WAGE THEFT IN VICTORIAN GOVERNMENT SCHOOLS
AN INTERIM REPORT MAY 2017
| 1. Introduction                  | 3 |
| 2. Audit Method and Sample      | 4 |
| 3. Demographic Overview: Profile of a school cleaner | 4 |
| 4. Key Findings: Wage Theft     | 6 |
| 5. Key Findings: Underground, Unregulated Workforce | 8 |
| 6. How Victorian Schools are Cleaned | 10 |
| 7. Recommendations              | 11 |

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In January 2017, United Voice commenced a comprehensive audit of the pay and working conditions of Victoria’s public school cleaners. This report presents the interim results of the audit.

The audit was prompted by school cleaners complaining of being paid less than the award minimum rate of pay.

The report starts with an overview of how United Voice conducted the audit, and the sample of schools audited. Next we provide a profile of who our Victorian school cleaners are today – a vulnerable workforce of short-term workers facing significant exploitation.

The report then makes two key findings. The first is that significant wage theft is occurring in Victorian schools, leaving cleaners underpaid, exploited and vulnerable. The second finding is that an underground and unregulated workforce is cleaning schools, posing significant risks to the school community.

We outline the contracting framework that causes the problems revealed by the audit.

Finally, we make recommendations for ensuring cleaners and the school community are safe and secure.
DEMOGRAPHIC OVERVIEW:

The school cleaning workforce has changed dramatically over the past 25 years. Once school cleaners were long-term, public employees like teachers and teacher aides. Today schools are more commonly cleaned by a high turnover workforce, one quarter of whom are on temporary visas, many of whom are scared to speak out about their treatment.

HIGH-TURNOVER WORKFORCE
The turnover of cleaners in Victorian Government schools is routine and the majority of them are unlikely to have been working as a school cleaner for more than 2 years. Over a third, 34.9%, of all school cleaners have been at their current school for less than one year with over half, 57.38%, having been cleaning their school for less than two years.

The industry also sees a high proportion of visa-based work, with some cleaning contractors almost exclusively employing foreign workers on temporary visas. Out of the cleaners surveyed, 28.11% were on temporary visas. 17.44% of these cleaners were on international student visas.

INSECURE WORKFORCE
The workforce is highly insecure with 68.32% employed as part-time and a further 14.89% employed as casual. The average number of hours of work that a school cleaner receives each week is just 19, half of that a full-time employee would receive.

NEW MIGRANTS AND HIGH LEVELS OF FEAR
The workforce is highly diverse with 72.48% born overseas, with many coming from countries with poor human rights records or limited economic opportunities. When they arrive in Australia, many school cleaners do not speak English. They have no understanding of Australian employment law and do not know what they are entitled to be paid.

PROFILE OF A SCHOOL CLEANER

During the course of the audit, United Voice officials encountered many cleaners that had only recently arrived in Australia. Many were fearful of losing their jobs or getting into trouble with their employers, should they speak with us. We encountered supervisors shouting at cleaners on numerous occasions, telling them not to reveal to us how much they were getting paid. It was obvious that there is a culture of fear among many school cleaners.
CASE STUDY 1: MICHAEL

When we first heard from Michael (not his real name), he was too scared to reveal his identity to us. Michael phoned us to complain about the conditions that he and other cleaners were working under. The cleaning contractor, who cleans roughly fifty government schools, had been pressuring a group of their cleaners to enter into sham-contracting arrangements and not paying them annual leave, sick leave or superannuation. Michael eventually built up the courage to meet with us at the union offices but was terrified of the consequences should the company or its supervisors find out. When we investigated his claims we found that many of his colleagues were employed through these illegal contracting arrangements and also found some paid as little as $12.50 an hour, cash in hand. Many of the other cleaners were also scared to speak up about their experiences and reported being bullied and harassed by their employer.
4. KEY FINDINGS: WAGE THEFT

Government schools should be workplaces where cleaners can expect to be paid their legal award minimum wage, enjoy a secure job, and be treated with respect.

However, in government schools, we find high levels of exploitation, wage theft, and fear amongst a high-turnover workforce.

THE VAST MAJORITY OF CLEANERS ARE UNDERPAID IN VICTORIAN GOVERNMENT SCHOOLS

The minimum rate of pay for cleaners in state government schools is set by the Cleaning Services Award 2010. Part time cleaners are entitled to be paid at least $21.75 per hour, or $24.59 for hours worked past 6:00PM or before 6:00AM. Using these rates, 80.54% of cleaners are underpaid for the work that they do. They commonly do not receive penalty rates for evening or weekend work and many are also forced to do unpaid overtime. The underpayments range from $0.12 cents to $12.08 per hour. The mean underpayment is $3.16 per hour, meaning a cleaner working the average 19 hours per week is underpaid $3,122.08 per year.

80.54% of cleaners have been underpaid on average about $3100 per year; there are up to 4050 cleaners in schools in Victoria; we estimate this wage theft to be about $10,183,819.00 per year.

