

Contingent academic employment in Australian universities

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Introduction

As in many countries over the last 25 years or so, universities in Australia have been subject to substantial change and expansion. The Australian higher education student cohort has grown from 441,000 in 1989 to 1.4 million in 2014 (DETYA, 2001; Australian Government, 2015b). This has been accompanied by a progressive decline in direct government support per student and a substantial increase in the level and percentage of tied short-term funding flowing from national research granting bodies. Australia's universities have offset the decline in per student government funding by accessing the volatile international higher education student market. In 2013 there were 348,000 international students enrolled in Australian higher education institutions onshore and offshore (constituting 25% of the total student numbers) (Australian Government, 2015b). At the same time, the introduction of unrestricted competition between institutions for domestic students over the past 3 years has increased uncertainty and difficulty in forecasting enrolment numbers for some universities. Research performance is perceived as critical to student recruitment, with institutional research performance and world rankings being used as a measure of institutional status.

The apparent success and robustness of the Australian university system in an environment of short term funding and volatility in student numbers has been underpinned by significant changes in the composition of the academic workforce. Over the period from 1989 to 2013, the percentage of academic staff (full-time equivalent, FTE) employed on contingent contracts (fixed-term and casual/sessional) increased from 40% to 56%, with a corresponding decline in the percentage, but not the numbers, of academic staff holding continuing appointments. We can only estimate the headcount number of casual staff, but the best estimates based on superannuation data indicate there are more academic staff working on casual contracts than those on continuing contracts of employment (May, 2011).

While the higher education trend of increased casualisation mirrors similar trends across all Australian sectors, certain drivers are specific to universities. Reduced government funding and volatile student markets have already been mentioned. Since 1996 universities have also been subject to industrial regulation which restricts the circumstances where fixed-term appointments can be made. With the fixed-term employment option not being available, and complex and time-consuming exit procedures applying for staff holding continuing appointments, an incentive is created for greater use of casual and sessional teaching appointments, where simpler and speedier engagement and disengagement processes apply. This propensity towards casualisation is further heightened by the decentralisation of staffing and financial decision-making to schools and faculties.

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A major strategy of the national academic staff union, the National Tertiary Education Industry Union (NTEU), is to improve the security and conditions of employment for contingent staff. However, the solutions are not simple, and require balancing concerns over the quality of education, equitable and fair treatment of staff, equity between groups of staff, the financial viability of institutions, prudent risk management, and the implications for the future of the Australian academic workforce.

The purpose of this paper is to review current academic workforce flexibility practices in Australian universities. This includes the legal framework, types and prevalence of different contracts and practices, and the relative positions of unions and universities towards these practices. The paper will also discuss the implications of workforce flexibility for institutional management. These implications cannot be underemphasised, given that universities are Australia's largest services revenue generator through delivering higher education to international students, a service which has inherent volatility of demand and which is being increasingly delivered by contingently-employed staff.

Legal and Industrial framework

Although the majority of Australia's publicly-funded universities are established as statutory authorities under State (rather than federal) law, the vast majority of university public funding derives from the Commonwealth government, which also sets overall higher education policy for the nation.

The principal piece of legislation regulating employment in Australia, including university employment, is the *Fair Work Act 2009 (Cth)*. The Act contains a set of minimum National Employment Standards (covering leave and other entitlements), empowers the Fair Work Commission to arbitrate modern awards with industry-wide conditions, and enables individual employers to make enterprise agreements specific to the needs of the enterprise. Enterprise agreements cannot undercut the National Employment Standards in any way and, other than in exceptional circumstances, must result in all employees who are covered by the agreement being better off overall in comparison to the provisions of the relevant modern award. Enterprise agreements are made between the employer and its employees, with unions acting as the principal bargaining agents in negotiations.

The enterprise agreements in place at Australian universities are comprehensive in their content, and thus exclude the separate operation of the industry-wide modern awards for academic and other staff. There are also strong similarities in the content of these agreements, reflective of the provisions of arbitrated awards made by the predecessor federal industrial tribunal and the fact that universities are all negotiating with the same single academic staff union. The provisions in enterprise agreements relating to fixed-term and casual academic staff for the most part replicate provisions contained in the academic staff modern award, with the use of fixed-term employment thus being generally restricted to the following categories of permitted use:

- Specified task or project (which includes work funded by an external source)
- Research
- Replacement employee
- Recent professional practice required
- Pre-retirement contract (maximum 5 years)
- Subsidiary to studentship

These categories have been expanded upon in many enterprise agreements, with the most common additions being senior staff appointments and fixed-term appointments where a new area is being established or an area is being disestablished. It is also possible for an academic staff member to hold a

fixed-term managerial appointment, such as a Head of School or Dean, in conjunction with an underlying continuing academic appointment, to which the academic can revert at the end of the fixed-term appointment.

