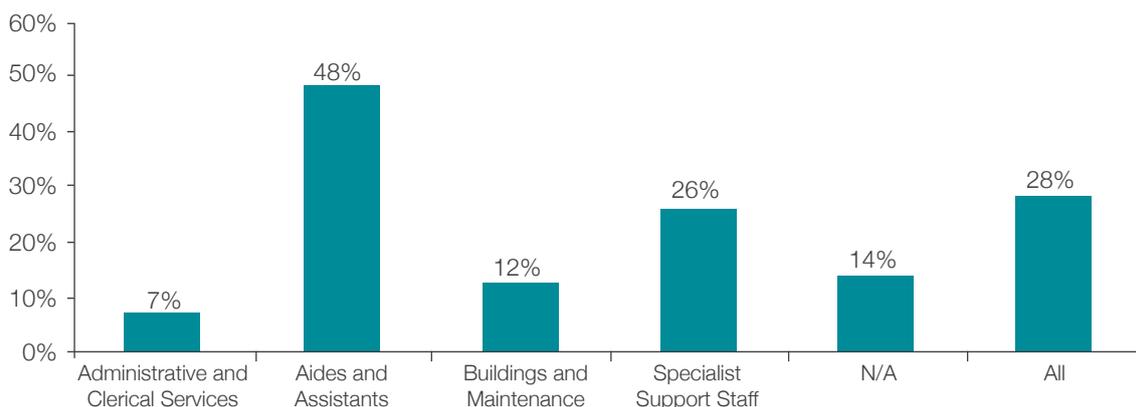
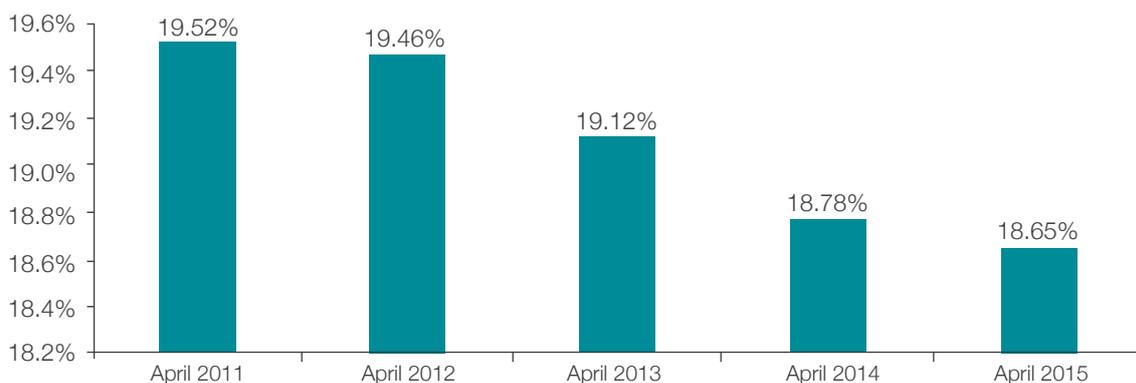


Figure F demonstrates that throughout the life of the VCEMEA the percentage of employees on fixed-term contracts has declined. Each year has seen a reduction on the previous year, and over the life of the agreement and since April 2011 the total has reduced by almost 1%.

Figure F: Percentage of staff on fixed-term contracts 2011–2015



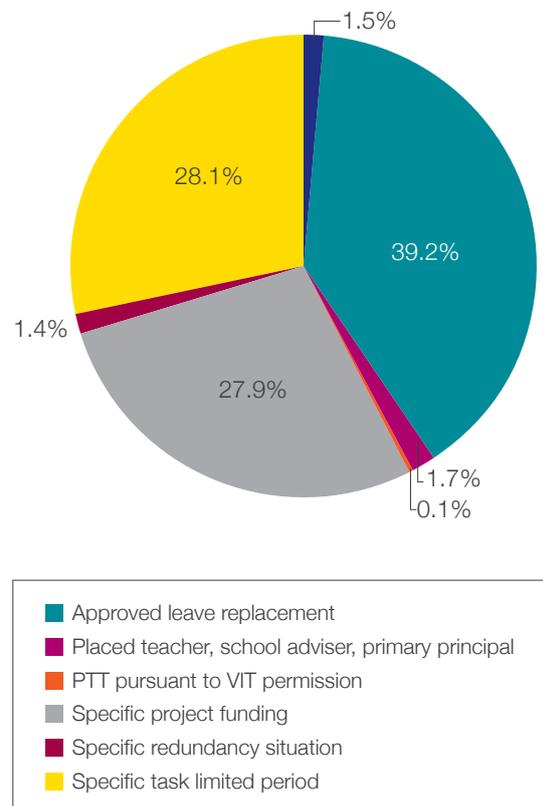
4. Why are fixed-term contracts being used in Victorian Catholic schools?