There are approximately 4000 cleaners working in state government schools. This means that the wage theft from school cleaners in Victoria could be as much as $10,183,819.00 each year.

While conducting the audit, union officials have regularly found cleaners being paid below the minimum wage, including two brothers who were paid $12.50 an hour, cash in hand with no leave or superannuation. We also encountered a cleaner who was paid $100 cash for a 38 hour training week, which is $2.63 per hour.

Pay rates can be even worse for sole traders who can end up earning significantly under the national minimum wage. The average salary for a self-employed school cleaner, after business costs, is just $27,042 per year, and many of them are unable to pay themselves the correct entitlements on top of this. 69.7% could not pay themselves sick leave, 63.6% could not pay themselves annual leave and 30.3% could not pay themselves superannuation. Some of these cleaners were effectively working for as little as $6.07 per hour.

For sole traders, 54.4% have had their contracts frozen or reduced in the last 3 years.

VICTORIAN CLEANERS OFTEN WORK FOR FREE

Many Victorian school cleaners are often working for free, with 32% of cleaners reporting that they do not get paid for doing extra work beyond their rostered shift. 28% of cleaners said that their shifts were not long enough to complete the work and that they had to regularly stay longer if they were to finish the job.

Regular overtime ranged from up to 30 minutes to two hours per shift. If a cleaner was doing 30 minutes of unpaid work per shift, this would equal an estimated underpayment of at least $2458.30 per year.

Unpaid work is not just an issue for those cleaners employed by a contractor. Sole traders also report having to do extra work that they’re not paid for. There is pressure for them to perform this extra work to help keep the contract. Out of those that saw a real-terms decrease in the value of their contracts, 36.8% of them have been required to do extra work for no extra money. This extra work is quite often caused by an increase in the number of children at the school and the opening of new classrooms or buildings but the cleaner is not compensated for the change in workload.

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CASE STUDY 2: CLEANER BEING UNDERPAID – JORDAN AND BARBARA

Jordan and his wife Barbara (names have been changed) hold the cleaning contracts for his local primary school (for seven years) and high school (for 13 years). They were both cleaners for the Department for Education before 1992, when school cleaning was privatised.

Neither of their cleaning contracts have increased in value over the last three years, seeing a drop in real terms. They say that they’re increasingly made vulnerable to failing equipment and other emergencies due to the contract freeze. If a vacuum needs replacing them it comes out of their wages.

Jordan, working 45 hours a week between the two schools, and earns $10,400 for the primary school and $20,000 for the high school. This works out as $12.99 per hour and doesn’t include all of the paperwork that he completes in his free time. In addition to this, neither Jordan nor Barbara are able to pay themselves sick leave or annual leave.

Barbara told us that they are increasingly worried about being undercut and losing their contract to a company that isn’t playing by the rules. While they have a good relationship with their school principal, they know of other local schools that have given their cleaning contracts to companies that pay below the minimum wage and cash in hand.
Government school cleaning contracts should pay award wages and demonstrate the highest level of compliance with employment laws.

However, in government schools, we find a network of fly by night contractors, with instances of cash payments, sham contracts, off the books workers and workers without appropriate checks.

CASH IN HAND PAYMENTS ARE BEING MADE IN STATE GOVERNMENT SCHOOLS

We’ve seen a number of example of cash-in-hand payments during our audit of government schools. At one school we visited, we met two brothers who had recently arrived in Australia. They had no knowledge of employment standards here. Their supervisor, who is also their cousin, told us they were being paid $19 per hour for their work, which itself would be an underpayment. When we spoke directly with the two brothers they explained that they were actually being paid just $12.50 per hour cash in hand. The total of them would be given $50 cash between them to complete 2 and a half hour each, cleaning the school.

SHAM CONTRACTS ARE COMMON IN STATE GOVERNMENT SCHOOLS.

17.6% of schools that union officials visited had cleaners working in sham-contracting arrangements. Cleaners are required to work under an Australian Business Number (ABN), to create the impression they are a sole proprietor, not an employee (despite working exclusively for a cleaning contractor, under its control and direction). The Cleaning contractor would then pay the cleaner a flat rate without giving them annual leave, sick leave or superannuation.

At one school we spoke to a cleaner called Sam (name has been changed) was being paid just $18 an hour and wasn’t receiving any of his work entitlements. When annual leave and superannuation is taken into account, his employer is underpaying him by $8,033.78 every year.

CLEANERS COMMONLY ASK FAMILY MEMBERS OR FRIENDS TO COME IN AND DO WORK ‘OFF-THE-BOOKS’

It is a common occurrence that school cleaners have to ask friends and family members to come in and do unpaid work, either to cover them when they’re ill or just to help them finish a job they haven’t been given enough hours to do. This especially is the case for self-employed cleaners who cannot always afford to pay for someone to cover them.

