United Way
Toronto & York Region

Ensuring jobs are a pathway to income and employment security

UWTYR Submission to the Changing Workplaces Review Interim Report

14 October 2016

1. Contents

2. Introduction: The Changing Workplaces Review Interim Report

United Way Toronto & York Region (UWTYR) is pleased to provide this response to the *CWR Interim Report*. As the largest non-governmental supporter of social services in the region, we're dedicated to creating the opportunities people need to improve their lives and build a better future. Our work is fuelled by groundbreaking research and powerful partnerships, which allow us to identify gaps and responsibly mobilize resources for the most direct impact: effecting positive and lasting change, right here where we all live, work and raise our families.

UWTYR commends the Ministry of Labour, under the leadership of the Hon. Kevin Flynn and the Special Advisors—C. Michael Mitchell and The Hon. John C. Murray—for their leadership in developing this report and the consultations that led up to this report. The *Changing Workplaces Review (CWR) Interim Report* is a comprehensive, detail-oriented and evidence-based piece of work. The report helpfully captures and summarizes the many changes occurring in our workplaces today, from the rise in non-standard and precarious employment to the changes in business strategy and organization. It also puts forth realistic, achievable solutions that have the potential to improve opportunities for all Ontarians. The series of options presented to improve the Employment Standards Act and Labour Relations Act are broad and reflect the voices of all sectors: the community sector, private sector, labour and government. We know that to achieve comprehensive change, all of us will have to work together, and we are pleased to see this approach reflected in the *CWR Interim Report*.

3. Modernizing Policy and Programs for Today's Labour Market

"Not all employment relationships have the same characteristics. Some employment is better than other employment and this difference represents more than simple rates of pay"[1]

Our labour market has undergone profound shifts in the past few decades. Only 60% of all workers in the Greater Toronto & Hamilton Area of Ontario are in stable, secure jobs.[2] Everyone else is working in situations with some degree of precarity.[3] Income is no longer the only differentiator between a good job and a bad job.

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[1] PEPSO (2015). The Precarity Penalty: The Impact of employment precarity on individuals, households
[2] PEPSO (2015).
[3] PEPSO (2015).

This is a message that has been increasingly voiced by community and labour advocates and researchers in recent years. This message began to gain widespread public attention after the publication of the UWTYR and McMaster University report *It's More than Poverty* in 2013. In this report, we found that:

- Precarious employment is growing and it is characterized by insecurity, uncertainty and a lack of control;
- These characteristics are having a harmful effect on individuals, children and families; and
- Being precariously employed is worst when you're living in low income – but it hurts everyone who experiences it.

After in depth consultations with the community, private sector, labour, and with key thought leaders from a range of sectors, a second UWTYR and McMaster University report was published in 2015 – *The Precarity Penalty*. This report described how the nature of precarious employment often leads to workers being trapped. A lack of benefits, training opportunities, and access to employment and income security programs makes getting out of precarious employment difficult. The Precarity Penalty noted that as Canadian workplaces have changed, our labour market and income security policy infrastructure has become ill suited to address these changes. As a result, an increasing number of workers are left in vulnerable and precarious employment.

The Precarity Penalty noted that:

- There are solutions that will help mitigate the effects of precarious employment and reduce its growth that will help make people less vulnerable and communities more resilient.
- Many other jurisdictions have undertaken changes to better support these workers.
- The prosperity of our communities and our province is at stake. We need responses that will balance our social and economic goals.

Since then, we have gone on to work in partnership with KPMG to understand how businesses can benefit from more secure employment practices. We have found that businesses are beginning to see the connection between the employment security of their workers and positive business performance for their organizations.[4] This work focuses on individual employer practices and not on regulatory change. However, we highlight it here to emphasize that it is our belief that the improvements we are recommending to the *Employment Standards Act* and the *Labour Relations Act* will

[4] See Ton, Z. (2014). The Good Jobs Strategy: How the Smartest Companies Invest in Employees to Lower Costs & Boost Profits. MIT Sloan School of Management; KPMG (2014). Precarious Employment: The Employers' Perspective. KPMG. https://pepsouwt.files.wordpress.com/2014/08/kpmg-uw-report-precarious-employment-may-2014.pdf

serve to contribute to, instead of detract from, the prosperity, innovation and development of the province.

With the right mix of supports, a nimble Canadian labour market and income-security system can provide workers with security, and can provide employers with flexibility. Workers in all sectors could benefit in the form of more income and employment stability and security, and employers in all sectors could benefit from more skilled and engaged workers, resulting in increased competitiveness and profitability.

As the Toronto Board of Trade recently stated, without change, "the growing prosperity gap will have an increasing negative influence on the liveability, productivity and competitiveness of the Toronto region and the province of Ontario."[5] Accordingly, there are many options listed in the *CWR Interim Report* that can serve as common ground in which the needs of multiple sectors can be advanced.

4. Review of definitions

Before responding to the proposed policy options, UWTYR would like to note the different usages of some terms by United Way and by the Changing Workplaces Review. As the interim report notes, there are many definitions used to describe precarious employment, vulnerable workers, non-standard work and low-income.[6] Although the terminology that is used in this submission may differ from the terminology in the *CWR Interim Report*, we are often speaking about the same group.

The two UW-McMaster reports (published under the research initiative called Poverty and Employment Precarity in Southern Ontario (PEPSO)) measured precarious employment through two means:

1. **Form of employment relationship**: temporary workers and self-employed workers with no employees are defined as precarious. Workers who may look secure (for example, because they are working in a full-time job), but who have characteristics of insecurity (such as not having benefits) are deemed as having some degree of precarity and are labeled as 'Other' in the PEPSO reports.

2. **Employment characteristics**: Early research on precarious employment compared the conditions of employment of a group of workers who self-defined as being permanently employed with a group that self-identified as not being permanently employed. Recent research has used more sophisticated

[5] See Toronto Region Board of Trade and United Way Toronto (2014). Closing the Prosperity Gap: Solutions for a More Liveable City Region. Toronto Region Board of Trade. http://www.bot.com/advocacy/Documents/ ThinkTwiceVoteOnce/2014_TRBOT_ProsperityGap.pdf.
[6] Mitchell, C. M. and Murray, J.C. (2016) Changing Workplaces Review: Special Advisors Interim Report. Online: https://www.labour.gov.on.ca/english/about/pdf/cwr_interim.pdf.

measures. These involve developing indices based on several different indicators of employment conditions. They focus on a continuum of precarity from low to high. This is the approach adopted in the PEPSO reports. We developed an Employment Precarity Index to assess the characteristics of the employment relationship that may indicate precarity and then divided the sample into quartiles: Precarious, Vulnerable, Stable, and Secure.

Neither measure includes income, in contrast to the *CWR Interim Report* definition.

The definition of 'vulnerable workers' in the interim report largely aligns with the definition of 'those in precarious employment' in the PEPSO reports. However, the CWR definition of precarious employment is narrower than PEPSO's:

"We believe that the lack of security inherent in a poorly paid full-time non-union minimum wage job without benefits often creates uncertainty and insecurity for the worker that justifies calling it precarious employment."[7]

PEPSO uses the term 'vulnerable' to describe the group that is the second most precarious on the Employment Precarity Index, whereas the *CWR Interim Report* uses vulnerability to describe workers who are most in need of supports.

Our results consistently showed that insecurity was having harmful effects on workers across the income spectrum, but in almost all cases, those in low income were impacted the worst. Thus, although the PEPSO reports don't use income in the definition of precarious employment, they acknowledge that the harmful effects of employment and income insecurity go hand in hand. The *CWR Interim Report* does not define the threshold for low wages and notes that this will be sorted out for the final report. In *The Precarity Penalty*, low individual income was defined as less than $40,000 a year and low household income was defined as less than $60,000 a year.

It should also be noted that in the PEPSO reports, the focus was on those experiencing insecurity of employment, and not necessarily those workers who may be vulnerable but who are in standard employment relationships. This is reflected in the focus of our submission. However, we affirm and acknowledge the interim report's focus on workers who may be in standard employment, but vulnerable due to low incomes or other reasons. This group most certainly deserves attention. The challenges that vulnerable workers regardless of their form of employment face has been captured in other UWTYR work such as *The Opportunity Equation* and the Youth Success Strategy and we are pleased to see the Advisors include this group in the review.

[7] Mitchell and Murray (2016).

5. Ensuring jobs are a pathway to income and employment security

Our response to the *CWR Interim Report* is organized around the idea that jobs should be a pathway to income and employment security. This idea focuses on options that can ensure that those in precarious employment can access income and employment security through their connection to the labour market.

Income and employment security go hand in hand. For example, the positive impacts of increasing a worker's wage may be limited if a worker does not have access to benefits or does not know how many hours they will be assigned in the coming month. There are also non-income supports that can improve both a worker's experience and voice on the job. Addressing these areas would help us move toward a labour market in which the form of a worker's employment relationship does not define his or her ability to fulfill their potential at work, and in their family and community lives.

The first five sections of this submission respond to the proposed changes in the Employment Standards Act. These sections call on the provincial government to:

- Modernize Employment Standards Coverage
- Modernize Employment Standards Enforcement
- Reduce the impacts of irregular work schedules for workers
- Improve income security for workers in precarious jobs
- Enhance access to benefits for workers in insecure jobs

The final section of this submission addresses proposed changes to the Labour Relations Act. This section proposes to:

- Support voice at work

UWTYR is committed to evidence-based research, strategies and recommendations. As part of this commitment, we have ensured that our responses to the options presented in the *CWR Interim Report* are informed by evidence-based research, our own strategic initiatives and the insights gained from our relationships with community, the public, private, non-profit, and labour sectors. This means that some options that align with our overall goal to build opportunities for all will not be commented on in this response, because they fall outside of the scope of our work. This does not mean that UWTYR believes these areas to be of less value or importance to the goal of modernizing our employment and labour standards. We trust that our stakeholders and partners with greater expertise in these areas will be commenting in detail on these options.

6. Modernizing employment standards coverage

6.1 Background

Ontario's policy framework that is intended to serve as a floor of standards has sometimes pushed needed policies and programs out of the reach of those who really need them. The *Employment Standards Act, 2000 (ESA),* covers minimum working conditions for all employees under provincial jurisdiction. However, only roughly 40% of Ontario workers are fully covered by the *ESA* – a low proportion for standards that are intended to provide a floor for Ontario's workers.[8] As designed, the *ESA* is most effective in providing support to those in full-time, permanent jobs. Many workers in Ontario, and especially those in precarious employment, are not fully covered by the *ESA*. These include most independent contractors, the self-employed and those workers who are misclassified as self-employed. It also provides different levels of coverage for some workers, based on factors such as employment relationship, job tenure, sector and size of workplace.