There are five level levels of academic appointment for continuing and fixed-term staff, ranging from Associate Lecturer (Level A) at the bottom, to Professor (Level E) at the top. Broadly speaking, universities employ staff at each of these levels in teaching and research (T&R), teaching only (TO), and research-only (RO) positions; with the vast majority of RO positions being funded by the two principal federal research funding bodies, the Australian Research Council (ARC) and the National Health and Medical Research Council (NHMRC).

Types and description of contingent employment and recruitment processes

Academic and other staff at Australian universities are employed under one of three broad modes of employment: continuing, fixed-term, and casual/sessional (with continuing and fixed-term staff being employed on either a full-time or part-time basis). Australian universities also engage independent contractors, who are typically professionals such as lawyers and accountants, to supplement their teaching workforce. Additionally, there is a well-established regime of unpaid “honorary” or “adjunct” appointments. These are often retired academics of significant standing, who provide expertise on a voluntary basis in return for benefits such as office space and use of equipment.

Academic staff employed on a continuing or fixed-term contract have significant procedural safeguards in their enterprise agreements covering disciplinary action and termination for unsatisfactory performance or misconduct. The enterprise agreements also provide for termination on account of redundancy, but again with significant procedural safeguards involved. Academic staff employed on a continuing basis are also typically subject to lengthy periods of probation of between two and five years. Unless this initial period of probation is extended, the probationary employment will either be confirmed or the employment terminated by the university at the end of the probationary term. Confirmation is usually regulated by university procedure, rather than by the enterprise agreement, and the incidence of non-confirmation is very low.

Fixed-term employment

Fixed-term employment is defined in the academic staff modern award as: *“employment for a specified term or ascertainable period, for which the instrument of engagement will specify the starting and finishing dates of that employment (or instead of a finishing date, will specify the circumstance(s) or contingency relating to a specific task or project, upon the occurrence of which the term of the employment will expire)”*. Thus, a fixed-term contract guarantees a certain period of employment, subject to agreed contingencies. Under enterprise agreement provisions, the contract cannot usually be foreshortened at will, even in a redundancy situation, but can usually be terminated during its term on the grounds of poor performance or serious misconduct.

Unique to universities, and deriving from a federal industrial tribunal decision creating the Higher Education Contract of Employment Award (HECE Award) in 1996, enterprise agreements also provide for severance payments upon termination of employment on contract expiry where the employee has been employed on a second or subsequent contract for a specified task or project, or to do research. The quantum ranges from

4 to 16 weeks, depending on length of service, but is not payable where the employee has been offered and has rejected a further contract.

Many university enterprise agreements also now provide for the possibility of conversion of a fixed-term academic staff member to continuing employment status at the conclusion of, or sometimes during, the fixed-term contract.

Casual/sessional employment

The employment of academic staff on a casual basis provides universities with flexibility in the form of a less costly form of engagement, and without the rigidities and safeguards pertaining to other forms of employment. Casual academics are normally engaged to teach or to mark, and are therefore not paid to conduct research. In 2013, more than 90% of casual academics were engaged only on the basis of teaching and associated tasks, with a further 5% of all casual academics engaged in neither teaching nor research. Therefore, less than 5% of casual academics are paid to do research. This is in contrast with 92% of FTE staff on continuing and fixed-term contracts having a paid research component to their role (Australian Government, 2015a).

Provisions for casual employment in enterprise agreements describe casual employment as being “by the hour”, with rates derived from full-time academic rates, inclusive of a loading of 25% (payable in lieu of annual recreation leave, sick leave and public holiday entitlements for which casual employees are not eligible). In practice, however, casual academics are often employed on a semester (usually a teaching block of 13 weeks), half year or one year “sessional contract”, with payment each fortnight following submission of a payment claim form for the work performed during that period. Casuals are also frequently re-employed by the same university in subsequent years. A survey of 3,000 casuals found a majority (62%) had been employed by their university for more than one year, and more than one third (46%) had been employed for more than three years (Strachan et al. 2012).

