

**Submission
No 50**

INQUIRY INTO PUBLIC TOILETS

Organisation: United Workers Union

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SUBMISSION OF THE UNITED WORKERS UNION

Inquiry: Public Toilets

Portfolio Committee No.8 – Customer Service

15 November 2024

Acknowledgement of Country

We acknowledge and respect the continuing spirit, culture, and contribution of Traditional Custodians on the lands where we work, and pay respects to Elders, past and present. We extend our respects to Traditional Custodians of all the places that United Workers Union members live and work around the country.

About United Workers Union

United Workers Union (UWU) is a powerful union with 150,000 workers across the country from more than 45 industries and all walks of life, standing together to make a difference. Our work reaches millions of people every single day of their lives. We feed you, educate you, provide care for you, keep your communities safe and get you the goods you need. Without us, everything stops. We are proud of the work we do – our paramedic members work around the clock to save lives; early childhood educators are shaping the future of the nation one child at a time; supermarket logistics members pack food for your local supermarket and farms workers put food on Australian dinner tables; hospitality members serve you a drink on your night off; aged care members provide quality care for our elderly and cleaning and security members ensure the spaces you work, travel and learn in are safe and clean.

Introduction

The United Workers Union (UWU) thanks Chair Dr. Amanda Cohn, MLC and Committee members for holding this inquiry, and for your consideration of the employment arrangements and conditions of cleaners who clean public toilets. Workers who clean toilets in NSW are helping the public access one of most of basic yet important amenities in our communities. They should not face exploitation, unsafe workplaces and breaches of their rights and entitlements.

We outline below the systemic problems cleaners in the commercial cleaning sector experience and address some of the specific risks and industrial issues cleaners face with respect to cleaning toilets.

We provide several recommendations here that are within the scope of the NSW Government to act on. The Government has the capacity to create safe and secure jobs for cleaners through its economic reach, as well as playing a leadership role in supporting strong standards for the cleaning sector as a whole.

We are the cleaners' union

UWU has a proud history of representing cleaners. UWU's thousands of cleaning members are employed in both the public sector and by commercial contractors and building operators. We represent workers who clean toilets in schools, office buildings, malls and shopping centres, airports, hospitality and entertainment venues, stadiums, hospitals, Universities and TAFEs, police and ambulance stations and other public spaces. Through their union, cleaners have long fought for sector wide approaches to improving their employment standards – campaigns like "Clean Start" which improved conditions for a time across the sector nationally, and the successful effort to introduce portable long service leave for cleaners in NSW.

Cleaning work is essential

Cleaners' work is critical to the provision of safe and accessible public toilets. Cleaners ensure that toilets and bathrooms are clean and sanitary, they replace supplies like toilet paper, soap and hand towels, as well as handling sharps and emptying sanitary product and waste bins. Light maintenance work performed by cleaners, like unclogging toilets and basins, keeps facilities in operating order and helps to prevent larger maintenance issues. Cleaners are also the first line in reporting damage to facilities as well as any conditions that maybe be dangerous or hazardous to users.

Conditions in a vulnerable sector

The commercial cleaning workforce in Australia is majority women and includes a high number of vulnerable workers including workers from culturally and linguistically diverse backgrounds, migrants and visa holders.¹ The sector is systematically plagued with compliance issues related to workplace rights and entitlements and the mistreatment and exploitation of workers. These issues exist on a continuum that ranges from wage and superannuation underpayments, and other award breaches, through to incidents of threats, coercion and restrictions of workers' freedoms.² The NSW anti-slavery

commissioner noted in May of this year that his office has been in contact with cleaners in NSW who have experienced various forms of modern slavery.³

Price competitive contracting, which is widely used in the sector, results in cleaners' wages, if they are paid correctly, commonly being anchored to the legal minimum floor of the Cleaning Services Award, which currently has a baseline wage only \$0.87 above the federal minimum wage.⁴ Cost pressures frequently lead to contractors seeking to push labour costs below this floor by sub-contracting jobs on impossibly thin margins or engaging workers on sham independent contractor arrangements.⁵

A series of Fair Work Ombudsman Audits of the sector found workplace breaches, including the underpayment of wages, occurring in significant number of contract cleaning business - 37% of business in 2010-11, 38% in 2012-13 and 33% in 2016.⁶

The Cleaning Services Award contains a modest toilet cleaning allowance, currently \$3.41 per shift or \$16.76 per week. The union, unfortunately, often deals with employers who make every effort to avoid paying it. The award states that the allowance *must* be paid to an "employee who is employed for the major portion of any day or shift to clean toilets...".⁷ Employers frequently adopt a bad faith interpretation of the clause by taking an intentionally narrow view as to what constitutes a toilet (eg. excluding the cleaning of bathroom floors, basin and other surfaces, as well as empty bins and restocking supplies), by requiring toilet cleaning to constitute a "majority" of a shift, or by purposely structuring work in way that obfuscates the time spent cleaning toilets compared to other tasks.