Figure G demonstrates that, in April 2015, the main reason for an employee being on a fixed-term contract was to replace another staff member on approved leave, with this reason accounting for nearly 40% of fixed-term employment.

The other two main reasons were: a specific task for a limited period of operation, and in response to specific project funding. These two reasons accounted for 56% of employees being on fixed-term arrangements. The other four reasons were rarely identified.

The reasons, a specific task for a limited period of operation and in response to specific project funding, are arguably the most difficult types of fixed-term contracts to monitor. This could arise due to one of the reasons (Section 1.3) could be mistakenly identified as a 'project' or 'task' reason. For example, a school may believe that their support staff members assisting students with a disability at the school is the basis for all support staff to be fixed-term (that is, they are fixed-term for reasons of funding).

Figure G: Percentage of staff on fixed-term contracts, by reasons under the VCCEMA, in April 2015



5. Victorian Government Inquiry into the Labour Hire Industry and Insecure Work

In September 2015, the Victorian Minister for Industrial Relations, the Hon. Natalie Hutchins MP, announced an inquiry into the labour hire industry and insecure work in Victoria (Inquiry). While the focus of the Inquiry included the practices of labour hire companies, insecure work, sham contracting and the abuse of visas, the terms of reference also included examining the impact of insecure work.

Catholic schools mainly use labour hire companies when engaging emergency teachers, which is a large focus of the Inquiry. They also rely on fixed-term contracts, which is a form of insecure work.

On 16 October 2015, the Inquiry released a background paper and has drawn on an ACTU 2012 report *Lives on Hold: Unlocking the Potential of Australia's Workforce*, which notes that insecure work is:

'... poor quality work that provides workers with little economic security and little control over their working lives. The characteristics of these jobs can include:

- *unpredictable and fluctuating pay*
- *inferior rights and entitlements*
- *limited or no access to paid leave*
- *irregular and unpredictable working hours*
- *lack of security and/or uncertainty over the length of the job*
- *lack of any say at work over wages, conditions and work organisation.*

These challenges are most often associated with non-permanent forms of employment like casual work, fixed-term contracts, independent contracting and labour hire – all of which are growing.⁵ (format altered)

Fixed-term employees in Catholic schools do not face all of the issues above because they are covered by the same working conditions as ongoing staff (fixed-term employees are not subject to limited or non-existent paid leave and inferior entitlements). However, they still experience a lack of job security and other issues that will be discussed throughout this paper.

The Inquiry delivered its final report to the Minister for Industrial Relations on 31 August 2016 and is currently being considered by the state government. Some of the relevant submissions to Catholic education are summarised below.

5.1 IEU Submissions to the Inquiry

In their submission the IEU focuses on the issue of fixed-term employment and casual relief teaching. The comments from IEU members in relation to the personal impact of insecure work will be discussed below but a summary of the negative impacts include:

- a greater rate of exploitation and non-compliance with industrial standards
- less access to paid leave and ability to take paid breaks from work
- financial and housing stress (because workers cannot get loans and/or because of inconsistent income)

⁵Independent Inquiry into Insecure Work in Australia 2012, *Lives on Hold: Unlocking the Potential of Australia's Workforce*, <<http://www.actu.org.au/media/609158/lives-on-hold-final.pdf>> page 14.

- safety issues (because of less access to training and less focus on these employees by host employers)
- impact on quality and delivery of services because of lack of induction and familiarity with the workplace
- employment practices which exhibit direct and indirect discrimination against pregnant women and mothers
- significant barriers for those in labour hire and insecure work (other than casual workers) to engage in bargaining either with their employment agency employer or their host employer
- impact on physical and mental health
- limited ability to plan for the future
- reduction in job satisfaction
- limited access to professional development and training.⁶

5.2 AEU Submissions to the Inquiry

The Australian Education Union (AEU) submission provides important statistics regarding insecure work in the government sector:

The DET Annual Report shows that that the proportion of Teaching Service staff employed on a fixed-term or casual basis increased from 23% in 2013 to 26% in 2015; the proportion of ES staff employed in this manner increased from 64% to 65% over the same period.⁷

Relative to the gender distribution of the workforce, women were over-represented in these insecure employment categories; nearly 26.6% of female staff were employed on a fixed-term or casual basis compared to a proportion of just 21.4% for male staff.⁸ The proportion of teaching staff in insecure employment in Victoria is around twice that of New South Wales where approximately 91% of staff are employed on an ongoing basis.⁹

It should also be remembered that insecure work in the public education sector does not only affect the wellbeing of its employees; it also reduces the capacity of the system and the workforce to deliver quality learning and welfare outcomes for Victorians. In the AEU's 2014 Beginning Teachers Survey, 70% of contract teachers agreed that the requirement to reapply for positions had a negative effect on their teaching.

