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3 July 2020

Jenny Macklin
Review Chair
Skills for Victoria's Growing Economy

Via email: skillsforvictoria@edumail.vic.gov.au

Dear Ms Macklin,

RE: SUBMISSION IN RESPONSE TO THE ISSUES PAPER FOR THE SKILLS FOR VICTORIA'S GROWING ECONOMY REVIEW

The Young Workers Centre (YWC) welcomes the opportunity to make a submission to the Issues Paper for the Skills for Victoria's Growing Economy Review.

YWC, at Victorian Trades Hall, was established in 2016 to break the cycles of exploitation at work for young Victorians. We educate young people on their rights, safety, and wellbeing at work via training programs available to all Victorian high schools, TAFEs and technical colleges. We provide free legal advice to young people to resolve workplace issues. We organise and train young people to develop campaigns to improve their workplaces. We document life at work through our young workers research project.

At YWC, a number of the cases our legal centre deals with are related to apprentices, in particular apprentices and wage theft, and we've assisted young workers seeking redress in a range of industries.

This submission sets out the chronic exploitation of apprentices across Victoria. Through detailing a number of case studies, it establishes how the current laws are failing young workers.

YWC calls on the Review to place addressing apprentice exploitation front and centre of any reform going forward.

If you have any questions or would like more information, please do not hesitate to contact me on (03) 9659 3567.

Thank you for your consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read "F. Sowerbutts".

Felicity Sowerbutts
Director, Young Workers Centre

Ref: FS:TC 92.32

Young Workers Centre



**Young Workers Centre Submission:
Skills for Victoria's Growing Economy
Issues Paper**

June 2020

Introduction

The Young Workers Centre (YWC) thanks you for the opportunity to make a submission in response to the Issues Paper for the Skills for Victoria's Growing Economy Review (The Issues Paper).

YWC, based at the Victorian Trades Hall, was established in 2016 to break the cycles of exploitation young Victorian workers face. We educate young people on their rights, safety and wellbeing at work through training programs available to all Victorian high schools, TAFEs and technical colleges.

Our vision is a state in which young workers are safe at work. They should never suffer harassment or bullying and they must have their legal entitlements provided. For this vision to be realised, we must encourage young people to speak up collectively and without fear. They should be able to join with other young workers in union to make changes and improve their workplaces and communities.

We organise and train young people to develop campaigns to improve their workplaces. We provide free legal advice to young people to resolve workplace issues. We document life at work through our young workers research project.

YWC believes that access to an excellent system of vocational education is a key aspect of justice for young workers. The courses undertaken at TAFEs and VET institutions have the potential to set young workers up in a secure job, with good wages and conditions for life. These jobs could provide the stability that young workers deserve, as they deal with the issues that life throws at them.

YWC endorses the recommendations contained in the 'Making Vocational Education and Training Work for Working Victorians' Report written by the Victorian Trades Hall Council, which focus on ensuring the TAFE and broader vocational education system serve working people, teachers and students now and into the future.

While endorsing the position of VTHC the YWC will focus this submission on the experiences of apprentices in the VET system.

Apprentices as a group stand at the intersection between skills, industry and employment policy. While they interact with a TAFE, ultimately the majority of their training is undertaken in the workplace with their employer. Apprenticeships are traditionally well sought after by young workers, because of the opportunity they provide to earn a wage while learning fundamental skills to be set up for a job with a good income and good conditions, in what are often stable industries.

However, for many apprentices, this is no longer the case.

Apprentices have frequently sought the assistance of YWC. Since our opening, they have been one of the most common groups requesting advice on the issues of wages and wage theft, conditions of work, and bullying and harassment.

YWC has recently begun organising apprentices and we were floored by the exploitation they are subjected to.

Apprentices' Experience of the Workplace

Our research indicates that many young workers are subjected to wage theft and contraventions of their occupational health and safety conditions. At least 1 in 5 young workers have experienced wage theft,¹ and 1 in 4 young workers have been asked to perform work that made them feel unsafe.²

Young workers are routinely made to feel undervalued, unsafe and like their rights at work aren't important. This feeling is compounded in the case of apprentices.

Young apprentices have told us they've been assaulted, verbally abused, subjected to gendered violence, and harassed on the job.

Employers over-rely on apprentices for their wages and subject them to wage theft

We've regularly heard that employers exploit apprentice wages, with young workers being made redundant when their wages rise under industrial agreements, such as once they gain their trade or turn 21.