Mary works as a cleaner at a school, but never receives sick leave or annual leave. Whether it was when she broke her leg and was off work for six weeks or when she gave birth to her first child and took just four weeks off, her employer did not provide cover and insisted that she should find someone to do her shift. This ended up being Mina, her husband, who covered those 10 weeks of work for free, when the company should have paid him $5989.50 for those shifts. Mina also had to regularly come in to help Mary do the ‘deep clean’ over the school holidays. If he didn’t, Mary wouldn’t be able to take any time off from work to spend with her young family over the holidays.

THE USE OF FAMILY MEMBERS OR FRIENDS TO DO UNPAID SCHOOL CLEANING WORK IS COMMON AND AT NEARLY 20% OF SCHOOLS SUB-CONTRACTING ARRANGEMENTS WERE DISCOVERED.

As a result, schools don’t really always know who is doing their cleaning, and a number of cleaners don’t hold working with children checks.

MANY CLEANERS DO NOT HAVE APPROPRIATE BACKGROUND CHECKS REQUIRED TO WORK NEAR CHILDREN

While carrying out the audit, union officials encountered 6.68% of cleaners that did not have a Working With Children Check, did not know what it was or wouldn’t answer the question. These results, the significant labour turnover in this sector of the industry, and the frequent use of family and friends to help out on the job suggests hundreds of Victorian school cleaners could be working at schools without a valid Working With Children check.

Steve (name has been changed), a self-employed school cleaner from Melbourne’s suburbs hasn’t paid himself a sick day in over 10 years as he can’t afford to. Steve either has to ‘just turn up’ and work while ill or he has to ask his family to come in. He will then usually forfeit his salary to pay them or they have to work unpaid. He already can’t compete with open tender processes due to being undercut by ‘dodgy operators’ and fears he may soon lose his contract. Asked if he enjoys his job he replied “If I had my time again, I would not go into self-employment.”

5. KEY FINDINGS: UNDERGROUND, UNREGULATED WORKFORCE
CASE STUDY 3:
VISIT REPORT – UNION OFFICIAL

I recently spoke to a school cleaner called Mary. After a few months in Australia, Mary was able to arrange some school cleaning work through a friend of her father-in-law. She phoned the friend and was asked to report to a school for a week’s “training”, where she was required to perform a deep clean during the school term break (no training was provided). She was paid $100 for this week’s work. She didn’t sign anything and wasn’t asked to provide any documentation of any kind. Then she was given a key to another school, where she began cleaning on a regular basis, with no supervision. She was never required to obtain a Working With Children Check or complete any paperwork of any kind. She has since worked as the cleaner at this school for about five years.
Today in Victoria there are over 1750 schools, over 1750 school cleaning contracts, and 738 contractors eligible to compete for them. In NSW there are more than 2200 schools, but only 11 school cleaning contracts, and 4 contractors.

The NSW model provides transparency and award wages for cleaners. The Victorian model promotes a race to the bottom, as hundreds of contractors undercut on wages and safety to compete.

Indeed, Victoria is the only state in Australia with an unregulated ‘race to the bottom’ school cleaning system. In every other state school cleaners are either employed directly by the Department, or the Department lets cleaning contracts centrally.

Today, the Department of Education does not have:
- A list of the companies that clean schools, and which schools they clean
- The names and details of all the cleaners who are going into schools every day
- Records of what the cleaners are paid, and whether they have appropriate background checks.

The Victorian Government’s current contracting framework makes it impossible for the Department of Education to ensure cleaners are paid correctly, or have the appropriate background checks. Wage theft will continue unless the contracting framework is changed.

IN VICTORIA, THERE ARE OVER 1750 SEparate CLEANING CONTRACTS AND HUNDREDS OF CLEANING COMPANIES OPERATING. IN NSW, WITH OVER 2000 SCHOOLS, THERE ARE 11 CONTRACTS TO MANAGE. VICTORIA IS THE ONLY STATE WITH AN UNREGULATED SCHOOL CLEANING SYSTEM OF THIS KIND IN AUSTRALIA
7. RECOMMENDATIONS

• The wage theft, fear and intimidation occurring in Victoria’s schools must stop. Victoria’s school cleaners deserve at a minimum respect and the award wage.

• United Voice has referred these audit findings for immediate action to:
  ◦ The Victorian Department of Education and Training’s School Cleaning Unit
  ◦ The Fair Work Ombudsman

• The problems will continue, however, until the Andrews Government reforms its cleaning contracts, which promote endemic wage theft.

• It has been noted in this report that Victoria has the worst school cleaning system of all states in Australia, with other states either:
  ◦ Directly employing school cleaners, or
  ◦ Centrally coordinating school cleaning contracts

• United Voice recommends the Andrews Government take immediate steps to transition to a NSW-style zoned cleaning model that will:
  ◦ Allow oversight of who is cleaning our schools and how they treat their cleaners
  ◦ Ensure all Victorian school cleaners are paid at least the award minimum wage
  ◦ Provide the school community assurance that their valued cleaners are properly respected and rewarded for their work.