Recruitment processes

A competitive merit appointment process is generally required by university recruitment policies and procedures for continuing appointments and for fixed-term appointments of one year or more. Competitive processes are not the norm for fixed-term appointments of shorter duration and are invariably not used for casual appointments. Informal recruitment accounts for roughly 92% of all casual appointments, with only 8% gaining their position via formal advertisement (Strachan et al. 2012).

Casual appointments are normally made by the Head of Department or School, with these appointments being centrally-recorded for payment and reporting purposes but not otherwise centrally-managed. Problems sometimes arise with the appointment and cessation of casual employees, particularly where casuals have been engaged over a number of years on a regular and systematic basis.

Outsourcing / Independent Contractor arrangements

Some universities engage individuals or other entities to provide some teaching, without the university entering into an employment relationship with those individuals who do the teaching. This is not happening on any large scale, and is problematic in terms of the potential for the university to be subjected to subsequent legal claims that the supposed independent contractor relationship is in fact an employment relationship with the university.

Conditions of employment for contingent staff

Superannuation contributions

Superannuation is the most significant condition of employment where continuing employees enjoy higher benefits than casual employees and most fixed-term employees.

Federal legislation requires that Australian employers must contribute at least 9.5% of each employee's ordinary time earnings to superannuation if the employee earns more than \$450 in a calendar month. Notwithstanding the monthly threshold figure, most universities pay the 9.5% even if the threshold isn't met, as opposed to paying 3% or nothing as may otherwise be required. This minimum requirement represents the employer superannuation contribution that is paid by universities to casual employees and, as a generality, to fixed-term employees who have a discrete appointment of less than one or two years' duration.

In universities, continuing employees and employees with fixed-term contracts of longer duration (such as those employed under a two or three year research grant) receive university employer superannuation contributions equal to 17% of their salary. Some enterprise agreements also provide for fixed-term employees to move from 9.5% to 17% employer contributions after they have been employed on rolling fixed-term contracts for a number of years. The NTEU has also undertaken a campaign involving casual staff petitioning for universities to provide 17% superannuation contributions for all staff.

Paid Parental Leave

In comparison to the rest of the Australian workforce, university staff also enjoy very generous paid parental leave entitlements contained in enterprise agreements, typically providing 26 weeks paid leave at the employee's ordinary rate of pay. The enterprise agreements usually have an eligibility qualifying period, typically 12 months, and also exclude casual staff. Casual staff are also generally ineligible for separate paid parental leave entitlements under Commonwealth legislation due to the length of the break in continuous employment between the second semester of one year and the first semester of the following year.

A small number of university enterprise agreements also extend paid parental leave entitlements to "long-term casuals" within the meaning of the *Fair Work Act 2009* (being those employed on a regular and systematic basis for at least 12 months).

Unfair dismissal claim rights

Employees who have their employment terminated by their employer have a general right under the *Fair Work Act 2009* to contest the fairness of their dismissal, and can seek reinstatement if the termination is adjudged to be harsh, unjust or unreasonable.

This right is not available to a fixed-term employee upon expiry of their fixed-term contract, and is also not available to employees engaged on a casual basis, unless they have been employed as a long-term casual within the meaning of the Act.

Other entitlements

Casual employees (other than long-term casuals) are also excluded from other National Employment Standard entitlements provided by the Act, such as unpaid parental leave, the right to request flexible working arrangements, and paid carers' leave and compassionate leave.

Matters governed by university policy

Casual academics are also excluded from benefits governed by university policy, such as eligibility for promotion and sabbatical leave, support for further study, salary packaging and regular deductions from payroll. Mandated induction and participation in performance appraisal and professional development opportunities varies between universities, and casual academics are usually excluded from supervision of research higher degree students. Fixed-term academic staff have fewer exclusions, but are unlikely to be eligible for sabbatical leave or support for conference attendance that is not funded from a research grant.