We've heard that employers commonly hire only apprentices due to the cheap wages, and as a result third year apprentices are teaching apprentices undertaking their first year. Any requirement for apprentices to be properly supervised is routinely ignored.

We've also heard that employers will take on young workers as apprentices, fail to sign them up to the relevant course within the requisite time period, and simply gain three months of cheap labour.

The following are a selection of experiences regarding wages that apprentices have shared with YWC.

"I have found out recently that I have been paid as a trade assistant rather than an apprentice. This means I was underpaid up to 5 dollars an hour for my whole apprenticeship." Apprentice Diesel Mechanic

"I was paid \$100 cash in hand per day. No super, no annual leave, no sick leave, no pay slips, no travel allowance. I would have to drive 100km a day, working 8-12-hour days." Apprentice Electrician

"My employer was a shifty person that tried to take as much advantage of his apprentice employees as possible. He was meant to pay for all our trade school expenses but he never did. He did not provide us with adequate PPE. He systematically removed all our working rights and lowered our pay to basically nothing. He removed our redundancy packages, our yearly pay rises, and our tea breaks. He sacked hundreds of employees and hired cheap apprentices. Then he would sack them and employ an even cheaper one. He would scream, yell and make derogatory comments at his employees. Employers out there nowadays are pretty much a bully / standover." Apprentice Plumber

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¹ Young Workers Snapshot: The Great Wage Rip-Off, Young Workers Centre, May 2017, p 7-8

² YWC Health and Safety Snapshot, p 7

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“As apprentices, my workmates and I worked unsupervised from second-year onwards. I have been forced to perform duties not related to my trade. There is a lack of training and communication around work related issues, sites and equipment.” Apprentice Refrigeration

“My first employer was always behind on pay. When I left, it took me eight months to get my benefits paid out. I thought my new workplace would be better but now I have been on the receiving end of workplace bullying, harassment and discrimination.” Apprentice Carpenter

“My first apprenticeship employer (Max Wu Plumbing and Construction) advertised for an apprentice but made me work 6 months without signing me up. Once signed, he did not pay me for the week I went to trade school. He also made me work long days from 7am to around 6.00pm, and at times up until 9-10pm. He paid me \$500 a week for the 5 days’ work. Worst of all he did not even get my tax file number from me so I was paying back money every year to the ATO. That’s when I left him. I realised that he is preying on people for cheap labour.” Apprentice Plumber

“I was a first year going on to be a second year apprentice. I worked in a locksmith shop by myself, running the shop. I would maybe see my boss once a week. I worked 6 days a week and did not get paid for one Saturday. I did that for 10 months.” Apprentice Locksmith

“I worked for six months, and thought I was classed as an apprentice. The company did not sign me up to a TAFE straight away. When I hit six months, I talked to the boss about signing me up and I then got fired. Apprentices were a way to get cheap labour for this company.” Apprentice Fitter and turner

“I had just become a second year apprentice, and was put on call. I was called out at 2 in the morning to fix a fault and when I arrived, I told the customer I am only an apprentice and do not know what the issue is. The client told my boss they were unhappy with an apprentice coming out by himself. The boss then abused me from then on saying I should not have told the client I was an apprentice. It got to a point where I left the company to go elsewhere as I could not work in that crap environment anymore.” Apprentice Security

YWC has also assisted a number of apprentices with legal advice. The following are stories of some of the young apprentices who have asked YWC for help in standing up for their rights against wage theft.

Gavin, Air Conditioning Repair Apprentice:

As a first-year apprentice, Gavin began work with an air conditioning repair company. He was not paid Award rates throughout his apprenticeship at all. Nor was he paid appropriate overtime rates, and he was consistently denied annual leave loading and his superannuation entitlements.

Gavin’s experience of wage theft left him almost \$2,000 in wages owed.

Under his apprenticeship contract, Gacin was entitled to be reimbursed by his employer for his TAFE fees. This never eventuated, and he was forced to pay for all his own fees, worth approximately \$3,000.

Luckily, YWC were able to negotiate a resolution of the full amount of wages and superannuation that was stolen from him.

Bobby, Apprentice Bricklayer

Bobby sought the assistance of YWC as a first year apprentice bricklayer. During his first year he did not receive payslips, was paid incorrect wages resulting in wage theft, and received no superannuation whatsoever.

His work was extremely insecure, and he would often be told not to come into work at the last minute.

Bobby was subjected to immense bullying from both his co-workers and employer. He was subjected to verbal and physical abuse, including one instance where he was punched in the face and given a blood nose.