In recent years, there have been many incremental positive developments in the area of employment standards. These developments have increased basic protections for those in less secure employment. However, we believe that more can be done, and welcome the broad range of options that can lead to improved coverage that are proposed in the *CWR Interim Report*. We believe that the ESA is an important tool for leveling the playing field for vulnerable workers, many of whom are those workers in precarious employment.

6.2 UWTYR Recommends

The Employment Standards Act prohibits discrimination on the basis of age, sex and marital status. However, there is no provision for preventing discrimination based on employment relationship or hours of work. This leaves many precariously employed workers outside of the established ESA coverage. The provincial government is encouraged to consider how the definition of discrimination in the ESA might be expanded to include discrimination based on form of employment or hours of work. In essence, UWTYR proposes that the Employment Standards Act be made as universal as possible, in order to fulfill its intended purpose of serving as a floor of minimum standards.

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[8] Vosko, L., Noack, A., & Thomas, M. (2016a). How far does the Employment Standards Act, 2000, Extend and What are the Gaps in Coverage? Prepared for the Ontario Ministry of Labour to Support the Changing Workplaces Review of 2015. https://cirhr.library.utoronto.ca/sites/cirhr.library.utoronto.ca/files/research-projects/Vosko%20Noack%20Thomas-5-%20ESA%20Exemptions.pdf

In this section and in subsequent Options sections, we will highlight the particular options that we support and for clarity, will note the section and option number in each case.

6.3 Definition of Employee

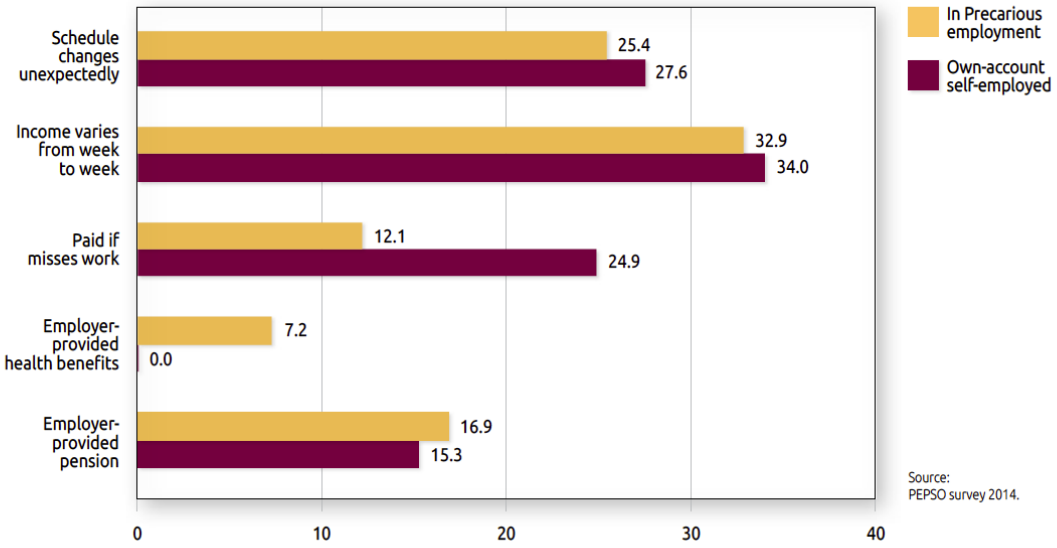
The misclassification of employees is an issue that leads to a number of challenges identified in the *CWR Interim Report*, including a loss of Employment Standards coverage, access to government programs such as Employment Insurance and the Canada Pension Plan, and an exclusion from extended health benefits, among other losses. This kind of misclassification can limit an individual from leaving precarious employment and accessing better employment opportunities.

According to our research, one in 10 workers are classified as own-account self-employed. They work on their own, without any paid help. There is some debate about whether many of these workers are actually misclassified employees who have limited control over how or when they work.[9] Whether they are misclassified or not, our interviews highlight the degree to which the boundary between self-employment and employee is less clear today than it was 30 years ago. Many of the own-account self-employed are really freelancers doing work on a contract basis—work that, in the past, would have been done by employees. The self-employed are no longer mainly professionals, such as doctors and dentists, or small-business people delivering services to clients or consultants—all doing work that was not normally done by employees. Today, what we are seeing is the expansion of self-employment into services, short-term contract work and other temporary work—filling positions on a temporary basis that used to be the responsibility of permanent employees. They deliver newspapers and the mail, edit manuscripts and write news copy, work as translators, sell phone services in the malls, drive trucks and taxis, write computer code, and fix computers.

Figure 11[10] shows some of the characteristics of the own account self-employed (referred to as 'solo self-employed with no employees' in the *CWR Interim Report*).

[9] Cranford, C., Fudge, J., Tucker, E., and Vosko, L. (2005). Self-Employed Workers Organize: Law, Policy, and Unions. Montreal. McGill Queen`s University Press.
[10] Figure 11 in PEPSO (2015).

Figure 11: Employment characteristics of the own-account self-employed (%)



6.3.1 Misclassification of Employees

CWR Interim Report Options 5.2.1

Option 1: maintain the status quo

Option 2: Increase education of workers and employers with respect to rights and obligations

Option 3: Focus proactive enforcement activities on the identification and rectification of cases of misclassification

Option 4: Provide in the ESA that in any case where there is a dispute about whether a person is an employee, the employer has the burden of proving that the person is not an employee covered by the ESA and/or has an obligation, similar to section 1(5) of the LRA in relation to related employers, to adduce all relevant evidence with regard to the matter

The misclassification of employees can have harmful impacts on workers, as indicated above. However, there are also instances where misclassification may not be the intent of the employer. In these cases, education and awareness-building will help reduce misclassification. UWTYR discourages the maintenance of the status quo **(Option 1)** as the status quo has been leading to increasing misclassification. UWTYR urges the Special Advisors to consider taking steps that will increase education and awareness (**Option 2)** and that will improve compliance through proactive enforcement **(Option 3).** UWTYR would also recommend that the Special Advisors explore **Option 4**, given that workers in precarious employment can often be the most vulnerable to losing their employment when expressing their employment standards rights.

6.3.2 Definition of Employee

***CWR Interim Report* Options 5.2.1 (Continued)**

Option 5: maintain the status quo

Option 6: Include a dependent contractor provision in the ESA, and consider making clear that regulations could be passed, if necessary, to exempt particular dependent contractors from a regulation or to create a different standard that would apply to some dependent contractors

Options 5 and 6 continue the discussion on the definition of employees. We discourage the maintenance of the status quo (**Option 5**) as this is leading to gaps in coverage for those in precarious employment. We support the inclusion of dependent contractors (**Option 6**) as a way to expand coverage of the Employment Standards Act to vulnerable workers in the own-account self-employed with no employees category.

6.4 Exemptions, Special Rules and General Process

CWR Interim Report Options 5.2.3

Category 1 Options: exemptions where we may recommend elimination or alteration without further review beyond that which we will undertake in this review process;

Category 2 Options: exemptions that should continue without modification because they were approved pursuant to a policy framework for approving exemptions and special rules with appropriate consultation with affected stakeholders including employee representatives (these are the SIRs that were put into regulations since 2005); and

Category 3 Options: exemptions that should be subject to further review in a new process (i.e., those exemptions not in categories 1 and 2; this category covers most of the current exemptions)

The intent of the *Employment Standards Act* is to create a floor of working conditions for workers in Ontario. The challenge is that many of those workers who are most in need of this floor are often excluded due to exemptions or exclusions. These exclusions may be due to the form of their employment (in the case of independent contract workers), due to misclassification of employees as independent contractors by employers, or due to specific exemptions based on workplace size, sector, or other reasons. As Vosko et al. note in their research paper prepared for the CWR, some of these exemptions have justifiable reasons behind their creation, while others "have a much weaker justification in terms of either the public good or business necessity."[11]

In order to align the Employment Standards Act with today's labour market as much as possible, it is important to minimize the exemptions that exclude categories of workers. UWTYR does not have the expertise to comment on the exemptions listed in

[11] Vosko et al., (2016a).

Issues 1-5 of Category 1 for specific jobs such as IT specialists. However, UWTYR does support minimizing exemptions made under these options, specifically because the CWR Interim Review notes that these exemptions were made prior to the establishment of the 2005 review process. (**Issues 6a, 6b, and 7** will be commented on later in this submission).

In regard to **Category 2**, while UWTYR appreciates the provincial government's 2005 development of a formal review process, which included facilitated discussions between key stakeholders, more than a decade has passed. We encourage the continuation of facilitated discussions with all sectors as well as the development of an ongoing process that will be responsive to the continued changes in the labour market.

Finally, in regard to **Category 3**, UWTYR encourages the provincial government to still review these categories at a future point. As we have learned from PEPSO research, precarious employment has now entered many sectors, and jobs that were previously immune to this type of employment no longer are. Reviewing the exemptions associated with these jobs in light of this context is therefore important. In terms of the process for this review, UWTYR urges the government to include key stakeholders and, similarly to **Category 2**, to develop a system that will continue to be responsive to changes in the labour market.

6.5 Part-Time and Temporary Work – wages and benefits

CWR Interim Report Options 5.3.7

Option 1: Maintain the status quo

Option 2: Require part-time, temporary and casual employees be paid the same as full-time employees in the same establishment unless differences in qualifications, skills, seniority or experience or other objective factors justify the difference.

Option 3: **Option 2** could apply only to pay or to pay and benefits, and if to benefits, then with the ability to have thresholds for entitlements for certain benefits if pro rata treatment was not feasible.

Option 4: Options 2 or 3 could be limited to lower-wage employees as in Quebec where such requirements are restricted to those earning less than twice the minimum wage.

Option 5: Limit the number or total duration of limited term contracts.

PEPSO research found that those workers in precarious employment had 51% lower individual income than those in secure employment and 38% lower household income.[12] Racialized workers experienced lower incomes than their white counterparts

[12] PEPSO (2015).

as well.[13] Due to the nature of their employment, those in precarious employment often experienced irregular income that made it difficult to plan for the year ahead and led to income stress within the household that made it difficult to keep up with debt obligations, and to participate in family and community life.[14] One of the ways to address this income gap is to prevent discrimination based on employment status through the Employment Standards Act.