Other intangible disadvantages

Whilst fixed-term academic staff may technically be eligible for certain benefits, such as the right to apply for promotion, the application of policy and criteria used in decision-making count against such staff. Supervisor support for promotion applications is also more problematic for a fixed-term staff member engaged in a research role under a grant of a finite duration. The heavy concentration of fixed-term staff holding Level A and B (Associate Lecturer and Lecturer) appointments (65%) compared to those holding continuing appointments (37%) points towards practical barriers for progression of junior staff employed on a fixed-term basis (Australian Government, 2014a). There is also a general reluctance for universities to invest in professional development for contingent staff due to the perceived lack of long term organisational benefit. These intangible disadvantages also result in early career academics being unable to gain security outside the work environment, such as seeking home loans, placing strain on social relationships due to the general insecurity factor.

Literature review

Given the importance of the academic workforce to the nation, there are surprisingly few studies of the impact of contingent academic employment. Work that has been done falls under three broad themes:

1. Establishing more details about the academic casual workforce. Despite having high-level national data on the casual workforce, there is limited data on the composition of the casual workforce, the duties they undertake, their qualifications and length of service.
2. Impact of the contingent workforce on the quality of education and research.
3. Implications of contingent employment practices for the future academic workforce, usually being commissioned by government or councils of learned bodies.

Establishing better information about the casual workforce

Assumptions about the nature and composition of the casual workforce range from a view that casual academics are predominantly research higher degree students gaining experience or people with other jobs whose contribution is essential to professional education, to a view that casual academics are an undervalued and exploited segment of the academic workforce relying on uncertain work for a living.

Much literature highlights concerns of casual academics. Kimber (2003) identified dissatisfaction of casual staff with large classes, lack of access to facilities and marginalisation from colleagues. Similar results were found by Brown and colleagues (2010), who interviewed 25 academic career focused-casuals in a metropolitan university. They found satisfaction with teaching but dissatisfaction with uncertainty of employment and remuneration. "Permanent casuals" had become second-class citizens and they

recommended their reintegration into the academy. Similarly, Rothengatter and Hill (2013) found that casuals are marginalised in academic departments, subject to high levels of uncertainty and arbitrary decisions over future work, and are not respected by their tenured colleagues.

More recently, there have been attempts to undertake more detailed analysis of who casual academics are and what they do. There have been several surveys of casual employment since 2004, with samples either drawn from individual universities or gathered across universities. Despite low survey response rates and differences in emphasis, approach and intent of the surveys, a remarkably similar picture emerges.

Because of mandatory superannuation contributions, the largest and most reliable source is the data in the national university superannuation scheme, UniSuper. Analysing the UniSuper database, May and colleagues (2011) found that 57% of the cohort identified as casual academics were female, and 52% of female respondents were aged 35 or younger. Junor (2004), reporting on a survey of 9000 casual and fixed-term staff across a range of universities, suggests that casual work was the preferred mode of employment for only 28% of the academic sample, that 27% had been employed in the sector for 2 to 5 years, and that 81% of the sample reported moderate to high levels of financial worry. Casuals who were satisfied tended to be retirees or those in other employment. The female respondents (54%) did not see that casual work assisted them to meet their care giving responsibilities. All casual academics reported significant time spent on unpaid work.

A study based in a leading research university with a comparatively small number of undergraduate students indicated that in 2009 casual academics were predominantly under 40 and female (Dover, 2010). Whilst the survey had a low response rate, 45% of the respondents were current students of the university, mainly research higher degree candidates, 12% were independent professionals, and 3.5% relied solely on casual academic work for a living. Three quarters of the respondents were seeking an academic career.

In a similar survey in 2012 of academic staff at the University of Tasmania, 199 academic respondents identified as casual. Of these 199 respondents, 66% were female, 81% had worked for more than 5 hours per fortnight, and 32% had been working regularly over 2 to 5 years (Brown, Kelder, Freeman, & Carr, 2013). Only one respondent saw casual teaching as a long-term career option.

In 2011 and 2012, the NTEU conducted a survey of academic casual employment with 1100 respondents. A similar picture emerged of a well-qualified casual cohort, with 30% holding a PhD and 50% holding a post graduate qualification other than a PhD. 67% of respondents were female and 63% were younger than 50. 70% of respondents had worked as a casual in one or more universities for more than 3 years, 63% were seeking academic careers, and 41% were enrolled in a research higher degree (NTEU, 2015).