Bobby was also repeatedly pressured to engage in recreational drug use with his co-workers and supervisors. On one such occasion, his direct supervisor said he would terminate Bobby's employment if he did not take anything.

YWC were able to refer Bobby to his union, the CFMEU who have agreed to assist him and have begun the work of organising his workplace.

Apprentices have their occupational health and safety rights ignored

Apprentices have told the YWC that they're made to feel their lives are expendable, and that they've been forced to work in conditions where safety procedures are completely disregarded. One apprentice told us they were forced to work in the same unsafe conditions that had previously resulted in another apprentice's death.

These kinds of experiences are not rare. The YWC finds the attitude of employers towards apprentices nothing short of shameful, and it has to change.

The following are a selection of apprentices' experiences with safety at work that they have shared with YWC.

"I was expected to work very long hours. Working more than 45 a week was the norm in dangerous conditions such as erecting scaffolding without a licence, operating cranes with the safety turned off at heights without any fall protection, and no masks while concrete grinding. I was also bullied and verbally abused often." Apprentice Carpenter

"There is a harassment and bullying attitude used by the office towards the tradesmen and apprentices when they ask about workplace rights. I have been personally attacked and vilified. False statements were made that were used to intimidate me and try to make me believe that my quality of

work was poor. I have had my job threatened just after I got the confidence to talk about our unfair treatment. I never raised another issue as I was scared for my job.” Apprentice Refrigeration

“My employer never paid overtime, they didn’t supply any dust masks, and didn’t care about our safety.” Apprentice Carpenter

“I was often not paid for overtime while also working with dangerous chemicals without any chemical suits.” Apprentice Greenskeeper

“I was put onto a roof with no harness doing solar work. I have heard a story of an apprentice falling through a skylight and dying, yet we seem to still take no safety precautions.” Apprentice Electrician

“I got yelled at and had my job threatened for not working in 40-degree heat on a roof. I felt I was close to passing out yet that didn’t seem to matter to our boss.” Apprentice Electrician

“I was always forced to work overtime. They would say the over-time was optional but if I rejected it, I would receive all the crap jobs for the next few months. I was even set up to fail by my boss. He gave me bad information then when I completed the task, he abused me and then gave me a written warning.” Apprentice Electrician

The YWC legal centre has also assisted a number of apprentices dealing with contraventions of their OHS rights. The following are a few examples of cases YWC have provided assistance with.

Miriam, Apprentice Baker

Miriam began her apprenticeship at a bakery in rural Victoria. Here, she was repeatedly subjected to gendered violence in the form of sexual harassment by the bakery’s head baker. The worst instance of which involved the head baker distributing images of Miriam obtained through hacking into her social media account. The images were sent to her friend’s family and partner.

Miriam suffered severely with her mental health as a consequence of this abuse, including an emotional breakdown.

Her employer did not recognise this as serious workplace bullying or gendered violence at work, saying that the behaviour constituted a ‘grey area’. Both she and the head baker received a warning.

The head baker continued to harass Miriam until she felt she had no other option than to resign.

Miriam contacted WorkSafe and attempted to make a WorkCover claim. She has not received a response. YWC are in the process of assisting Miriam.

Aaron, Landscaping Apprentice

Aaron was a second year landscaping apprentice when he contacted YWC. He has a medical condition that results in a number of small scars and scabs on his face and hands. When Aaron’s supervising employer saw this, he was accused of drug use and was verbally abused in front of his work mates.

Aaron was summarily dismissed for the alleged drug use.

He suffered seriously with his mental health as a result of his employer's abuse. Aaron was unable to work for an extended period.

YWC was able to negotiate a compensation on behalf of Aaron reflecting his mental health injury.

Apprentices have no support

Critically, apprentices feel the system is so stacked against them, they simply cannot stand up for themselves. They are so exploited, and there is such an oversaturation of apprentices due to apprentice wages that they feel vulnerable to the whim of their employer. The apprentices who have had success in standing up for the rights and entitlements have done so with the help of the relevant union, however generally union membership is so frowned upon, apprentices feel they cannot reach out for support.

Within trades, apprentices tell us that employers work together, and anyone who is deemed a 'troublemaker' will not be given an opportunity to continue their trade with a different employer. There is no certainty and no protections for apprentices.