For these reasons, we reject **Option 1**, the maintenance of the status quo, because it is leading to discrimination. We support **Options 2 and 3**, which would reduce discrimination between workers with different employment status. We urge the Advisors to use a total compensation lens under **Option 3**, which would factor in both income and benefits together into the assessment, as they work in concert with one another to provide income for the family. For example, if one worker earns more, but has no benefits, they will need to spend these extra earnings on out of pocket expenses for vision, dental, and prescription drug care. Therefore, both income and benefits should be taken into consideration in any assessment of differential pay. We urge the Advisors to not consider **Option 4**. PEPSO research found that middle income part-time and temporary workers sometimes experience harmful impacts similar to those of low-income workers. We also urge the Advisors to consider **Option 5** carefully, as limiting the total duration of limited term contracts could have the unintended effect of creating more instability and lower job tenure, which could also inhibit the ability of temporary workers to transfer into more permanent position.

6.6 Termination, Severance & Just Cause

Average job tenure is falling, and seniority provides less protection from job loss. This means that more workers face income variability and instability. Other jurisdictions such as the Netherlands, Denmark, and the European Union have responded to these changes by developing policies such as 'flexicurity', as noted in the *CWR Interim Report*.[15] Flexicurity in part smooths transitions between jobs so that short-term workers do not experience the impacts of full income loss. In lieu of more comprehensive policy change such as flexicurity, UWTYR believes that any changes to the area of termination, severance and just cause should take into account current job tenure rates and the impact of instability and insecurity that is associated with the loss of a job, given that other income and employment supports such as Employment Insurance are also currently not reflecting today's labour market.

[13] PEPSO (2015).
[14] PEPSO (2015).
[15] Mitchell and Murray (2016).

6.6.1 Termination of Employment

CWR Interim Report Options 5.3.8.1

Option 1: Maintain the status quo

Option 2: Change the 8-week cap on notice of termination either down or up

Option 3: Eliminate the 3-month eligibility requirement

Option 4: For employees with recurring periods of employment, require employers to provide notice of termination based on the total length of an employee's employment (i.e., add separate periods of employment as is done for severance pay). For example, if an employer dismisses a seasonal employee during the season, the employee could be entitled to notice based on his/her entire period of employment (not just the period worked that season)

Option 5: Require employees to provide notice of their termination of employment

The focus of our research does not enable us to comment on the more technical aspects of these options. However, we would urge the Advisors to consider **Option 3** due to shorter job tenure in today's labour market. UWTYR also supports conducting more research on the potential repercussions of **Option 4**, in order to help stakeholders better understand potential unintended consequences on the hiring of seasonal workers.

6.6.2 Severance Pay

CWR Interim Report Options 5.3.8.2

Option 1: Maintain status quo

Option 2: Reduce or eliminate the 50-employee threshold

Option 3: Reduce or eliminate the payroll threshold

Option 4: Reduce or eliminate the 5-year condition for entitlement to severance pay

Option 5: Increase or eliminate the 26-week cap

Option 6:Clarify whether payroll outside Ontario is included in the calculation of the $2.5 million threshold

Severance helps workers bridge the gap after losing their job by providing a degree of income security. The *CWR Interim Report* notes that "the large number of vulnerable employees in short-tenure precarious jobs results in their not being entitled to any severance pay".[16] Severance pay requires tenure of five years or more and a payroll in

[16] Mitchell and Murray (2016).

Ontario of at least $2.5 million or the severance of 50 or more employees in a 6-month period because all or part of the business has permanently closed.[17] The range of proposed options is outside of the specific expertise of UWTYR. However, it is clear that the status quo is no longer working and will continue to be less effective over time, given the changing nature of our labour market where shorter tenures are much more common. At minimum, UWTYR recommends the clarification of payroll calculations as recommended in **Option 6.** We would also urge the Special Advisors to consider the increasingly shorter job tenures in the workforce when assessing **Option 4**.

6.6.3 Just Cause

CWR Interim Report Options 5.3.8.3

Option 1: Maintain the status quo

Option 2: Implement just cause protection for TFWs together with an expedited adjudication to hear unjust dismissal cases.

Option 3: Provide just cause protection (adjudication) for all employees covered by the ESA.

UWTYR urges the Advisors to consider providing just cause protection to temporary foreign workers with an expedited adjudication to hear unjust dismissal cases (**Option 2**), as TFWs are particularly vulnerable to the impacts of job loss. UWTYR would also suggest a review of jurisdictions with just cause protection for all employees (**Option 3**) in order to determine the impact on precariously employed workers as well as the impact on employers and employees with more stable employment relationships given the ESA's broad coverage.

6.7 Temporary Help Agencies

Temporary employment now accounts for over 11% of all employees in Canada, an increase of 75% since 1989, the first year this data was collected. [18] Temporary help agency workers are among the most precarious as they are unlikely to receive benefits, have a high likelihood to experience variability in their hours worked and income, and are likely to have access to only limited training.

Protections and support for temp workers represent sound public policy when they provide fairness and equitable treatment for all Ontario workers. We would support legislation which enshrines the principle that people in precarious work are deserving of equality and non-discrimination, and deserve to receive the same working and

[17] Mitchell and Murray (2016).
[18] Vosko, L, MacDonald, M. and Campbell, I., eds. 2009. Gender and the Contours of Precarious Employment. London: Routledge. Statistics Canada tables 282-0080; 282-0012 in PEPSO (2015).

employment conditions that the client company provides to other workers in all comparable forms of work. These protections have the added benefit of providing a level playing field among employers – critically important to avoid labour market conditions in which some employers may feel compelled to adopt precarious employment strategies as a mechanism to lower some of their own labour costs by shifting those costs onto the Ontario workers least able to bear them. This is not a constructive strategy for Ontario's economic prosperity. Research has found that organizations have been able to use their human resources and operations practices to enable them to both offer more security for their workers and improve their bottom lines.[19] Thus, improvements for temporary workers can mean improvements for business objectives.

***CWR Interim Report* Options 5.3.9**

Option 1: Maintain the status quo.

Option 2: Expand client responsibility:

- **a)** expand joint and several liability to clients for all violations – e.g., termination and severance, and non-monetary violations (e.g., hours of work or leaves of absence);
- **b)** make the client the employer of record for some or all employment standards (i.e., client, agency, or make both the client and the THA joint employers).

Option 3: Same wages for same/similar work:

- **a)** provide the same pay to an assignment worker who performs substantially similar work to workers directly employed by the client unless:
  - i. there are objective factors which independently justify the differential; or
  - ii. the agency pays the worker in between assignments as in the EU; or
  - iii. there is a collective agreement exception, as in the EU; or
  - iv. the different treatment is for a limited period of time, as in the UK (for example, 3 months).

Option 4: Regarding mark-up (i.e., the difference between what the client company pays for the assignment worker and the wage the agency pays the assignment worker):

- **a)** require disclosure of mark-up to assignment worker;
- **b)** limit the amount of the mark-up. 243

Option 5: Reduce barriers to clients directly hiring employees by changing fees agencies can charge clients:

- **a)** reduce period (e.g., from 6 to 3 months);
- **b)** eliminate agency ability to charge fee to clients for direct hire.

Option 6: Limit how much clients may use assignment workers (e.g., establish a cap of 20% on the proportion of client's workforce that can be agency workers).

Option 7: Promote transition to direct employment with client:

- **a)** establish limits or caps on the length of placement at a client (i.e., restrict length of time assignment workers may be assigned to one particular client to 3, 6, or 12 months, for example);

[19] Ton (2014).

b) deem assignment workers to be permanent employee of the client after a set amount of time or require clients to consider directly hiring assignment worker after a set amount of time;
c) require that assignment workers be notified of all permanent jobs in the client's operation and advised how to apply; mandate consideration of applications from these workers by the client.

Option 8. Expand Termination and Severance pay provisions to (individual) assignments:
a) require that agencies compensate assignment workers termination and/or severance pay (as owed) based on individual assignment length versus the duration of employment with agency (as is currently done). For example, if an assignment ends prematurely and without adequate notice provided but has been continuous for over 3 months or more, the assignment worker would be owed termination pay;
b) require that clients compensate assignment workers termination and/ or severance pay (as owed) based on the length of assignment with that client. Assignment workers would continue to be eligible for separate termination and severance if their relationship with agency is terminated.

Option 9: License THAs 245 or legislate new standards of conduct (i.e., code of ethics for THAs).

Research in *It's More than Poverty* and *The Precarity Penalty* did not focus in depth on temporary help agency workers, though in the past, we have submitted policy recommendations to help support temporary agency workers. On a high level, we recommend that the Special Advisors support any options that minimize discrimination between temporary agency workers and non-temporary agency workers. We do not support the maintenance of the status quo (**Option 1**), as the current system is often trapping workers in precarity.

We support **Option 2a and 2b**, to expand joint and several liability to the client for all violations. On a practical level, it can be difficult for a temporary help agency that is not present in the workplace, to enforce standards alone. Joint responsibility would help improve compliance and enforcement and include temporary agency workers in the minimum standards of the workplace.

We also support **Option 3**, which would decrease discrimination towards temporary help agency workers by providing the same wages for same/similar work, but discourage the use of exemptions (**Options 3i, 3ii, 3iii, 3iv**) as this would undermine the larger goal of reducing discrimination towards these workers.

We support **Option 4a and 4b** regarding mark-up. An employee of a temp agency should know the amount or rate of mark-up on their hourly wage or salary charged the client employer by the temp agency. This has two clear benefits: the worker knows the actual market value to the client employer of his or her labour; moreover, the worker can compare the practices and mark-up of one temp agency to another. The effect over time should be to reward with greater profits those temp agencies whose mark-up is reasonable and to impose a form of market discipline on those temp agencies whose mark-up may be excessive.

We support **Options 5a and 5b**, which would reduce barriers to clients hiring temporary help agency workers. Jobs should be a pathway to employment and

income security, and easing the pathway for temporary workers would help them emerge from employment traps. Not only should we ease the transition to permanent employment, we should also seek to promote the greatest amount of stability and security for temporary help agency workers. Encouraging conditions that permit a transition from temporary to permanent employment can be a critical element of poverty reduction. The public interest is not served by limiting opportunities for workers to get ahead, to increase their income, to reward effort and to improve their economic and domestic stability. All of these goals can be hindered if a worker is stuck in precarious employment.