5.3 ACTU Submissions to the Inquiry

The Australian Council of Trade Unions (ACTU) submission does not specifically address the education industry but does note the issue of gender inequality in casual insecure work. This issue is relevant in the teaching profession and Catholic education where a higher proportion of women are engaged and approximately three in four staff members are female.

The ACTU submissions draws on the Australian Bureau of Statistics' information and notes that:

⁶Independent Education Union Victoria Tasmania, 4 December 2015, *Independent Education Union Victoria Tasmania Submission*, <<http://economicdevelopment.vic.gov.au/about-us/strategies-and-initiatives/inquiry-into-the-labour-hire-industry-and-insecure-work/inquiry-into-the-labour-hire-industry-and-insecure-work-submissions>>.

⁷Australian Education Union, 18 December 2015, *Australian Education Union Submission*, <<http://economicdevelopment.vic.gov.au/about-us/strategies-and-initiatives/inquiry-into-the-labour-hire-industry-and-insecure-work/inquiry-into-the-labour-hire-industry-and-insecure-work-submissions>> page 5.

⁸Ibid.

⁹Ibid.

*Most jobs with less than 35 hours in Australia are casual and 43.2% of all women worked less than full time in 2013. Approximately 54% of all casual employees are women and 27% of all female employees are employed on a casual basis.*¹⁰

5.4 Jesuit Social Services Submissions to the Inquiry

The Jesuit Social Services (JSS) have made submissions to the Inquiry. The focus of the submissions is on the disadvantaged in the community. While the submissions are not aimed at, or relevant to, Catholic education, the following submission of a Catholic organisation regarding insecure work is of note:

*Clearly certain groups in the Victorian community are more vulnerable to exploitation in employment, such as vulnerable young people, Aboriginal and Torres Strait Islander people, people from refugee backgrounds with limited English, people with disabilities, people in the justice system, women with caring responsibilities and low-skilled workers for example. In our experience these groups are more likely to become 'trapped' in insecure work often due to their lack of other employment options.*¹¹

¹⁰Australian Bureau of Statistics, 2014, *Employee Earnings, Benefits and Trade Union Membership, Australia, August 2013*, (cat no. 6310.0) and Independent Inquiry into Insecure Work in Australia 2012, *Lives on Hold: Unlocking the Potential of Australia's Workforce*, <<http://www.actu.org.au/media/609158/lives-on-hold-final.pdf>> page 21.

¹¹Jesuit Social Services, November 2015, *Jesuit Social Services Submission to the Victorian Inquiry into the Labour Hire Industry and Insecure Work*, <<http://economicdevelopment.vic.gov.au/about-us/strategies-and-initiatives/inquiry-into-the-labour-hire-industry-and-insecure-work/inquiry-into-the-labour-hire-industry-and-insecure-work-submissions>> p.5.

6. Case studies – Employee perspective

6.1 IEU members' experiences of fixed-term contracts

In its submission to the Victorian Inquiry into the Labour Hire Industry and Insecure Work, the IEU invited its members to comment on their experience of fixed-term contracts. Below is a sample of comments and experiences of employees. All names are pseudonyms and have been provided by the IEU to protect members.

6.2 Employees can face discrimination

I am a part-time, fixed-term employee at a Catholic secondary school. I may be about to sign my 3rd contract in a row (if I'm lucky ...) and have been employed with Catholic Ed for a period of 7 years now. I am a mum of a young child and another on the way (my school doesn't know about number two yet and unfortunately, due to the risk that they won't give me another contract if they know, that secret will have to stay with me well after the time in which I SHOULD be able to share my happy news). Without this contract I will not be entitled to my maternity leave which, after 7 years of dedicated service I feel I fully deserve. This school is losing three teachers this year, two of whom are giving up their ongoing positions. This is the second year in a row that this will happen. However the school will NOT offer me one of these ongoing positions as I am a young mum.

Jamie, Teacher

6.3 Employees are unable to plan for the future

You don't buy furniture or don't go on holiday because things have to be booked in advance. You don't know whether or not, come Christmas, you're going to have a job.

Christine, Learning Support Officer

6.4 Employees face hardship and suffer personally

On a more personal level, it has been a struggle to obtain credit and a home loan and the insecurity of employment means that loan providers view you as a greater risk and therefore charge a higher rate. Simply, being in insecure employment creates stress for me and my family. Having secure ongoing employment would allow me to plan more comfortably for the future and allow me to feel more settled in my job and career as well as my home.

Emma, Teacher

I have been employed at the same Catholic primary school for the past 12 years always on a contract. Each year I leave our Christmas function wondering if I will have a job next year as we are not told until towards the end of the Christmas holidays. We don't know if we are returning, or what our hours or days will be. This makes life a little difficult as I can't make any plans for the following year. But what is more frustrating is that I am constantly on the look-out for another position 'just in case'. I feel totally unvalued, that my experience and dedication to the school amounts to nothing.