TAFEs and other providers can offer little help. The competitive nature of TAFE placements and enrolment-based funding means that, even if the institution wants to support an apprentice, they are reliant on employers providing them with students to make up their numbers. The YWC has heard that TAFEs feel they cannot stand up to employers who are doing the wrong thing. Even where TAFEs can support their students who have had bad experiences with their employer, nothing is stopping that employer from taking on another apprentice and subjecting them to the same exploitation. In fact, we have heard that TAFEs actively encourage their apprentice support officers to move on apprentices to another employer, without addressing the problem or holding the employer to account. They feel they are unable to address the underlying issue due to the system of funding.

There is nothing to stop the cycle of abuse.

Employers have gained the entire system. Young apprentices are standing up to say this is no longer acceptable.

The following are a selection of apprentices' experiences with adverse action that they have shared with YWC.

"I was constantly being ripped off and treated like crap. The years I've spent as an apprentice are the worst years of my life. The trade schools were always nice and helpful but I felt companies could do what they want with little consequences." Apprentice Plasterer

"I tried completing my apprenticeship with two different companies. At both companies I was bullied and harassed by my supervisors. I was also poorly supervised and felt unsafe. When I went to raise issues, I only made matters worse for myself. I gave up my apprenticeship after two years as I felt no

one could really help me without getting lawyers involved and I could not take the workplace anymore.”
Apprentice Boilermaker

“A huge issue was that my employer didn’t pay for my TAFE. I also wasn’t provided equipment and had to use my own car for work, driving more than 100kms per day.” Apprentice plumber

“My employer would not pay my TAFE fees as they didn’t think they had to, and threatened me with my job when I spoke up about it.” Apprentice plumber

“I was constantly threatened with my job whenever I brought up issues. This includes pay rate and safety issues. I went through different processes to try and get help but they went nowhere. I felt trapped and like this is just the way it is.” Apprentice Electrician

“It was rough to start with at my company but I got help from my union. We have now fixed it and it has become a better company.” Apprentice plumber

“How I was treated is disgusting. I wouldn’t recommend doing a trade.” Apprentice Cabinet maker.

“I work for a really great company now, but previous to this I was bullied and harassed at my old workplace for being a female apprentice.” Apprentice Cabinet maker

“I was working for a regarded carpenter in my small town. He treated me like crap and one day assaulted me. The support providers did nothing for me and I felt like I just had to finish my apprenticeship then leave the trade.” Apprentice Carpenter

A non-competitive funding model for TAFEs, that prioritises a holistic approach to and support for apprentices and that monitors employers’ treatment through a licensing regime is desperately needed to address this problem, and to make sure apprentices have a fair experience of the workplace as they undertake their training.

A number of apprentice support officers have begun referring apprentices to YWC over quite simple issues of workplace rights. Knowledge on this topic must form part of training for apprentice support officers as well as part of the curriculum for apprentices and all VET students.

The impact of COVID-19

The lockdowns and subsequent economic crisis caused by COVID-19 has been a catalyst for bringing these issues to the fore for young apprentices.

YWC has had a number of apprentices report their poor treatment through JobScammer.³ This is a tool developed by the Victorian Trades Hall Council and YWC to enable workers to tell their stories of mistreatment by employers in regards to JobKeeper; a supposed universal subsidy with the purpose of keeping workers connected to their employer throughout the crisis.

³ <https://www.jobscammer.com.au/>

The economic impact of the virus has demonstrated how truly dispensable apprentices are made to feel by their employers. Many had their employment and apprenticeships terminated overnight, leaving them in the dark as to how to find employment or continue with their training.

This treatment of apprentices during a global health crisis, much like instances of wage theft, contraventions of OHS and the little to no regard for their training, is a symptom of the broader problem. Many apprentices are employed solely for their cheap labour and their employers pay no mind to their special obligations in terms of training.

The following are just a handful of stories young apprentices have told YWC during the COVID-19 crisis.

School based apprentice hairdresser

This young worker is a school based apprentice hairdresser in regional Victoria, and contacted YWC because of how the COVID-19 crisis had impacted her and her apprenticeship.

She began her apprenticeship in mid-2018, but was not officially “on the books” until the start of 2019. She initially suspended her apprenticeship in early April 2020 because she believed her employer had been paying her lower than her minimum Award entitlements. She cancelled the suspension later that month as she felt she had no other option due to the financial impacts of COVID-19.

Her employer told her she would have to re-commence work in order to receive the JobKeeper subsidy, and would have to work to make up the \$1,500. She knows of six of her co-workers who are full-time employees and are not working but still receiving the wage subsidy. She does not think any of the part-time or casual workers are receiving the payment, no matter how long they’ve been with the employer.