Work health and safety risks

Cleaners face a range of health and safety risks related to cleaning toilets, including:

- trip hazards from wet floors and rubbish
- exposure to chemicals including the use of bleach in confined spaces
- handling sharps
- overuse and equipment related injuries
- exposure to biological matter including faeces, urine and blood
- being required to clean in bathrooms while they are in use and not cordoned off
- interactions with users in confined spaces
- interactions with users effected by drugs and alcohol (particularly in sites such as hospitality and entertainment venues, stadiums and airports)
- being the first on scene to respond to overdoses, self-harm and suicides and individuals in acute psychological and mental distress.

These risks can be exacerbated by contracting practices that create unsafe workloads through impossible productivity requirements (ie. time per task or square meter) as well as the insecure and precarious employment arrangements common in the sector.

The union points to the workload pressures experienced by cleaners employed by contractors currently engaged under whole-of government cleaning contracts. The contracts cover NSW schools

as well as TAFEs, government office buildings, electorate offices, court houses, police and ambulance stations and other public buildings. A survey conducted by the union of cleaners' daily workloads, combined with an analysis of the contract's specifications show that cleaners have been asked to perform an average of 634 tasks a day – or 43 seconds a task across a 7.6-hour shift.⁸ *This includes the cleaning of toilets.* Shockingly, cleaners employed under the contracts are assessed by iCare, the equal 5th highest workers compensation premium in NSW from a list of 500 occupations.⁹

Insecure and precarious work arrangements act as a barrier to safe cleaning workplaces. Cleaners employed through networks of contractors, sub-contractors and sham-independent arrangements are less likely to feel empowered to assert their workplace safety rights, let alone identify and deal with the appropriate PCBU and form WHS committees. This leaves cleaners unable to effectively raise WHS concerns and bring about appropriate improvements on matters such as personal protective equipment, cleaning equipment and products, training and procedures, and safe staffing levels.

Recommendations

The most effective way to ensure cleaners who clean toilets in NSW have safe, secure and decent jobs is to address the underpinning employment arrangements that currently prevail in the sector. The sector must move to models of employment that respect, rather than silence, the voices of cleaners. This means effective workplace WHS structures with supported and trained worker representatives, the mitigation of supply chain risks and meaningful collective bargaining. The NSW Government can play a major role in leading this change by taking the following actions:

1. Insource the work currently performed under the whole-of-government cleaning contract

The union refers the committee to our [February 2024 report](#) which details the failures of the current model of privatised contracting and its impact on cleaners and cleaning services in schools and other government buildings. The sites cleaned under these contracts account for thousands of toilets across NSW used every day by students, teachers, school staff and public sector workers, plus members of the public. Insourcing the work performed under these contracts will both create thousands of safe and secure, family sustaining jobs, as well supporting the delivery of improved cleaning services. It will also enable the State Government to demonstrate model employment and cleaning practices to the sector.

The whole-of-government contracts, previously set to expire on 31 December 2024, were recently extended with the existing contractors to 31 December 2025. The union remains in constructive dialogue with the Deputy Premier and other responsible Ministers regarding the ongoing employment arrangements. We urge the committee to support our recommendation that this work be insourced.

2. Adopt sector specific labour standards in cleaning procurement

With respect to cleaning work contracted by government agencies and authorities outside of the whole-of-government contracts, the union refers the committee to [our submission](#) to the recently completed inquiry by the NSW Legislative Committee on Social Issues into the procurement practices of NSW Government Agencies. We draw the Committee's attention the recommendations made in

our submission regarding measures to support fair and decent cleaning jobs through tendering and contracting practices. This includes setting “level playing field” labour requirements on issues such as wages and wage increases, job security and freedom of association that any successful bidder would need to uphold.

The union notes recommendation 6, contained in the [Committee on Social Issue’s final report](#) which recommends “the NSW Government consider the adoption of industry codes or frameworks which promote supplier compliance with labour standards in industries characterised by vulnerable workforces.” The cleaning workforce would benefit greatly from the adoption of such industry specific standards within government procurement.

This approach would also enable the inclusion of best practice measures specific to toilet cleaning within RFPs and contracts for cleaning work, such as the payment of toilet cleaning allowances to all cleaners who undertake the work, safe and reasonable productivity rates and WHS protocols. As an example of these types measures, the union refers the committee to the “[Trident Services Cleaning Pty Ltd and United Workers Union Brisbane Airport Enterprise Agreement 2024](#)”. Clause 28.3 of the agreement sets out safe toilet cleaning protocols intended to mitigate risks when cleaners are required to clean bathrooms of the opposite gender.