Julie, Learning Support Officer

6.5 Fixed-term contracts create divisions in the workforce

I got a contract for both Term 3 and 4 at a Catholic school. The school then offered me a contract for this year while 'letting go' another fixed-term teacher who had been there 3 years. As of the 11th of November, none of the contract staff know if they have a job for next year.

Matthew, Teacher

6.6 Fixed-term contracts undermines quality education

I have been on back-to-back fixed-term (12 month) replacement contracts at the same school for 4 years. I have just been renewed for a fifth 12-month contract for the 2016 school year. Being on a 12-month contract for 5 consecutive years has caused significant personal hardship. It has placed me under undue pressure every year particularly in Terms 3 and 4 when as well as teaching a full load and taking on many hours of co-curricular activities (GSV Sport) that are not within school hours, I have had to update my CV, draft cover letters and write responses to key selection criteria. As much as I wish this were not the case, I believe this negatively impacts upon my students, as time that I could be spending preparing lessons, marking work and creating tasks is spent looking and applying for jobs so that I can continue to pay my rent and bills.

Jennifer, Teacher

Staff are distracted and stressed about contract renewals. This results in mistakes which at best decrease productivity, and at worst affect public relations and the reputation of the school. Stress erodes the patience and tolerance levels of teacher aides who are employed principally to work with physically and emotionally demanding students. And stress impacts on relations between staff, creating an unhealthy work environment, occasioning the need for intervention and conflict resolution.

Toni, Teacher

7. Case studies – Principal perspective

In 2015 the Industrial Relations Unit along with the IEU spoke with six Victorian Catholic school principals regarding fixed-term employment within their school. The perspectives highlight the individual pressures facing schools, the wide variety of staffing situations, the balancing act required by principals and difficult employment decisions being made at Victorian Catholic schools.

The case studies below have been edited to read as a story and to remove identifying features of the principal and school.

7.1 Declining numbers and managing a high staff-to-student ratio to deliver to students with special needs

My school has a strong reputation for assisting and supporting children in our parish with special needs and 20% of students receive government funding for their learning needs. However, we are also dealing with low enrolment levels and a perception in the community that our main focus in the school is only for special needs students.

We have had declining enrolments since 2010, which meant the school had significant budget and financial issues in 2011 and 2012 with a budget blowout of over \$300,000. During this time everything was done to avoid making staff redundant including keeping staff on fixed-term contracts. If there were to be redundancies, I would consider the fixed-term staff as being the same as ongoing staff in terms of entitlements to severance pay.

Our school employs a high percentage of learning support staff (LSOs) to provide additional support to students and teachers. To meet these needs, our school employs approximately one employee for every four students. My experience has been that the LSOs like to work part-time and in some instances I have three LSO staff to make up one full-time-equivalent staff member. The majority of our LSOs are employed on fixed-term contracts due to our budget concerns

and funding allocation but we will be seeking to change this in the next school year.

In relation to teaching staff, six out of the seven classes at my school have a job-sharing arrangement, which increases staffing costs. Job sharing works in our school because we need to manage our obligations to returning employees who are on parental leave.

In the past, the school has used fixed-term contracts to deal with the school's financial issues and to avoid redundancy situations. With a high number of LSOs, it is difficult to manage the funding, because this is not confirmed until the last week of Term 4.

Follow up with the school in Term 1, 2016 found that the principal had provided a majority of the LSO staff with ongoing contracts. From the start of the 2016 school year, more than 75% of LSOs were on ongoing contracts.

7.2 I invest money in teachers and I have fixed-term contracts to replace staff on leave

My school is small but highly multicultural, with well over 98% of students coming from language backgrounds other than English, and from just under twenty different cultural and ethnic backgrounds. Unfortunately, the enrolment levels are not growing, and we will reduce the number of classes from seven to six in the new school year.

I have a very tight budget and I need to find an extra \$1300 per student. I find it difficult because my knowledge of our financial status is only clear in late September each year. I have 24 staff members, 12 are ongoing and 12 are fixed-term.

The teaching staff at the school are all very experienced and the majority are at the top level under the VCMEA, T2-6. This limits what I can do with the rest of the school's staffing budget. Half the teachers are permanent/ongoing and half are on fixed-term contracts. However, the reason for every single one of the fixed-term

contacts is to replace ongoing staff who are taking leave. They have a right to return.

I focus on putting more money into employing teachers over learning support assistants because that is where the educational outcomes will be achieved in literacy and other key learning areas at my school. For example, the school employs four specialist teachers and there are extra teachers in the prep and first grade classes, extra release teachers for reading recovery and literacy. There are only two LSO staff employed at the school and both are on fixed-term contracts.

Personally, I want to give the fixed-term teachers permanency but I do need certainty in the budget and need to know the intentions of my teaching staff who are on leave (maternity and sick leave).

Follow-up with the school in Term 1, 2016 found that the principal had offered ongoing positions to two of the fixed-term teachers and they had accepted.