Bexley, Arkoudis and James (2013) surveyed 5500 academic staff across 19 Australian universities, with 622 respondents identifying as academic sessional/casual. Two thirds (66%) of the casuals were females employed at Level A, with more than half aged over 40. Less than half were research higher degree students, and many indicated they were working as a sessional to prepare for an academic career or because no other academic jobs were available.

The results of Australian research are similar to the research in the Just in Time Professor report (US House of Representatives, 2014), which was the outcome of a major survey of contingent academic staff in the United States.

The similarity of outcomes allows preliminary conclusions to be drawn. Firstly, the casual academic workforce is heterogeneous, but the number of casual academics who see sessional teaching as a preferred career is minimal. Secondly, there is a significant number of well-qualified, predominantly younger female casuals, anxious but unable to embark on an academic career. Thirdly, while a substantial proportion of casual academic work is done by current research higher degree students, these casual employees

constitute less than half of the casual academic workforce. Therefore, casual academic employment cannot be viewed predominantly as an entry point into a secure academic career or a source of supplementary income for research higher degree students.

While the available data shakes the assumption that the majority of casual academic work is carried out by research higher degree students, considerably more work needs to be done to identify the full nature and patterns of employment of Australia's casual academic workforce.

Impact of casualisation on quality of education

Australian universities are actively engaged in research, and there is a widely-held assumption that research informs teaching, despite a significant body of research highlighting that this so-called teaching-research nexus is not so straightforward (Enders & de Weert, 2009; Hattie & Marsh, 1996; Jenkins, 2004; Marsh & Hattie, 2002; Qamar uz Zaman, 2004).

Given the large number of casual and sessional academic staff and their possible limited attachment to academe, there is an increasing focus on the quality of teaching and educational outcomes. This was an area investigated by the former Australian Universities Quality Agency³ in its institutional reviews, and successive reports detail concern over the level of integration and training of casual academics (Harvey, 2013). May, Gale and Campbell (2008) reflect the NTEU concerns over the impact of casualisation on the quality of education, with this concern being shared by many in the higher education sector.

Brown et al. (2013) and Higgins and Harreveld (2013) highlight demands by sessional academic staff for feedback on performance, induction, and professional development, though Brown notes that university-provided services that are available do not seem to be accessed by sessional academic staff.

Many universities either mandate or offer training for casual or sessional staff new to higher education. Successful programs designed to enhance skills and increase engagement of casual staff are described by Byers and Tani (2014), Hamilton and colleagues (2013) and Dover (2010).

While not finding that marking practices had an adverse impact on quality outcomes, Smith and Coombe (2006) report on a study of casual marking in two Australian universities, and raise a range of potential quality assurance concerns, including lack of supervision, limited time allocated for marking each paper, and lack of supervision and training of casual markers.

Others recommend improving quality assurance processes. Harvey (2013) advocates the establishment of standards at institutional level for casual teaching, including recruitment, induction, professional, career and administrative support, and appropriate remuneration, while Percy and colleagues (Percy and Beaumont, 2008; Percy et al., 2008) argue that placing the emphasis on individual development for casual teachers will not of itself improve quality outcomes, suggesting that in order to better manage risk, initiatives should be taken to integrate casual academics into the mainstream of teaching (e.g. by team teaching).

The fact that casual academics are rarely paid to conduct research implies that the growing casualisation of university teaching may negatively impact teaching quality if one subscribes to the underlying assumptions regarding the teaching-research nexus. However, at an aggregated level, there is little data to suggest that increasing casualisation or a lack of research engagement has contributed to a crisis in teaching quality. Based on the Course Experience Questionnaire, level of student satisfaction with teaching quality steadily increased from roughly one third of all students in 1995 to just over two thirds in 2014 (Norton, Sonnemann,

³ The Australian Universities Quality Agency was disestablished in 2011, with its responsibilities and those of state based higher education accreditation bodies being transferred to the Tertiary Education Quality and Standards Agency.

& Cherastidtham, 2013; GCA, 2014). Based on the Student Experience Survey, satisfaction with teaching quality is widespread, having increased slightly from 81% in 2012 to 82% in 2014 (SES, 2016, p. iv). Satisfaction across a range of measures is also mostly unrelated to the strength of the research environment, indicating little support for any positive relationship between research engagement and quality teaching (Norton et al., 2013). However, the lack of individual-level data means that it is not possible to examine whether there was any difference between casual and non-casual academic staff on any given measure.