For these reasons, we discourage a cap on duration of assignment, as proposed in **Option 7a** and encourage **Option 7c**, which would require temporary help agency workers to be notified of all permanent jobs and how to apply for them. Enabling paths to permanent employment would help reduce vulnerability amongst the precariously employed by helping them develop a path out of temporary, often-low wage, unstable work.

In response to **Option 8**, at a high level, we encourage the government to ensure similar and equitable fairness in employment standards for all workers, including termination and severance entitlements. We do not have the technical expertise necessary to comment in more detail on this option.

We support the exploration of **Option 9**, the licensing of agencies and/or the development of a code of conduct for agencies, though we propose that any licensing or code of conduct be weighed in relation to Options 1 through 8 in order to support the larger goal of ensuring that workers can still access good quality temporary agency jobs should they want to do so.

6.8 Hours of work and overtime pay

***CWR Interim Report* Options 5.3.1**

Option 1: Maintain the status quo

Option 2: Eliminate the requirement for employee written consent to work longer than the daily or weekly maximums but spell out in the legislation the specific circumstances in which excess daily hours can be refused. For example, in Fairness at Work, Professor Arthurs effectively recommended that employers should be able to require employees to work, without consent, up to 12 hours a day or 48 in a week (with exceptions where they could be required to work even longer) but that there should be an absolute right to refuse where: the employee has unavoidable and significant family-related commitments; scheduled educational commitments or a scheduling conflict with other employment (part-time workers only). This change would mean employers could require employees to work excess daily hours without consent as set out above.

Option 3: Maintain the status quo employee consent requirement, but:

a) in industries or businesses where excess hours are required to meet production needs as, for example, in the case of "just-in-time" operations, the need for individual consent would be replaced by collective secret ballot consent of a majority of all those required to work excess

hours; and

b) employees required to work excess hours as a result of (a), would still have a right to refuse if the employee has unavoidable and significant family-related commitments; scheduled educational commitments or a scheduling conflict with other employment (part-time workers only); or protected grounds under the Human Rights Code such as disability. This "right to refuse" would also apply to unionized employees

Option 4: The same as **Option 3**, except that instead of a blanket legislative provision as in (3a), where a sector finds it difficult to comply with the daily hours provisions, exemptions could be contemplated in a new exemption process, the possibility of which is canvassed in section 5.2.3

Option 5: Eliminate daily maximum hours, but maintain the daily rest period requirement of 11 hours, and the weekly maximum hours of work of 48

Option 6: Eliminate or decrease the daily rest period below 11 hours, which would effectively increase the potential length of the working day above 12 hours.

Option 7: Enact a legislative provision similar to one in British Columbia that no one, including those who have a formal exemption from the hours of work provisions, can be required to work so many hours that their health is endangered.

Option 8: Codify that employee written agreements can be electronic for excess hours of work approvals and overtime averaging

Option 9: Eliminate requirement for Ministry approval for excess hours (i.e., only above 48 hours in a week). Maintain requirement for employee written agreement.

Option 10: Eliminate requirement for Ministry approval for excess weekly hours between 48 and 60 hours. Maintain requirement for Ministry approval for excess hours beyond 60 hours only. Maintain requirement for employee written agreement

Option 11: Reduce weekly overtime pay trigger from 44 to 40 hours

Option 12: Limit overtime-averaging agreements – impose a cap on overtime averaging (e.g., allow averaging for up to a 2- or 4-week or some other multi-week period). Maintain requirement for employee written agreement. Ministry approval could (or could not) be required.

The options covered in the hours of work and overtime section are a level of technical detail that UWTYR has not addressed through its PEPSO research. However, workers in precarious or vulnerable positions are more likely to fear repercussions from expressing their rights. This should be taken into consideration when weighing any options that require written agreements between employers and employees.

7. How employment standards enforcement can keep pace with the changing labour market

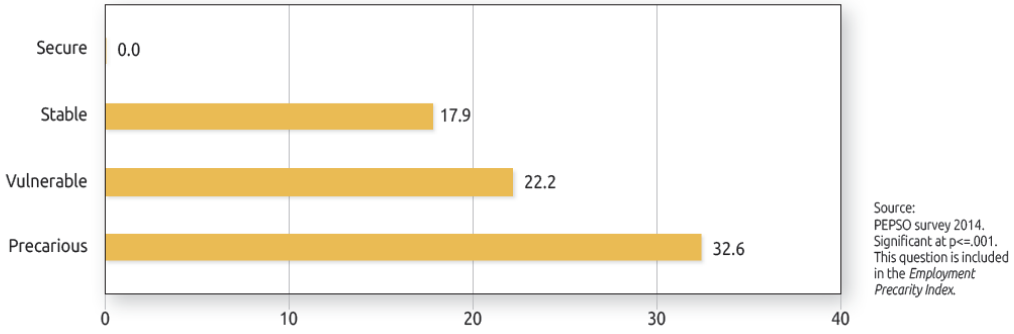
7.1 Background

The goal of reforming employment standards must go hand in hand with improved enforcement measures. As the *CWR Interim Report* notes, "there is a serious problem

with enforcement of ESA provisions… While most employers likely comply or try to comply, with the ESA, we conclude that there are too many people in too many workplaces who do not receive their basic rights."[20]

In Ontario, the Ministry of Labour puts most of the responsibility for reporting standards violations on workers. This is particularly problematic for those in precarious employment, who may face barriers initiating complaints and may fear reprisals. PEPSO research found that 33% of those in precarious employment reported that raising an employment standards or health and safety concern might negatively affect their employment (Figure 41).[21] Racialized workers were 50% more likely to report that asserting their rights might negatively affect their employment. This was echoed by participants in the community roundtables we held, who told us that the risk of employer reprisal prevented them from reporting rights violations.

Figure 41: Raising employment or health and safety rights might negatively affect employment by employment security (%)



7.2 UWTYR Recommends

While the recent infusion of $10 million into enforcement was essential and welcomed, there is still a need for additional resources and approaches for investigating, resolving and enforcing current employment standards. The review should explore how to shift the employment standards enforcement system to a more proactive system, which could include targeted blitzes within sectors that have high levels of precarious employment or reported violations. In addition, the standards review could take workers' concerns over reprisals into account by evaluating the accessibility and effectiveness of the third-party complaint system, assessing how to strengthen enforcement against reprisals, and evaluating the effectiveness of deterrence measures. This review could also explore the role of legal aid and could consider introducing greater dedicated legal-aid support targeted at ESA enforcement. UWTYR recommends that enforcement of employment standards be strengthened to protect

[20] Mitchell and Murray (2016).
[21] Figure 41 in PEPSO (2015).

the rights of workers under the law with a focus on employers that are high risk to offend.

7.3 Education and Awareness Programs

***CWR Interim Report* Options 5.5.2**

No specific options were presented. The Special Advisors write: "It is clear that the Act could be simplified and a variety of new and better ways found to communicate and to increase awareness, knowledge and understanding of workplace rights and obligations and to make such information accessible to all Ontarians. We welcome specific ideas in this regard that anyone may wish to advance."

The Special Advisors note that there are a range of reasons that compliance rates are a challenge, and highlight that a lack of education and awareness partially accounts for this. UWTYR concurs that improvements in education and awareness would help those in precarious employment or who are in otherwise vulnerable positions to be aware of their rights.

One idea that could help would be for employers to have easier access to the Policy and Interpretation Manual, which establishes the policies and interpretations of the Director of Employment Standards. The manual is written by employment standards staff and published by a legal publishing firm, and the advisors note that as of the date of their writing the Ministry had not settled on whether the manual will be publicly available.[22] Accessing the Ministry's written interpretation of what is often complex legislation should arguably not be limited to those with access to this publishing firm. Low and moderate-income workers, many of whom work for small and medium-sized employers, may benefit from a more accessible approach, as well the employers themselves.

In British Columbia, the Employment Standards Branch publishes its "Interpretation Guidelines Manual" for the *Employment Standards Act* and regulations, and it is divided into 15 parts corresponding to the 15 parts of the legislation. It is online and features an alphabetically organized keyword index, which links the keyword to corresponding part or parts of the legislation.[23]

Some employers also suggested working more with community agencies to maximize outreach.[24] This idea has merit, as existing partnerships could be leveraged to meet the needs of vulnerable workers, including youth and newcomers. Government may

[22] Mitchell and Murray (2016).
[23] Government of British Columbia. (2016). Interpretation Guidelines Manual British Columbia Employment Standards Act and Regulations. Retrieved from: http://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/igm
[24] Mitchell and Murray (2016).

wish to consider adequately funding community partnerships to pursue *ESA* education and outreach.

7.4 Reducing Barriers to Making Claims – initiating the claim

***CWR Interim Report* Options 5.5.4.1**

Option 1: Maintain the status quo with a general requirement to first raise the issue with employers but at the same time maintain the existing policy exceptions and maintain current approach of accepting anonymous information that is assessed and potentially triggers a proactive inspection.

Option 2: Remove the ESA provision allowing the Director to require that an employee must first contact the employer before being permitted to make a complaint to the Ministry.

Option 3: Allow anonymous claims, it being understood that the facts of the alleged violation must be disclosed to the employer by an ESO in order to permit an informed response.

Option 4: Do not allow anonymous complaints, but protect confidentiality of the complainant, it being understood that the facts of the alleged violation must be disclosed to the employer by an ESO in order to permit an informed response.

Option 5: Allow third parties to file claims on behalf of an employee or group of employees, it being understood that the facts of the alleged violation must be disclosed to the employer by an ESO in order to permit an informed response.

The *CWR Interim Report* notes that after the self-help requirement was initiated in 2010, which requires that employees first try and contact their employer to resolve an issue before a complaint can be made through the ESA, complaints declined, which suggests that this is acting as a barrier to workers making complaints.[25] We also know from our PEPSO research that those in precarious employment are more likely to fear reprisals from making claims about their employment standards violations. For these reasons, we do not support the maintenance of the status quo (**Option 1**) as it is currently contributing to lower compliance of the ESA. We support the removal of the requirement to contact the employer first (**Option 2**) and urge the Special Advisors to consider how the needs of both workers and employers could be met through anonymous or confidential claims (**Options 3 and 4**) and support the ability of workers to be assisted by third parties when making complaints (**Options 5**). These options would best support those workers who have less voice in the workplace to access their rights.