7.3 There needs to be more guidance

I have been principal of a growing school for many years. I don't believe we have significant numbers of staff in fixed-term employment. The school employs over 50 staff and if teachers or other staff are employed on fixed-term contracts it directly relates to staff being on leave for long periods or funding reasons.

My teaching staff are nearly all ongoing and where I have staff on fixed-term contracts they are to replace staff on extended leave or ones who have not returned to their full-time position after being on parental leave. One teacher on parental leave holds two ongoing positions.

I have had almost all my learning support staff on fixed-term contracts because the funding varies from year to year. In the last few years I have seen my funding decrease and I have not renewed some employees' contracts because of this. I was not aware that that was not a legitimate reason for LSOs to be fixed-term. The LNSLN (now SWD) funding is difficult because schools are funded on the head count but this

is not known until the end of Term 4. However, a school needs to plan and advise staff in Term 3 about the next school year. If the fact that LNSLN (SWD) funding is unknown or variable each school year is insufficient reason for using a fixed-term contract for LSO staff, then I think principals need clear information and protocols on how to vary hours of work for ongoing staff. I have never used variation in hours for LSO staff because we have tried to increase the part-time work available to those staff members.

I would need assistance in managing my LSOs and other staff members if I should have more ongoing employees. I was not aware of the mechanisms in clause 15 of the VCEMEA to deal with variations of hours.

Follow-up with the school in Term 1, 2016 found that the principal had offered ongoing positions to three teachers and one administration officer who had been previously employed on fixed-term contracts.

7.4 I need to manage my employees' leave and I don't want to discriminate

As a principal I deal with a lot of issues and the work demands can be overwhelming. I have a lot of obligations and financial responsibilities, and the enrolments have declined by 20%. I don't want to make decisions that will disadvantage the students and the school as our budget is so tight. Our school's funding is extremely variable and this is exacerbated by the fact that I can't apply for funding for our prep students with special needs until they start at our school, even when they are known at kindergarten.

I am very mindful of my obligations to staff on parental leave. At one stage I had nine staff on parental leave, one of whom has been on extended leave and has not been in the workplace for eight years. When staff return to work they nearly always return part-time which increases my staffing costs. In addition, it is hard to manage and have successful job-sharing arrangements when teachers do return to work. I have had teachers indicate that

they don't want to write reports or undertake professional learning; as well as ones who stipulate the days and hours they are willing to work. Principals need assistance in managing this and understanding from staff.

In relation to my LSO staff, I am uncertain how to offer ongoing employment. Most are fixed-term and I can't offer them all ongoing employment. I think they are all deserving of the roles; they are fantastic with the students, families and teachers. If there were to be redundancies, I would consider the fixed-term staff as being the same as ongoing staff in terms of entitlements to severance pay.

Follow-up with the school in Term 1, 2016 found that the enrolments had continued to drop but there were no increases or decreases to the levels of fixed-term employment.

7.5 Principals need support

My school has increased student enrolments and very few fixed-term contracts. These are to backfill staff on parental leave and for a specific project we have this year. When we advertise positions, we clearly state whether they are ongoing or not so that all staff are aware.

I have previously offered increased hours to a fixed-term contract staff member who undertakes maintenance work but they refused due to their other work and arrangements. I have also previously had employment issues where I underpaid some employees. This was a steep learning curve and I think I could have benefitted from a better induction program in order to understand employment issues and global budgeting. I am also very reliant on my business manager for support.

Follow-up with the school in Term 1, 2016 found that two teachers and a school services officer (property maintenance) had been offered ongoing contracts.

7.6 Fixed-term staff are used when needed

The operation of the college across three campuses can be complex and as a result we need flexibility but we also rely on the staff's high level staff commitment to their students, the school and the community.

Over 80% of staff at the college are permanent but a school of this size requires some flexibility to have fixed-term contracts to facilitate staff on leave and for short-term vacancies. For example, currently 10% of the teaching staff and 10% of the administrative staff are on fixed-term contracts. In addition, some of the counselling staff are employed on contracts related to funding programs.

The staff is exceedingly generous in its commitment to improving student learning and to the college. New programs have meant a change in the way things are done, and while that can be challenging, the staff have persisted in making things work well. The college acknowledges that dedicated staff who work with enthusiasm is the key to preparing and managing student learning and development.

8. Reasons for high numbers of employees in fixed-term employment – A Discussion

Fixed-term employment as a form of insecure work is an issue in the education and training industry. Catholic education, along with the Victorian government education system, has a higher percentage of fixed-term employees than in the industry generally and compared with the national figures.

While Catholic schools have a higher than national average percentage of fixed-term contracts, it should be noted that fixed-term contracts serve a legitimate purpose. Where funding has been obtained for a specific project (as distinct from yearly funding for services to students), or where staff are on extended leave (such as parental leave) and require replacement, or where a redundancy situation is likely, it is plainly legitimate to employ staff on a fixed-term basis. While exploring what can be done to address the number of fixed-term employees in Victorian Catholic schools, it is important to protect the rights and entitlements of ongoing employees.