Impact on staff on fixed-term contracts

Uncertainty over future employment also impacts job satisfaction and career aspirations for staff on fixed-term contracts, particularly where employment is contingent on grant funding. Junor (2004) reported that more than two-thirds of staff on fixed-term contracts of less than a year sought a long term career in a university. While noting the impact of uncertainty on fixed-term contract staff, these staff felt less marginalised than casual staff in the sample. Based on data derived from results of a major study of the academic workforce, Broadbent and colleagues (2013) examined the responses of 2488 research-focused academic staff, concluding that although aspirations for advancement are equivalent to staff in continuing roles, these staff see their career prospects as poor, and the nature of their employment contract dominates those prospects. They report that research staff on fixed-term contracts are less likely than research staff on continuing contracts to gain access to internal research funding, or to access a range of other intangible benefits, such as opportunities for leadership, performance appraisal and support for promotion. Unsurprisingly, the high job insecurity and expectations of mobility attached to post-doctoral positions are also associated with more pessimistic or uncertain views on career progression.

Impact on the academic profession

With more than one quarter of the academic workforce aged over 55, constituting an opportunity barrier to the progression of younger staff, many of the above studies reference the implications for the future of the academic profession. In particular, they highlight the difficulty of obtaining full-time or part-time academic appointments, the perception of sessional staff that secure positions are not available (Edwards, Bexley, & Richardson, 2011), the impact of uncertainty over future employment on staff engagement and commitment, and concerns over quality. Concerns over the availability of full-time and part-time academic roles are well founded. Gottschalk and McEarchern (2010) report on a study of casual academics in a regional university and found that many held multiple casual positions in the hope, often unrealisable, of entering an academic career. Coates and Goedegebuure (2010) demonstrate that the increase in student numbers in Australian universities since 1989 had not been matched by increases in the number of continuing and fixed-term staff. Like Percy and colleagues (Percy and Beaumont, 2008; Percy et al., 2008), they advocate bringing casual academic staff into the heart of the academy and make nine recommendations for improvement:

- 1. Create more entry-level early career positions to fast-track people into academic roles;*
- 2. Convert sessional staff onto fixed-term appointments;*
- 3. Develop the capacity of existing managers, and employ specialist managers to coordinate and support sessional academics;*
- 4. Find opportunities to engage sessional academics in the broader life of the academy;*
- 5. Implement management arrangements for sessional staff;*
- 6. Involve sessional academic staff in professional learning activities;*

7. *Develop quality assurance and risk-management procedures for sessional academic work;*
8. *Provide adequate on-campus flexible-office spaces so that sessional staff can interact with students*
9. *Create better data sources and models for understanding the sessional workforce.*⁴

Prevalence of contingent employment

Australia maintains national data on university staff and students which is reported publicly in Higher Education Statistics (HES) (Australian Government, 2015a, 2015b). Universities report the number of staff on a headcount and full-time equivalent basis annually to the Australian government. Student data is also reported annually across all universities and non-university higher education providers, generally with high rates of accuracy due to the funding tied to enrolments. Over the period from 1989 to 2013, full-time equivalent (FTE) university staff in academic ranks and functions (teaching and/or research) almost doubled from 28,000 to 53,000 (Australian Government, 2015a). Over the same period, the full-time equivalent student teaching load increased from close to 350,000 to 940,000 (Australian Government, 2015b; Coates and Goedegebuure, 2010). However, whereas student numbers have generally increased at a steady rate year-upon-year, staff growth is divided into three distinct periods.

Firstly, the period from 1989 to 1996 included the integration of staff from formerly teaching-focused colleges of advanced education (CAEs) into a “unified national system” of higher education between 1989 and 1991. This coincided with a relatively rapid growth in academic staff by 9,000 FTEs, an increase of 31% over the eight-year period. This growth reflected increases in student numbers (44% increase over the same period) (DETYA, 2001) and was centred on T&R roles. While there was an overall increase in academic staff, there was a decrease in the numbers of TO staff (from 10,000 to 7,000 FTE), most likely as a result of the greater emphasis on research for staff previously employed by CAEs.