[25] Vosko, L., Noack, A. & Tucker, E. (2016b). Employment Standards Enforcement: A Scan of Employment Standards Complaints and Workplace Inspections and their Resolution under the Employment Standards Act, 2000, 85. Queen's Printer for Ontario, 2016. Retrieved from: https://cirhr.library.utoronto.ca/sites/cirhr.library.utoronto.ca/files/research-projects/Vosko%20Noack%20Tucker-%206A%20-ESA%20Enforcement.pdf

7.5 Reducing Barriers to Making Claims – reprisals

***CWR Interim Report* Options 5.5.4.2**

Option 1: Maintain the status quo

Option 2: Require ESOs to investigate and decide reprisal claims expeditiously where there has been a termination of employment (and other urgent cases such as those involving an alleged failure to reinstate an employee after a leave)

Option 3: Require the OLRB to hear applications for review of decisions in reprisal on an expedited basis if the employee seeks reinstatement.

As noted above, workers in precarious employment are more likely to be concerned about reprisals for asserting their employment standards or health and safety rights. Based on these reasons, UWTYR supports expediting claims regarding reprisal under **Options 2 and 3** in order to best support those in precarious employment and other workers with limited voice who need more support.

7.6 Inspections, Resources, and Implications of Changing Workplaces for Traditional Enforcement Approaches

***CWR Interim Report* Options 5.5.5.1**

Option 1: Maintain the status quo

Option 2: Focus inspections in workplaces where "misclassification" issues are present, and include that issue as part of the inspection.

Option 3: Increase inspections in workplaces where migrant and other vulnerable and precarious workers are employed.

Option 4: Cease giving advance notice of targeted blitz inspections

Option 5: Adopt systems that prioritize complaints and investigate accordingly

Option 6: Adopt other options for expediting investigation and/or resolution of complaints

Option 7: Develop other strategic enforcement options.

As previously stated, UWTYR views enforcement to be an imperative component of employment standards that requires resources in order to be effective. The Interim Report notes that proactive enforcement is a cost-effective strategy for improving compliance with standards. UWTYR discourages **Option 1**, the maintenance of the status quo, and encourages the Special Advisors to pursue **Options 2, 3, and 4** because they target inspections towards those workplaces where workers are particularly vulnerable and in the case of **Option 4**, enable a more realistic assessment of non-compliance. **Options 5 and 6** refer to the creation of new processes that could

expedite the process of inspections in a strategic and intentional fashion, of which UWTYR is in favour.

In regard to **Option 7**, UWTYR proposes that geography and demographics also be used as important considerations in allocating resources. The Special Advisors note that in determining which employers to inspect, the Ministry relies on a variety of criteria, such as: the possibility of multiple complainants; an employer with a history of ESA contravention; public tips; and whether an employer is part of a sector targeted for inspection.[26] In his research paper prepared for the Ministry of Labour, Professor Banks canvassed the academic literature on strategic enforcement and proposed an option to strategically target for enforcement and compliance activity along a number of dimensions, including geography.[27]

Yet it is unclear to what extent and how the Ministry incorporates geography and demographics in its enforcement planning. While the 2016/17 Employment Standards Proactive Enforcement Plan includes focus on sectors "where an increasing number of Ontarians are working", it is unclear how that translates into the local and regional pre-announced blitzes.[28] The Ministry does appear to collect geographic information, as noted in Vosko et al.'s work.[29]

While there may be instances where the Ministry does not wish to advertise its activities by geography for operational reasons, it could strive for appropriate transparency and accountability in how it allocates resources on a geographic basis, including with respect to: service locations; full-time equivalent employees; education and awareness campaigns; investigations; inspections; and prosecutions. For the purpose of establishing a baseline and subsequent performance measurement for its Proactive Enforcement Plan, the Ministry could provide its methodology and associated data for determining where its target populations exist. This may help to ensure that the growing and diverse workforce and employer community in areas such as York Region have adequate access to Ministry resources.

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[26] Mitchell and Murray (2016).
[27] Banks, K. (2015). Employment Standards Complaint Resolution, Compliance and Enforcement: A Review of the Literature on Access and Effectiveness, 66. Queen's Printer for Ontario, 2016. Retrieved from: https://cirhr.library.utoronto.ca/sites/cirhr.library.utoronto.ca/files/research-projects/Banks-6B-ESA%20Enforcement.pdf
[28] Ministry of Labour, Government of Ontario. (2016). 2016/17 Employment Standards Proactive Enforcement Plan. Retrieved from: https://www.labour.gov.on.ca/english/es/enforcementplan.php.
[29] Vosko et al. (2016b).

8. Reducing the impacts of irregular work schedules for workers

8.1 Background

In the PEPSO research, many workers in precarious employment reported that they often know their schedule only one week, or less, in advance. Nearly half of the workers in precarious employment reported that they often do not know their work schedule in advance.[30] In addition, 24% of those in precarious employment reported that their work schedule often changes unexpectedly. This was eight times higher than the rates experienced by those in secure employment. Lack of control over work schedules can be a major source of stress. This inability to plan a month, much less a week, ahead of time can cause instability in individual and family life, and make it difficult to take part in community life.

Currently, under Ontario's Employment Standards Act, there is no requirement for employers to give notice of shift schedules ahead of time. However, there is a three-hour rule that currently applies to certain workers. The *CWR Interim Report* notes that "under this rule, when an employee who regularly works more than 3 hours a day is required to report to work but works less than 3 hours, he or she must be paid the higher of: 3 hours at the minimum wage; or the employee's regular wage for the time worked."[31]

There has been increasing international attention on the challenges associated with workers not getting enough warning about their work schedules, as noted in the *CWR Interim Report*. Some prominent employers have taken steps to address this through their individual practices, by improving their use of scheduling software, for example. Jurisdictions outside of Canada have also increasingly been developing policy responses to this issue as well.[32]

8.2 UWTYR Recommends

The Employment Standards Act could be amended to require advance notice of shifts to minimize the impact of irregular or shift schedules for workers. Employers could also review their internal business planning and enhance their forecasting processes to proactively find ways to improve scheduling. This could both enhance business efficiency and reduce the impact of irregular schedules on the lives of those in

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[30] PEPSO (2015).
[31] Mitchell and Murray (2016).
[32] Jobs with Justice San Francisco (2014). Everything You Need to Know About San Francisco's Retail Workers Bill of Rights. http://retailworkerrights.com/everything-you-need-to-know-about-san-franciscos-retail-workers-billof-rights/ in PEPSO (2015).

temporary or contract positions, or jobs involving short notice or shift work. Employers and the provincial government could also consider means for paying a premium to workers who undertake short-notice work.

8.3 Student Exemption from the "Three-hour Rule"

***CWR Interim Report* Options 5.2.3 Issue 7**

Option 1: Maintain the status quo.

Option 2: Remove the exemption.

As cited in earlier responses, UWTYR believes that the original intent of the Employment Standards Act—to provide a minimum standard of working conditions—is limited by exemptions such as the student exemption from the "Three-hour Rule". The three hour rule is a fairly low standard of notice that applies to only certain workers. It is still an important step toward creating certainty and stability in the lives of workers impacted by this rule. UWTYR does not see any reason that employed youth—students or not—should be exempted from this rule, and therefore urges the Advisors to remove this exemption (**Option 2**).

8.4 Scheduling

***CWR Interim Report* Options 5.3.2**

Option 1: Maintain the status quo.

Option 2: Expand or amend existing reporting pay rights in ESA:

- **a)** increase minimum hours of reporting pay from current 3 hours at minimum wage to 3 hours at regular pay;
- **b)** increase minimum hours of reporting pay from 3 hours at minimum wage to 4 hours at regular pay; or
- **c)** increase minimum hours of reporting pay from 3 hours at minimum wage to lesser of 3 or 4 hours at regular rate or length of cancelled shift.

Option 3: Provide employees job-protected right to request changes to schedule at certain intervals, for example, twice per year. The employer would be required to consider such requests.

Option 4: Require all employers to provide advance notice in setting and changing work schedules to make them more predictable (e.g., San Francisco Retail Workers Bill of Rights). This may include (but is not limited) to:

- **c)** require employers to post employee schedules in advance (e.g., at least 2 weeks);
- **d)** require employers to pay employees more for last-minute changes to employees' schedules (e.g., employees receive the equivalent of 1 hour's pay if the schedule is changed with less than 2 days' notice and 4 hours' pay for schedule changes made with less than 24 hours' notice);
- **e)** require employers to offer additional hours of work to existing part-time employees before hiring new employees;
- **f)** require employers to provide part-timers and full-timers equal access to scheduling and time-off requests;
- **g)** require employers to get consent from workers in order to add hours or shifts after the initial

schedule is posted.

Option 5: Sectoral regulation of scheduling – encourage sectors to come up with own arrangements:

Recognizing the need for predictable and stable schedules for employees in certain sectors, and the variability of scheduling requirements, the government would adopt a sectoral approach to scheduling as follows:

- **h)** the government would be given the legislative authority to deal with scheduling issues, including by sector;
- **i)** the policy of the government would be to strongly encourage sectors that required regulation to come up with their own scheduling regimes but within overall policy guidelines of best practices set by the Ministry;
- **j)** to develop the overall policy guidelines for scheduling, the government would appoint an advisory committee, comprising representatives from different sectors:

representatives of employers;
representatives of employees;
individuals with expertise in scheduling; and
others who may facilitate an educated discussion of the issues (e.g., representatives of community service agencies and academics with relevant expertise).

The advisory committee would be chaired and discussions facilitated by a neutral person from outside the Ministry of Labour. Once the guidelines were in place, sectoral committee structured as described in the exemptions section of this report (see section 5.2.3) could be established as required to advise the Minister on the scheduling issues in that sector.

UWTYR applauds the range of options being offered to amend notice of work schedules. PEPSO research indicates that improved notice would make a difference in the lives of those in precarious employment, and therefore, would also positively impact the families of those in precarious employment as well. More notice over scheduling allows families to plan for activities and arrange appropriate childcare and plan errands and social time that enable work-life balance. In sum, planning one's week allows for workers with irregular schedules to participate in the social fabric of the community.

For these reasons, we reject the maintenance of the status quo (**Option 1**), but also do not have the technical expertise to comment on the more specific proposals in **Option 2** but agrees that improvements can be made in regard to right to pay. UWTYR urges the Special Advisors to consider the range of options proposed in **Options 3 and 4**, in particular to consider paying a premium for short-notice work in lieu of notice and to improve the advance notice given to workers of their shifts, given the degree of impact that advance notice can have on the lives of workers. UWTYR also supports the notion of key stakeholders coming together to work on solutions as illustrated in **Option 5** though any regulatory change in this direction should recognise the inherent power imbalances between employers and workers.