A discussion follows regarding some of the possible reasons for a high number of fixed-term employees.

Pressures on principals

School visits and interviews with principals revealed the pressure under which they work. They face a variety of governance issues and often require support in fulfilling their duties. A common theme that emerged from the interviews was that principals are eager to make their staff ongoing but they have genuine concerns regarding how to manage budgets and staff expectations. The follow-ups showed how principals can play an important role in solving the problem of fixed-term employment.

Financial constraints

Catholic schools rely on outside sources for their funding and this makes it difficult to plan ahead. As with many other publicly funded organisations, changes in funding structures can create anxiety and cause uncertainty when

planning for the future of a school. Principals' efforts to maintain flexibility in staffing costs in an uncertain financial environment is a reality; however, the use of fixed-term employment for reasons not permitted by the VCMEA does not afford flexibility or reduce financial liability, it increases risk.

In some schools there is a perception that fixed-term employment increases flexibility and decreases financial liability. This perception does not always reflect the staffing costs at the school level. For example, a number of principals said they would expect to pay redundancy to long-term fixed-term staff who were terminated due to a reduction in funding, even though this is the only financial benefit of fixed-term employment as outlined in section 2.8.

Sometimes the problem is compounded when a principal believes a fixed-term employee could benefit from having more hours of employment. A typical scenario is when a principal offers full-time work on a fixed-term basis because funding for that year is guaranteed rather than offering ongoing work at a lower rate because future funding is uncertain.

Entitlements and female employees

The VCMEA provides employees with 156 weeks of parental leave, which is more generous than the National Employment Standards, while the Long Service Leave provisions enable employees to easily transport their entitlements between employers, in what remains a vocational industry.

Catholic education employs a high percentage of female workers, with three in every four staff members being female. This is significantly higher than in other industries.

It is therefore understandable that a higher proportion of employees would be required to be employed on fixed-term contracts while ongoing female employees are taking their parental leave entitlements after the birth of a

child, and when employees return to work part-time before their child reaches school age.

Long Service Leave entitlements are also going to be a contributing factor to fixed-term employment numbers.

It should also be noted that, unlike other occupations where work can be redistributed when staff are on leave, teachers on leave almost invariably need to be replaced.

Primary schools

The statistics in section 3 demonstrate that employees in primary schools are more likely to be on fixed-term contracts. The reasons behind this may include: smaller budgets for primary schools; higher number of learning support officers; and smaller number of staff in leadership positions with the time and expertise to analyse budgets and review industrial issues.

Learning support officers and aides

The statistics given in Figure E (Section 3) demonstrate that employees in positions such as aide or learning support officer (LSO) are more likely to be fixed-term. The reason may include the perception of these roles as well as historical factors. While schools cannot function without teachers in the classrooms, thereby creating a more secure form of employment for them, aides and LSOs are subject to variable factors. For example, the funding for students with learning disabilities varies from year to year. Because this funding is largely spent on employing aides, it is not surprising that many schools have a perception that the aides employment is linked to funding.

In the course of researching this report, it became apparent that while the 'project' and 'task' reasons were given by schools for the high level of fixed-term contracts, in reality this could be attributed to the anecdotal reasons cited in section 1.3 of this Report.

Knowledge of the VCMEA and solutions

The school visits discussed in Section 7 highlighted that a practical application of the various clauses of the VCMEA would assist in managing fixed-term employees (or employees in general) during difficult situations. Managing tight budgets and decreasing enrolments were particularly difficult situations for some principals. More often the school leaders were deeply concerned about not contravening the rights of their ongoing employees.

Management of fixed-term employees

Clearly, all schools find the management of fixed-term contracts difficult and the needs of each Victorian Catholic school differ. Some common themes emerged from the case studies in Section 7 but they also show that it is impossible to set an optimum number of fixed-term employees in relation to ongoing staff. If a quota system were to be implemented, it would disadvantage a school where a high proportion of ongoing staff were on parental leave, or where a high proportion of students had learning difficulties.

9. Benefits to schools if they review fixed-term arrangements

While identifying some of the issues associated with fixed-term contracts, the benefits of having as many staff as possible on ongoing arrangements include:

- reduction in the administrative duties in managing contract renewals
- reduction in division in work groups, between teachers and LSOs, ongoing and fixed-term
- encouragement of an inclusive workplace where employees feel secure
- job security allowing staff to focus on learning and personal development
- greater employee engagement as they shape their identity more fully within a school
- reduction in stress for employees when they need to reapply for positions when their contract is nearing completion
- ability to advertise ongoing positions which attract the best candidates
- more positive educational outcomes for students as employees are not distracted by looking and/or applying for jobs
- consistency in teaching and learning staff
- reduction in staff turn-over.