This young worker gained advice from the Department of Education, Fair Work and Legal Aid who advised that her employer could not require her to work extra hours, especially as a school based apprentice. She communicated this to her employer.

A few days later, her employer told her via Facebook messenger that she was made redundant. Unsatisfied, she met with her employer and requested she be re-employed and put on JobKeeper. Her employer told her it would be unfair for her to get the same amount of money as full-time employees and this would affect morale.

On 1 May, she received a letter of termination saying that her employment ended due to redundancy caused by COVID-19 and an acknowledgement that she had not been correctly paid.

She has joined Hairstylists Australia, the union for hairdressers, and is seeking assistance on how to stand up against her termination and wage theft.

Electrical Apprentice

This young worker had been with their employer since November 2017, and was in his third year of his electrical apprenticeship. He had his employment terminated in late April 2020.

He was given no notice and no separation certificate. He was told over the phone that there wasn't enough work and was given nothing in writing. He was simply told that his work had finished and that the company will not put him onto JobKeeper.

Under any other circumstance this would be a clear instance of unfair dismissal. This young apprentice feels that their employer used COVID-19 as a guise for letting him go without consequence.

Apprentice Hairdresser

This young apprentice was in her third year of a hairdressing qualification. When the lockdowns came into effect, she was told simply by her employer that they could not afford to pay her anymore.

She was given no notice and has not received termination pay.

She was told by her employer that they could not afford to pay for JobKeeper on their own books until they would be reimbursed for the subsidy.

This young apprentice told YWC that she had not been receiving her superannuation for a while during her period of employment, but hadn't questioned it. After her termination she followed up the missing super, only to be told her employer did not have the money to pay for it, and had applied for an extension without communicating this to her.

She is extremely worried about how she will finish her apprenticeship now.

Supporting Apprentices Requires a Systematic Overhaul

The attitude towards apprentices demonstrates that systematic change is required. TAFEs unfortunately do not have the resources to support apprentices or other students dealing with workplace issues. These issues are discussed in depth in the VTHC Report.

To fully support apprentices and enable the system to support their success, TAFEs must have access to non-contestable funding, so they don't have to compete for enrollment numbers, and retain the good graces of employers who are doing the wrong thing by young apprentices. TAFEs also need identifiable funding for professional and support staff who provide the absolute best experience for apprentices undertaking their qualifications.

TAFE teachers must be responsible for developing a genuine curriculum, to ensure courses are of the highest quality, that teach long term foundational skills, not just discrete skills demanded by employer groups. Apprentices must also be able to access the support of their union, but often young workers don't know anything about unions or their workplace rights. Curriculum must cover these vital topics.

Most importantly, TAFEs and the broader vocational education and training framework must establish a system for ensuring employers do the right thing by their apprentices, which states exactly how they will conduct their on the job training. Employers must be held to account in instances of exploitation of apprentices. YWC supports the adoption of licensing apprentice employers, and of reforming apprentice contracts to explicitly state the obligations of employers in terms of training.

Recommendations:

1. Abolish apprenticeship wages and junior wages, so that any distinction based on age or apprenticeship status in industrial instruments is illegal.
2. Establish a unified TAFE system, so TAFEs no longer have to compete to receive apprentices and can implement practices to support young workers.
3. Adopt a holistic approach to vocational education, so that students and teachers alike are well supported by professional specialist staff. Identifiable (recurrent) funding must be reinstated for these workers, who play a crucial role in supporting apprentices.
4. Reintroduce genuine curriculum, including apprentice curriculum, and make the components that employers are responsible for explicit.
5. Union inductions to be a mandatory component of the curriculum, and must occur within the first month of a student beginning their course.
6. Apprentices and students must undertake and pass a compulsory unit on workplace rights, and apprentice support officers must undergo training on workplace rights.
7. Introduce a licensing system, so that only employers who can prove they have not been involved in wage theft, OHS contraventions and who adhere to apprentice ratios can be licensed to take on apprentices.
8. Reform the apprentice contracts, so they clearly state the exact obligations on employers, including what skills they are responsible for developing, how they will do so and how these activities will be supervised. Unions and the TAFE should also be a party to these contracts.
9. Correct supervision must be maintained through supervision guidelines for each industry. Unions should have a right to inspect workplaces where apprentices are employed, and ensure these guidelines are being met.
10. Consequences must be introduced for employers who exploit young apprentices, including fines and a blacklist maintained by support staff across TAFEs.
11. Introduce statewide ratios for apprentices. There should be no more than 1 apprentice for every qualified trade worker.