9. Improving income security for workers in precarious jobs

9.1 Background

In both of our surveys we found that those in precarious employment are more likely to earn lower wages and live in households with lower household income. Those in precarious employment who have low and/or irregular income are particularly vulnerable financially because they have low total compensation—meaning that they are significantly less likely to have benefits, such as health, pension, vacation and paid sick days. This exacerbates their low income. Workers in precarious employment are also more likely to experience irregular income, in part, because they experience periods without work. This is particularly true for low-income workers who earn less than $40,000 a year. This means that those in precarious employment are more likely to experience income stress—that is, they are more likely to have trouble keeping up with bills, have more concerns about debt, and have more concerns about maintaining their standard of living, among other stressors.

Recent steps by the provincial government reflect a growing awareness of income insecurity and its impacts. The provincial government recently raised the minimum wage to $11.40[33] in Ontario and introduced an annual increase based on inflation through Bill 18, the Stronger Workplaces for a Stronger Economy Act. Hamilton City Council also moved to support the principle of a Hamilton living-wage rate of $14.95 an hour, is advocating for public procurement at living-wage rates, and is examining the status of part-time City workers and contractors to the City in relation to a Hamilton living wage. Groups, such as the Toronto Region Board of Trade, are beginning to look at compensation through the lens of total compensation.

9.2 UWTYR Recommends

We have seen that the combination of low earnings, with few (if any) benefits, and irregular income is negatively impacting the lives of those in precarious employment. To ameliorate this, employers and governments should consider viewing earnings and income through the lens of total compensation, and they should adjust their compensation practices, services and programs to account for this. We are pleased to see the *CWR Interim Report* apply this lens of total compensation throughout the report by noting how vulnerability can be compounded for workers who have both low wages and no benefits. We would strongly recommend this lens be used in the Final Report as well.

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[33] Ministry of Labour (2016). Minimum wage. https://www.labour.gov.on.ca/english/es/pubs/guide/minwage.php.

9.3 Minimum Wage Differential for Students Under 18 and Minimum Wage Differential for Liquor Servers

***CWR Interim Report* Options 5.2.3 Issues 6a and 6b**

Option 1: Maintain the status quo.

Option 2: Eliminate the lower rate.

Increasing household income by raising the minimum wage is one option that has the potential to decrease poverty and help mitigate the impacts of precarious employment. The minimum wage plays an important role in setting a basic floor for wages. For those in precarious employment who experience irregular hours and income, the minimum wage provides even less of a floor, especially when combined with a lack of benefits. UWTYR encourages the Special Advisors to take these challenges into consideration when weighing their decision on eliminating the minimum wage differentials for students and liquor servers.

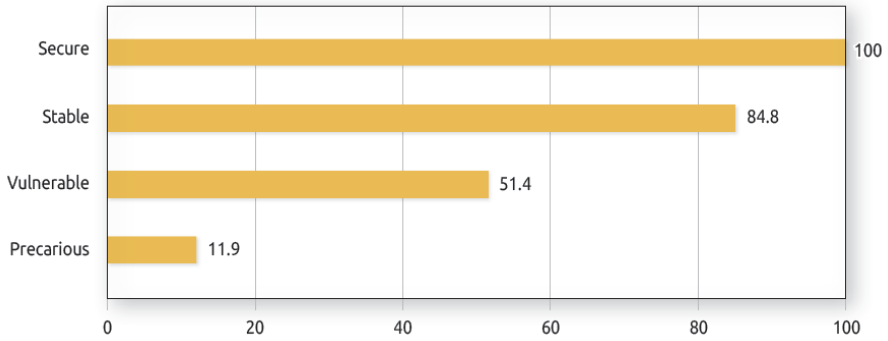
10. Better supporting workers' needs relating to unexpected absences

10.1 Background

Benefits form part of the total compensation paid to workers, and they are particularly important for health, well-being, and income security. Employers are less likely to offer pension, extended health benefits, and job protected unpaid or paid leaves for workers in short-term positions. We found that fewer than 12% of those in precarious employment were paid if they missed a day of work (Figure 35).[34] In addition, only 1 in 5 low income workers in less secure employment were paid if they missed a day's work. Low income workers in more secure employment were also the least likely of all secure workers to be paid for missing a day's work. In addition, workers who hold multiple jobs at one time may work full-time hours, but likely will not have access to benefits.

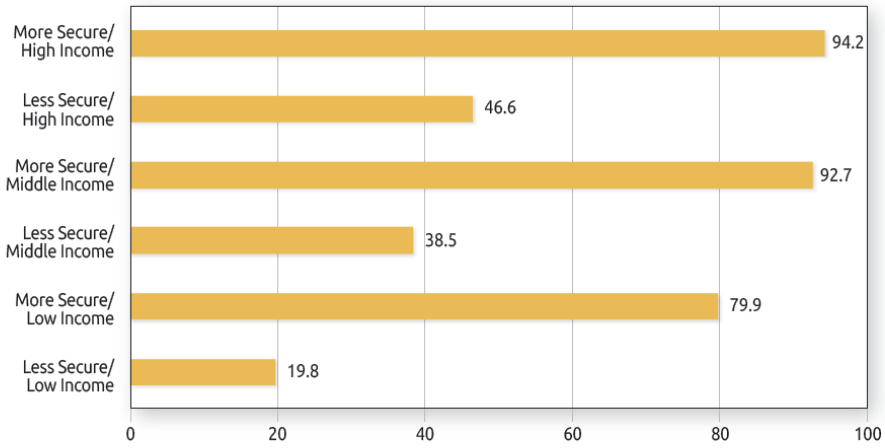
[34] Figure 35 in PEPSO (2015).

Figure 35: Paid if misses a day's work by employment security (%)



Source: PEPSO survey 2014. Significant at p<=.001.This question is included in the *Employment Precarity Index.*

Figure 36: Paid if misses a day's work by employment security and individual income (%)



Source: PEPSO survey 2014. Significant at p<=.001. Low-income<$40,000, middle-income $40,000-$79,999, high-income=>$80,000. This question is included in the *Employment Precarity Index.*

Access to leave plays an important role in helping workers to establish a work-life balance. Not having access to job-protected leave, or paid time off, can compromise a household's ability to cope with unanticipated events, such as a child's illness, or a death in the family. This contributes to the higher levels of stress and anxiety reported in *The Precarity Penalty*. For workers in precarious employment, the loss of income associated with unexpected illnesses, or as a result of attending to the needs of a family member, creates added vulnerabilities that are less of an issue for workers in secure employment.

Legislated rights to some types of leave benefits, such as the right to take unpaid personal emergency leave, are limited to workers in workplaces of 50 or more people, and there is no provision mandating that employers provide *paid* sick days. We welcome recent additions to the Employment Standards Act such as *Bill 21, the Employment Standards Amendment Act (Leaves to Help Families), 2014*, which have expanded access to leave by introducing three new types of leave that can be taken

by employees covered under the Employment Standards Act. However, we believe that more can be done to better support vulnerable workers in Ontario.

10.2 UWTYR recommends

The provincial government should consider taking steps to better support workers' needs relating to unexpected absences. The provincial government could do this by expanding the right to take personal emergency leave under the Employment Standards Act to those workplaces with less than 50 workers. Informed by their experiences, employers and the private sector can play a leadership role in this area by contributing ideas on how to provide access to paid sick days (and other types of unexpected absence benefits) for their contract and temporary workers.

10.3 Public Holidays

***CWR Interim Report* Options 5.3.3.1**

Option 1: Maintain status quo – maintain the current public holiday pay calculations – i.e., total amount of regular wages earned and vacation pay payable to the employee in the 4 work weeks before the work week in which the public holiday occurred, divided by 20.

Option 2: Revert to the former ESA's public holiday pay calculation –
• Employees whose work hours do not vary: regular wages for the day;
• Employees whose work hours differ from day to day/week-to-week (i.e., there is no set schedule of hours for each day of the week):
–the average of the employee's daily earnings (excluding overtime pay) over a period of 13 work weeks preceding the public holiday; or –the method set out under a collective agreement.

Option 3: Combined calculation – revert to the former ESA's public holiday pay calculations for full-time employees and commission employees and maintain the current ESA's formula for part-time and casual employees –
• Full-time and commission employees: regular wages for the day;
• Part-time and casual employees: total amount of regular wages earned and vacation pay payable to the employee in the 4 work weeks before the work week in which the public holiday occurred, divided by 20.

Option 4: Set a specified percentage for public holiday pay – e.g., employees receive 3.7% of wages earned each pay period. This would be the equivalent of wages for 9 regular working days to reflect the 9 public holidays in a year. Under this option public holiday pay would essentially be "pre-paid" throughout the year – employees would not receive public holiday pay on each individual holiday and existing qualifying criteria would no longer apply. Employees who worked on a public holiday would still be entitled to premium pay (or a substitute day off).

UWTYR supports the issue of public holidays being addressed through the interim report, though we do not have specific recommendations related to this list of

options. As public holiday violations are high,[35] however, we do encourage the Advisors to be attentive to enforcement issues in this area.

10.4 Paid Vacation

***CWR Interim Report* Options 5.3.3.2**

Option 1: Maintain the status quo of 2 weeks

Option 2: Increase entitlement to 3 weeks after a certain period of employment with the same employer – either 5 or 8 years

Option 3: Increase entitlement to 3 weeks for all employees

Paid vacation is important for work-life balance and can contribute to better outcomes for organizations. In one major survey of HR professionals, a majority agreed that "if employees who were taking less vacation started taking more of their available paid vacation days each year," they would be more likely to experience higher levels of job satisfaction, be more productive, and perform better.[36] Given the reduced job tenures in today's labour market, we discourage the adoption of **Option 1**, which maintains the current status quo of 2 weeks as well as **Option 2**, which would increase entitlement only for those with higher job tenure. We instead encourage the Advisors to adopt **Option 3**, which increases entitlement to 3 weeks for all employees, as this would have the effect of evening the playing field for more workers.

10.5 Personal Emergency Leave

***CWR Interim Report* Options 5.3.4**

Option 1: Maintain the status quo.

Option 2: Remove the 50 employee threshold for PEL.

Option 3: Break down the 10-day entitlement into separate leave categories with separate entitlements for each category but with the aggregate still amounting to 10 days in each calendar year. For example, a specified number of days for each of personal illness/injury, bereavement, dependent illness/injury, or dependent emergency leave but the total days of leave still adding up to 10.