10. A way forward – Proposed strategies to deal with fixed-term employment

10.1 Catholic identity

Ensuring justice and fairness in dealing with employees encourages Catholic education to find solutions to the high number of employees on fixed-term employment who are also generally the lowest paid workers in Catholic education. Drawing from the information in this Report, suggested strategies to deal with the issue follow.

10.2 Awareness

One of the key responses of principals was surprise at the size of the fixed-term issue. With competing demands on their time, many had not reflected or understood this. As demonstrated by many of the case studies, principals took positive steps once the issue was raised with them and they had an opportunity to reflect on their own school's situation.

In order to raise awareness, this Report will be circulated to Victorian Catholic schools. The IR Unit will also ask principals to consider the number of employees they have on fixed-term contracts when they receive inquiries into that area of the VCCEMA.

10.3 Increased understanding

During interviews for this Report, principals expressed a need for education on the best way to manage their global budgets and fixed-term employment, how to implement the VCCEMA and ensure the viability of their school. Many were unaware of the provisions in the VCCEMA to deal with the issues they face or how global budgeting could be used to manage peaks and troughs in their school's funding.

In order to support principals, the IR Unit will prepare a guide to fixed-term employment and provide education sessions for school leaders that focus on managing fixed-term employment in schools.

10.4 Support

Principals need support in their duties due to increased regulations and pressures. This includes managing the process of transitioning staff into ongoing employment in order to ensure collegiality in the workplace. As an example of this need, in one school, no staff member applied for ongoing LSO positions because they did not want to create division among this group.

The IR Unit will continue to support principals and encourage them to contact the IR unit when they have issues.

10.5 Support for primary schools

Primary school principals interviewed for this Report expressed the difficulties they face in managing employment and budget issues. Because primary schools are smaller than secondary schools they have fewer financial resources and a smaller leadership team. One advantage to Primary schools is that once an employee is moved from fixed-term to ongoing, there is a reduction in the administrative burden. It is important that any recommendations made as a result of this Report do not increase the administrative burden of primary school principals.

10.6 Use of the VCCEMA

The VCCEMA rightly provides fixed-term employees with protections against exploitation and nearly all the same entitlements as ongoing employees. However, the VCCEMA also empowers employers and principals to manage their budgets and workforce planning. Clause 15 enables principals to manage variation of hours and/or days and/or times of attendance for part-time employees. A copy of clause 15 is included in Appendix A.

This clause enables employers to vary the part-time hours provided the employer consults and demonstrates that the variation is required as a result of change in enrolment, curriculum, program, organisation, structure, technology or funding.

In order to support principals, the IR Unit will prepare a guide to fixed-term employment.

10.7 Summary of strategies

Below is a summary of the strategies outlined above:

- (i) The *Report into Fixed-Term Employment in Victorian Catholic Schools* will be circulated to employers in Victorian Catholic schools.
- (ii) Victorian Catholic schools will be asked to review staff currently on fixed-term contracts in light of this Report.
- (iii) The CECV will ask principals to consider the number of employees on fixed-term contracts when they have inquiries into that area of the VCEMEA.
- (iv) The CECV will prepare a guide to fixed-term employment that will assist principals in managing the issues discussed within this Report.
- (v) Education sessions with school leaders will focus on managing fixed-term employment in schools.
- (vi) The Industrial Relations Unit will continue to support principals and encourage them to contact the Industrial Relations Unit when they have issues.
- (vii) The CECV will encourage the enforcement of VCEMEA.
- (viii) The CECV will encourage the discussion of the issue during enterprise bargaining for a replacement of the VCEMEA.
- (ix) During school visits from Catholic Education Offices' finance staff, Catholic Education Office staff can follow up on the perceived need for employees being fixed-term.
- (x) Communication from the Executive Director of the CECV that this is a priority issue.

Appendix A – Clauses 11 and 12

11 Types of employment (ongoing, fixed-term, casual relieving, emergency teachers and casual)

11.1 General provisions

- (a) Employment under this Agreement shall be of an ongoing nature, except as provided under this agreement for:
 - (i) Employment for a specified period of time;
 - (ii) Casual Relieving Employees;
 - (iii) Emergency Teachers; or
 - (iv) Casual Education Support, School Services Officers or CEO Employees (Casual Employees).