3. Leverage the Government’s role as a major tenant to support safe and secure jobs

The NSW Government is the single largest tenant of office space in the country.¹⁰ This means millions of square meters of property and thousands of toilets that are cleaned by workers whose wages are funded by public money through rental payments.

The Government can and should seek to use this position to support safe and secure jobs for cleaners. We again refer the committee to [our submission](#) to the recent procurement inquiry, in particular its summary of the approach and effectiveness of the Cleaning Accountability Framework (CAF).

CAF has been recognised by the Fair Work Ombudsman as a best practice model of collaborative workplace relations, strategic enforcement and industry compliance. Importantly CAF supports the identification of workplace violations by placing a focus on worker voice and engagement in building audits and education. A critical component of the CAF model is the use of ‘contract quantum adequacy’ pricing schedules which are intended to assist procuring agents, such as building owners and managers, make an informed decisions as to whether bids by cleaning contractors are sufficient to meet labour obligations and oncosts, as well as provide for safe workloads and productivity rates. CAF has developed pricing schedules for both the commercial and retail property sector.

The union urges the committee to support the introduction of CAF Building Certification and/or the CAF Portfolio Worker Engagement Program Rating and the engagement of CAF-Prequalified Contractors as a leasing requirement (embedded in contractual terms) when the Government leases property from private landlords.

Conclusion

We again thank the Committee for their time and attention to this matter. The union is available to assist the Committee should members have any questions regarding the issues raised in our submission and the jobs and employment conditions of cleaners more broadly. We look forward to continuing our engagement with Committee members on this topic and to implementing solutions that will improve the lives of cleaners who perform this valuable and essential work.

¹ Australian Government data report by Jobs and Skills Australia shows the commercial cleaning sector as being 55% female, see: <https://www.jobsandskills.gov.au/data/occupation-and-industry-profiles/occupations/8112-commercial-cleaners>. For data on the characteristics that make cleaners a vulnerable workforce, see the report by Commonwealth Senate Education and Employment References Committee (2018) *“The exploitation of general and specialist cleaners working in retail chains for contracting or subcontracting cleaning companies”*, Chapter 2. Available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/ExploitationofCleaners/Report/section?id=committees%2freportsen%2f024233%2f26706

² Cleaning Accountability Framework. “Cleaning Contractors Modern Slavery Guidance (V1.0)”. Available at: https://www.cleaningaccountability.org.au/wp-content/uploads/2020/12/CAF_ModernSlaveryGuidance_Contractors_v1.0.pdf

³ Transcription of NSW Anti-slavery Commissioner, Dr James Cockayne address to the NSW Anti-slavery Forum 22 May 2024. Accessed at: [NSW Anti-slavery Forum - NSW Anti-slavery Commissioner speech - Let's be reasonable - 22 May 2024](https://www.nsw.gov.au/anti-slavery/commisioner-speech-let-s-be-reasonable-22-may-2024)

⁴ The hourly rate for full-time adult level 1 cleaner under the Cleaning Service Award, as of 1 July 2024, is \$24.97 compared to the current minimum wage of \$24.10. The Cleaning Services Award is available at: <https://library.fairwork.gov.au/award/?krm=MA000022>

⁵ For an example of sham subcontracting practices in the sector, see the FWO allegations against company “ProClean HQ” involving the exploitation on migrant workers at Sydney Trains’ Auburn Maintenance Centre. FWO press release accessed at: <https://www.fairwork.gov.au/newsroom/media-releases/2023-media-releases/march-2023/20230310-proclean-litigation-media-release>

⁶ Fair Work Ombudsman (13 May 2016). “Cleaning industry compliance needs to improve”. Available at: <https://www.fairwork.gov.au/newsroom/media-releases/2016-media-releases/may-2016/20160513-cleaning-compliance-campaign-presser>

⁷ See clause 17.9 of the Cleaning Services Award

⁸ Redacted “contract specification summary” document available at: <https://unitedworkers.org.au/wp-content/uploads/2023/07/230307-school-cleaner-contract-specs-redacted.pdf>

⁹ “NSW Workers Compensation Industry Classification Rates and Dust Diseases Contribution, 2023-24”. Available at <https://www.icare.nsw.gov.au/-/media/icare/unique-media/employers/premiums/calculating-the-cost-of-your-premium-2023-2024/workers-compensation-premium-rates-2023-2024.pdf>

¹⁰ See Property and Development NSW, Corporate Plan 2023-24. Available at: https://www.dpie.nsw.gov.au/_data/assets/pdf_file/0004/581269/pdnsw-corporate-plan-2023-2024.pdf (p. 9)