Option 4: A combination of options 2 and 3 but maintaining different entitlements for different sized employers.

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[35] A recent Ministry of Labour Employment Standards Retail Services blitz found the most common monetary violation to be for public holiday pay. See Ministry of Labour (2016). Blitz results: retail services. https://www.labour.gov.on.ca/english/es/inspections/blitzresults_rs.php.

[36] Society for Human Resource Management & U.S. Travel Association (2013). SHRM Survey Findings: Vacation's Impact on the Workplace. Society for Human Resource Management & U.S. Travel Association. https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Pages/shrm-us-travel-vacation-benefits.aspx.

The following information related to PEL has already been submitted to the Special Advisors and is being reiterated here.

These PEL recommendations respond to issues raised in our work on precarious employment found in our May 2015 report *The Precarity Penalty*—the result of a 2015 survey of over 4,000 working adults in the Greater Toronto Hamilton Area.

Workers in precarious employment have low access to paid leave and job protected leave

Our research shows that 44% of workers in the GTHA today are working in a situation with some degree of precarity. Many people in precarious jobs have a hard time moving into better opportunities. This is in part because they lack access to important supports such as paid leave. Only 12% of those in precarious employment were paid if they missed a day's work.

Many workers in precarious employment also do not have access to job protected leave. These workers are not covered by the Employment Standards Act, either because they are not considered employees or because they are not covered under certain exemptions, such as the exemption on personal emergency leave for workplaces with fewer than 50 employees.

Access to leave plays an important role in helping workers establish a work-life balance. This lack of access to paid or unpaid leave compounds the vulnerabilities that these workers face. Not having access to job-protected leave, let alone paid time off, can compromise a household's ability to cope with unanticipated events, such as a child's illness. This contributes to the higher levels of stress and anxiety reported in *The Precarity Penalty*.

We do not support the maintenance of the status quo (**Option 1**), as we believe the exemption on small employers compounds the vulnerabilities of those in precarious employment. This is explained in greater detail in the following section.

We strongly recommend that the 50 employee threshold for PEL be removed (**Option 2**). According to Vosko et al., 19% or 971.000 employees do not have access to PEL because the size of their employer's workforce falls below 50 employees.[37] This number does not include an unknown portion of the workforce that does not have access to PEL due to a lack of employment standards coverage due to misclassification as an independent contractor.

In this increasingly complex and insecure labour market, we need more support for workers, not less.

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[37] Vosko, L., Noack, A., Thomas, M. (2016a).

We discourage the separation of the PEL into separate leave categories (**Option 3**). The challenges faced by those in precarious employment tend to make these individuals more vulnerable than other workers. For example, those in precarious employment are more likely to experience anxiety and social isolation due to their employment situation as compared to secure workers, and as such, may require access to more sick days for themselves or their family members than more secure workers. And regardless of employment status, it is already difficult to predict how many days one will need for personal illness versus a child's illness or other urgent family matter. In addition, we believe that breaking down the 10-day entitlement will create a more complex system that will be more difficult to enforce. For these reasons, we believe that workers need the flexibility to use personal emergency leave without specific prescriptions attached to the type of leave and discourage the separation of leave categories under the PEL. We also encourage the special advisors to adopt a holistic approach moving forward and to consider the PEL provisions alongside the rest of the review.

We do not support a combination of options 2 and 3 (**Option 4)** for reasons stated in Options 2 and 3 above.

10.6 Other Leaves of Absence Options

CWR Interim Report Options 5.3.6

Option 1: Maintain the status quo.

Option 2: Monitor other jurisdictions and the federal government's approach to leaves and make changes as appropriate (e.g., to family medical, pregnancy and parental and family caregiver leave).

Option 3: Introduce new leaves:

- **a)** Paid Domestic or Sexual Violence Leave for a number of days followed by a period of unpaid leave;
- **b)** Unpaid Domestic or Sexual Violence Leave;
- **c)** Death of a Child Leave, either through:
  - **i.** expansion of the existing Crime-related Child Death or Disappearance Leave or Critically Ill Child Care Leave; or
  - **ii.** ii. creation of a separate leave of up to 52 weeks for the death of a child.

Option 4: Review the ESA leave provisions in an effort to consolidate some of the leaves.

Those in precarious employment and other vulnerable workers face more stress due to their employment situation than their more secure counterparts. Employment insecurity can be compounded by income insecurity and this manifests in more challenges for the most vulnerable workers. For this reason, we recommend that workers be given as much flexibility and access to supports that will help them stay connected to the labour market and help rather than hinder their employment and income security. Therefore, we support options 2, 3b, and 3c, and discourage option 1. We support **Option 2,** as this allows for leave provisions to be flexible and responsive to the changing labour market. We urge the Special Advisors to explore

Option 4 to assess whether communication and administration might be eased without the reduction of overall benefits.

10.7 Paid Sick Days

CWR Interim Report Options 5.3.5

Option 1: Maintain the status quo.

Option 2: Introduce paid sick leave –

a) Paid sick leave could:
   i. Be a set number of days (for example: every employee would be entitled to a fixed number of paid sick days per year); or
   ii. Have to be earned by an employee at a rate of 1 hour for every 35 hours worked with a cap of a set number of days;
b) Permit a qualifying period before an employee is entitled to sick leave, and/or permit a waiting period of a number of days away before an employee can be paid for sick days;
c) Require employers to pay for doctor's notes if they require them

We support Option 2, the introduction of paid sick leave, and discourage Option 1, the maintenance of the status quo. Paid sick days would greatly benefit those in precarious employment, who have such a low rate (12%) of coverage for any paid days off. Although there is employer fear that paid sick days would lead to high costs and abuse, 85% of New York City employers surveyed about that cities newly mandated paid sick days reported no change in cost and 98% reported no cases of abuse. [38]

11. Supporting voice at work

11.1 Background

Providing workers with a voice at work has become an accepted feature of modern employment relationships, and it is increasingly recognized as a basic human right. Voice at work is provided in various ways: through the Employment Standards Act; through employer practices; and through collective organizations. For some workers, this includes the right to influence wages and working conditions with the assistance of a union. This section of our response will focus on how voice at work can be improved through the *Labour Relations Act*.

We found that those in precarious employment were much less likely to report being union members. Only 13% of those in precarious employment were members of

[38] Applebaum, E. (2016). Who really takes paid sick days? The answer will surprise you. The Huffington Post. Retrieved from: http://www.huffingtonpost.com/eileen-appelbaum/who-really-takes-paid-sic_b_11892588.html.

unions, compared to 34% of those in secure employment.[39] In addition, research conducted by one of the case studies involved with PEPSO noted that agricultural workers in Ontario are particularly vulnerable and have no access to unions as a source of voice. "Employers can change [agricultural workers'] work hours and contract durations without notice, shaped in part by factors external to the employment relationship including crop damage by extreme weather, plant diseases, and insects. Workers' jobs are very insecure, and with no right to bargain collectively as part of a union, there is little opportunity to secure future employment."[40]

Ontario's Labour Relations Act was introduced in 1950, and, though elements of this Act have changed since then, it was largely designed for the 1950s labour market, which was characterized by permanent, full-time employment. As noted in *the CWR Interim Report*, as a result, most union contracts represent workers who are doing similar work and who are employed at a single workplace in a specific geographic location.[41] There is a misalignment between the regulations that govern unions and the new realities of the labour market, where many workers have only temporary connections with a single workplace.

The labour movement has responded to these challenges with some creative solutions. Most of the building-trades unions have sector-wide bargaining, which enables members to work for multiple employers, while earning standard wages and benefits based on multi-employer contributions to benefit plans and pension plans. Unions that organize workers in the arts sector, such as IATSE and ACTRA, design model agreements for their members, work to get these agreements recognized by different employers, and administer benefits and pension programs for union members.[42] These sectoral bargaining agreements have been enabled due to specialized legislation permitting these sectors to unionize, such as the *Status of the Artist Act*.[43]

11.2 UWTYR Recommends

Sector- and occupation-wide collective agreements have given some workers who are not in Standard Employment Relationships the ability to access benefits, training, and other forms of collective representation that are currently limited to those in Standard Employment Relationships. The Changing Workplaces Review should assess the viability of these forms of representation. In addition, it should consider a range of

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[39] PEPSO (2015).
[40] Wells, D., McLaughlin, J., Lyn, A., Mendiburo, A., D. (2014). Sustaining Precarious Transnational Families: The Significance of Remittances from Canada's Seasonal Agricultural Workers Program. Just Labour: Vol 22 (Autumn 2014). http://www.justlabour.yorku.ca/volume22/pdfs/09_wells_et_al_press.pdf.
[41] Mitchell and Murray (2016).
[42] IATSE (2014). National Benefits Fund. http://www.iatsenbf.org in PEPSO (2015). ACTRA (2015). Our Union. http://www.actra.ca/main/our-union/ in PEPSO (2015).
[43] Mitchell and Murray (2016).

options that could enable more voice at work, such as card-based certification and protections for workers involved in collective representation, as well as options for the most vulnerable workers who lack access to representation.

11.3 Employee Voice

***CWR Interim Report* Options 4.6.2**

Option 1: Maintain the status quo.

Option 2: Enact a model in which there is some form of minority unionism.

Option 3: Enact a model in which there is some institutional mechanism for the expression of employee interests in the plans and policies of employers.

Option 4: Enact some variant of the models set out in the research report.

Option 5: Enact legislation protecting concerted activity along the lines set out in the United States NLRA

The *CWR Interim Report* notes that "there is a vacuum in Ontario, Created by a lack of meaningful ways for employees to express their voice in the vast majority of non-union workplaces."[44] This vacuum means that workers at times find they are unable to exercise their workplace rights with no recourse to address these challenges. For example, 15% of those in precarious work said they were not always paid for work done and one third of those in precarious employment said that raising health and safety or employment standards rights may negatively impact their employment.[45] Racialized workers and white workers are equally likely to report not being paid in full for work done; however, racialized workers are 50% more likely to report that trying to assert rights related to occupational health and safety or employment standards could negatively affect future employment. For these reasons, we believe that Options 2, 3, 4, and 5 have merit and deserve consideration, as they have the potential to dampen the negative effects of low employee voice. While the more technical nature of these options is beyond our evidence base, we are confident that our partners and key stakeholders with greater knowledge of these options will be commenting extensively.