11.2 Employment for a specified period of time

- (a) Employment for a specified period of time will only occur:
 - (i) when the position to which the Employee is appointed is to undertake a specific project for which funding has been made available to the Employer for a specified period of time;
 - (ii) when the Employee is employed to undertake a specific task which has a limited period of operation;
 - (iii) when the Employee is employed for a specified period of time, being not less than 11 weeks, to replace an Employee who is absent on approved leave;
 - (iv) when the Employee is employed for a specified period of time to replace an Employee whose employment has terminated after the commencement of the school year and the demands of the program or organisation of the workplace require the employment of a person for a specific period of time, provided that the period of appointment must not exceed the end of that school year;

- (v) when the Employer has good reason to believe that, should the Employee not be employed for a specified period of time, then a redundancy situation will arise, provided that the period of appointment must not exceed the end of that school year;
 - (vi) when an Employee is employed as a Placed Teacher, Primary Principal or School Adviser;
 - (vii) when an Employee is appointed to teach pursuant to a permission to teach issued by the Victorian Institute of Teaching, provided that the duration of the term of appointment must correspond to the period for which permission has been granted.
- (b) The duration of a period of an engagement for a specified period of time must not be set to avoid payment of entitlements (such as for non-term weeks) which would otherwise be payable to an ongoing Employee
 - (c) All service as an Employee engaged for a specified period of time counts as service in accordance with clause 6.
 - (d) On application, after three school years in one school on fixed-term appointments an Employee will be given preference for any appropriate vacancy in that school, all other things being equal.
 - (e) The Employer must, prior to advertising any position in a particular school for which a current specified-term Employee in that school may be suitably qualified, give the Employee notice in writing that the position is vacant and, if the Employee applies for the vacancy, must interview the Employee for the position.
 - (f) An Employee engaged for a specified period of time who will not be immediately re-employed or whose employment will

not be extended shall, not less than seven weeks prior to the conclusion of the specified period, be issued with a letter advising them that their employment is terminating. In the event that the Employer fails to issue the letter, the Employee will be paid an amount equal to their ordinary wages for any part of the seven weeks' notice not provided.

- (g) During the life of this Agreement, the Employers will, in consultation with the Union, implement
- (h) pro-active processes to ensure that the use of fixed-term employment is consistent with the criteria set out in clause 11.2(a). The Employers will cause the Union to be provided with relevant data on a quarterly basis.

12. Letters of Appointment

12.1 Letter of appointment

- (a) Upon engagement, each Employee (other than a Casual Employee) shall be given a letter of appointment. The letter of employment must specify:
 - (i) the category and classification of employment;
 - (ii) the pay level and commencing rate of pay;
 - (iii) superannuation entitlements; and
 - (iv) long service leave entitlements.
- (b) This letter must also specify:
 - (i) for an Education Support Employee, School Services Officer or CEO Employee: hours of duty;
 - (ii) for a Category B Education Support Employee or School Services Officer: any recall obligations (and conditions and payment for thereof);
 - (iii) for a Category C Education Support Employee or School Services Officer: the weeks of leave for the first school year; and
- (c) Where the employment is part time, the letter must also specify the:
 - (i) FTE;
 - (ii) days upon which work is to be performed;
 - (iii) hours of work for Employees other than Teachers or, in the case of Teachers, the number of scheduled class time hours.
- (d) Where employment is for a specified period of time, the letter must also specify:
 - (i) the reason for the employment being of fixed-term duration by reference to clause 11.2(a);
 - (ii) the relevant circumstances that give rise to that reason;
 - (iii) the date of commencement of employment and the date of cessation of employment; and
 - (iv) where the employment is for a specified period of time for the reason specified in sub-clause 11.2(a)(iii), the rights under this Agreement of the Employee being replaced.
- (e) Where the Employee is a Casual Relieving Employee, the letter must also specify:
 - (i) the temporary nature of the employment;
 - (ii) the expected duration of the appointment; and
 - (iii) that the period of appointment can be varied at any time subject to the return to work of the Employee being relieved.
- (iv) For an Education Officer with specific responsibility: the allowance level.

Appendix B – Clause 15

15. Variation of hours and/or days and/or times of attendance for part time Employees

15.1 Variations

- (a) An Employer cannot make a variation to a part time Employee's number of hours and/or days and/or times of attendance unless it can be demonstrated that such a variation is required as a result of change in enrolment, curriculum, program, organisation, structure, technology or funding.
- (b) In reaching the decision to make a variation to the number of hours and/or days and/or times of attendance of the part time Employee, the Employer will:
 - (i) Consult with the part time Employee and give due consideration to the impact of the variation on the part time Employee's family and personal responsibilities as well as other relevant circumstances;
 - (ii) Advise the part time Employee whether the proposed variation is required because of a change in enrolment, curriculum, program, organisation, structure, technology or funding; and
 - (iii) Advise the part time Employee of the proposed change to hours and/or days and/or times of attendance in writing.
- (c) An Employer cannot vary the number of hours and/or days and/or times of attendance of a part time Employee unless:
 - (i) the Employer has complied with clause 15.1(b) and the part time Employee agrees in writing; or
 - (ii) the Employer has complied with clause 15.1(b) and eight weeks' written notice of the variation is given to the part time Employee concerned (Employers are encouraged to give 10 weeks' notice). In the absence of the required notice, and where the change involves a drop in salary, the part time Employee's salary will be maintained at its former level for the period of the notice not given.