[44] Gomez, R. (2016). Employee Voice and Representation in the New World of Work: Issues and Options for Ontario, (Toronto: Ontario Ministry of Labour). Prepared for the Ontario Ministry of Labour to support the Changing Workplaces Review.
[45] PEPSO (2015).

11.4 Agricultural and Horticultural Employees

***CWR Interim Report* Options 4.2.1.1**

Option 1: Maintain the status quo by leaving the existing LRA exemption for agricultural and horticultural employees in place and maintaining the AEPA for agricultural workers.

Option 2: Eliminate the LRA exclusions for agricultural and horticultural sectors under the LRA and repeal the AEPA for agricultural workers.

Option 3: Enact new legislation, perhaps like the ALRA, for agricultural workers.

Option 4: Include horticultural workers in any legislation covering agricultural workers.

As noted above, agricultural workers in Ontario experience a range of challenges including low income and employment security. Access to coverage in the LRA along with improved enforcement of existing standards would help alleviate these challenges. We urge the Special Advisors to consider Options 2, 3, and 4 and discourage the Advisors from considering maintaining the status quo (**Option 1**). **Options 2, 3, and 4** have the greatest potential to extend voice to a key group of workers who are particularly vulnerable due to the many challenges they face related to precarious employment.

11.5 Broader-based Bargaining Structures

***CWR Interim Report* Options 4.6.1**

Option 1: Maintain the status quo.

Option 2: Adopt a model that allows for certain standards to be negotiated and is then extended to all workplaces within a sector and within a particular geographic region, etc. This could be some form of the ISA model or variations on this approach that have been proposed in a very detailed way (as discussed above).

Option 3: Adopt a model that would allow for certification of a unit or units of franchise operations of a single parent franchisor with accompanying franchisees; units could be initially single sites with accretions so that subsequent sites could be brought under the initial agreement automatically, or by some other mechanism.

Option 4: Adopt a model that would allow for certification at a sectoral level, defined by industry and geography, and for the negotiation of a single multiemployer master agreement, allowing newly organized sites to attach to the sectoral agreement so that, over time, collective bargaining could expand within the sector, along the lines of the model proposed in British Columbia.

Option 5: Adopt a model that would allow for multi-employer certification and bargaining in an entire appropriate sector and geographic area, as defined by the OLRB (e.g., all hotels in Windsor or all fast-food restaurants in North Bay). The model would be a master collective agreement that applied to each employer's separate place of business, like the British Columbia proposal, but organizing, voting, and bargaining would take place on a sectoral, multi-employer basis. Like the British Columbia proposal, this

might perhaps apply only in industries where unionization has been historically difficult, for whatever reason, or where there are a large number of locations or a large number of small employers, and, perhaps only with the consent of the OLRB.

The following could be the technical details.

a) A sectoral determination by the OLRB would precede any application for certification.
b) To trigger a sectoral determination by the OLRB, itself a serious undertaking, a union (or council of unions), would have to demonstrate a serious intention and commitment to organize the sector, including a significant financial commitment.
c) The OLRB would be required to define an appropriate sector, both by industry and geography, or could find that there was no appropriate sector. All interested parties could make representations on the appropriateness of the sector (e.g., all hotels in Windsor, or all fast-food outlets in North Bay).
d) Employers in the sector would be required, at some stage of the sectoral proceedings, to produce employee lists to demonstrate the scope of the proposed sector and the union's apparent strength, or lack thereof.
e) A secret ballot vote and a majority of ballots cast (the current rule) would be required for certification.
f) Instead of the double majorities that could be required in the British Columbia model, this model would require only a single majority of employees because, as a result of the certification, all employers in the sector would be covered by the master agreement, whereas in the British Columbia-based proposal, almost by definition, there would be a non-union portion of the sector.
g) In the special case of an application for an entire sector in a large, multiemployer constituency, given the difficulties inherent 99 in determining an accurate constituency as of any given date and, therefore, whether a numerical threshold to trigger a vote has been met, the union(s) in this model would not be required to meet a numerical threshold to be entitled to a vote. Rather, to be entitled, the union(s) would be required to persuade the OLRB that it had significant and sufficient broad support in the sector. The union would have the obligation to make full, confidential, disclosure to the OLRB, as is required now, with respect to its membership evidence, including all of its information on the size of the unit, the number of employers, etc. Any effort to misrepresent the size of the unit could lead to the dismissal of the application.
h) Cards could be signed electronically, with the same safeguards now used by the OLRB for mailed membership evidence.
i) An OLRB-supervised secret ballot vote would take place electronically. Voters would "register," at the time they voted, listing their employer, work and home address, last hours worked, etc. The OLRB would have the authority and responsibility to quickly and administratively determine the eligibility of voters, including any status issues, and ensure that only eligible voters voted.
j) Such applications could only be brought at fixed intervals, and, if unsuccessful, could not be brought again, either by the same applicant or by any other applicant, for a period of one or two years.
k) If the union was certified, the OLRB would have the authority to accredit an employers' organization to represent the employers and to conduct the bargaining, directing that dues be paid from each employer on a pro-rata, per-employee basis.

Option 6: Create an accreditation model that would allow for employer bargaining agencies in sectors and geographic areas defined by the OLRB (e.g., in industries like hospitals, grocery stores, hotels, or nursing homes), either province-wide, if appropriate, or in smaller geographic areas. This model is intended for industries where unionization is now more widespread, but bargaining is fragmented. Employers could compel a union to bargain a master collective agreement on a sectoral basis through an employers' organization, and be certified by an accreditation-type of model, similar to the construction industry accreditation model. This might be desirable for employers in industries where unions decline to bargain on a sectoral basis, and where the union could otherwise take advantage of its

size, vis-à-vis smaller or fragmented employers, to "whipsaw" and "leapfrog."

Option 7: Create specific and unique models of bargaining for specific industries where the Wagner Act model is unlikely to be effective or appropriate because of the structure or history of the industry, (e.g., home care, domestic, agriculture, or horticulture workers, if these industries were included in the LRA).

Option 8: Create a model of bargaining for freelancers, and/or dependent contractors, and/or artists based on the Status of the Artist Act model.

Option 9: Apply the provisions of the LRA to the media industry as special provisions affecting artists and performers.

UWTYR commends the depth and range of options put forth regarding broader-based collective representation possibilities. Workers in precarious employment are often in need of more support to help improve their working conditions because they have limited voice due to exclusions and exemptions under the ESA and limited means to organize and bargain collectively under the LRA. Putting forth options for bargaining by sector or occupation is a step in the right direction and UWTYR recommends these options be explored and pursued in greater depth in discussion with key affected stakeholders. It is clear that maintaining the status quo of one employer and one workplace for organizing unions is limiting the ability of those in precarious employment to access collective representation, and for this reason, we discourage **Option 1** and urge the Special Advisors to weigh and consider **Options 2 through 9**.

12. Other Key Options in the *ESA* and *LRA*

Improving the *Employment Standards Act* and the *Labour Relations Act* aligns with the UWTYR goal of building opportunities for all. We are pleased to be able to apply the in depth knowledge we have gained from our strategic initiatives, evidence-based research, and multi-sector stakeholder relationships to this response. As noted at the start of this document, there are a range of important options that require technical expertise outside of the current scope of UWTYR's evidence base. We note these options below and trust that our stakeholders and partners with greater expertise in these areas will be commenting in detail on these options.

We do encourage the Special Advisors to continue keeping those vulnerable workers in mind who are often excluded or exempted from key elements of both of these pieces of legislation. We also encourage the Special Advisors to view these options through the lens of low employee voice, which can present a big challenge to vulnerable workers having their rights respected.

12.1 Employment Standards Act Options

- Who is the Employer and Scope of Liability (*CWR Interim Report* 5.2.2).
- Exclusions: Interns/Trainees (*CWR Interim Report* 5.2.4.1)
- Exclusions: Crown Employees (*CWR Interim Report* 5.2.4.2)
- Greater Right or Benefit (*CWR Interim Report* 5.4.1)

- Written Agreements Between Employers and Employees to Have Alternate Standards Apply (*CWR Interim Report* 5.4.2).
- Pay Periods (*CWR Interim Report* 5.4.3)
- Creating a Culture of Compliance (*CWR Interim Report 5.5.3)*
- Use of Settlements (*CWR Interim Report* 5.5.5.2).
- Remedies and Penalties (*CWR Interim Report* 5.5.5.3)
- Applications for Review (*CWR Interim Report* 5.5.6)
- Collections (*CWR Interim Report* 5.5.7)

12.2 Labour Relations Act Options

- Coverage and Exclusions (*CWR Interim Report* 4.2.1)
- Related and Joint Employers (*CWR Interim Report* 4.2.2)
- The Certification Process (*CWR Interim Report* 4.3.1)
- Card-based certification (*CWR Interim Report* 4.3.1.1)
- Electronic Membership Evidence (*CWR Interim Report* 4.3.1.2)
- Access to Employee Lists (*CWR Interim Report* 4.3.1.3)
- Off-site, Telephone and Internet Voting (*CWR Interim Report* 4.3.1.4)
- Remedial Certification (*CWR Interim Report* 4.3.1.5)
- First Contract Arbitration (*CWR Interim Report* 4.3.2)
- Consolidation of Bargaining Units (*CWR Interim Report* 4.3.4)
- Replacement Workers (*CWR Interim Report* 4.4.1)
- Right of Striking Employees to Return to Work (*CWR Interim Report* 4.4.2)
- Application to Return to Work after Six Months From Beginning of a Legal Strike (*CWR Interim Report* 4.4.2.1)
- Refusal of Employers to Reinstate Employees Following a Legal Strike or Lock-out (*CWR Interim Report* 4.4.2.2)
- Renewal Agreement Arbitration (*CWR Interim Report* 4.4.3)
- Interim Orders and Expedited Hearings (*CWR Interim Report* 4.5.1)
- Just Cause Protection (*CWR Interim Report* 4.5.2)
- Prosecutions and Penalties (*CWR Interim Report* 4.5.3)

13. Conclusion

All of us need to work together to engage workers who have lived experience to respond practically and comprehensively to our new economic realities and implement reforms where needed. Given the reality of our fast-changing labour market, it's crucial that governments, employers, labour and other stakeholders come together to identify common ground and advance a shared agenda for progress. That is the only way to ensure that every Ontarian has equal opportunity to live, work and raise a family while building a fair and prosperous society. We thank the Special Advisors for providing us with the opportunity to comment on the Changing Workplaces Review Interim Report and look forward to the Final Report's publication.