A Commonwealth government decision in 1996 not to factor salary increases for staff into university salary funding allocations and, until 2000, not to index other funding in line with CPI, marked a period between 1996 and 2000 of relative stagnation in staff growth. This period also saw the beginnings of greater role specialisation, particularly in RO positions. The total FTE academic staffing figures did not increase over this period, but on an FTE basis, RO staff grew by 20% and T&R staff declined by 6%.

The period from 2001 to 2013 saw the FTE academic workforce expand by 43%, with a corresponding 59% increase in FTE student numbers. Increased funding flowed to the higher education system as a result of an influx of full-fee paying international students and increases in the level of Higher Education Contribution Scheme, the mechanism by which Australian students contribute to the cost of their education. A clear divergence in academic roles also emerged. RO FTE staff increased by 121% between 2001 and 2013, and TO FTE staff by 66%. This compared with 17% growth in T&R FTE staff. The growth in FTE staff by function is shown in Figure 1 for the 1989 to 2013 period.

⁴ Coates and Goedegebuure (2010) p.31

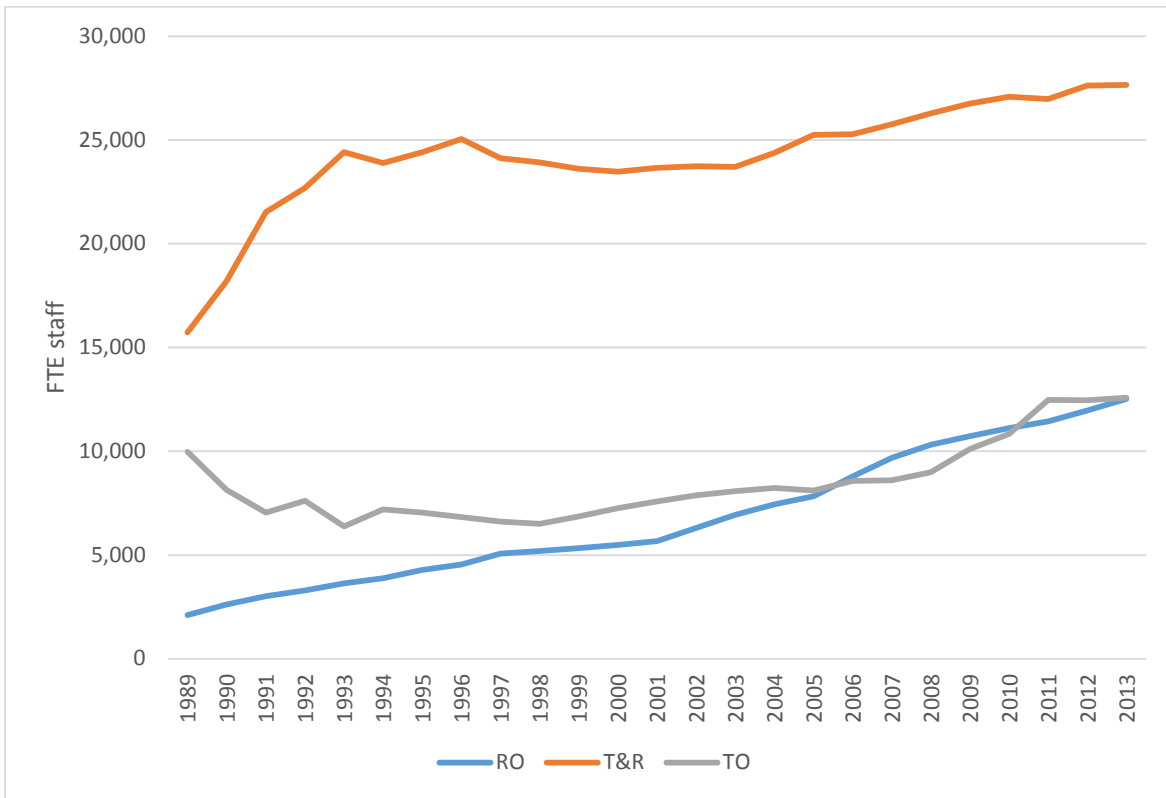


Figure 1. Number of FTE academic staff by function, 1989-2013 (Source: Australian Government, 2015a)

The past two and a half decades have also seen a significant increase in the proportion of academic staff employed on a casual or fixed-term basis. This trend is known to all universities, but it is difficult to ascertain the actual headcount size of the contingent workforce because headcount data for casuals is not collected as part of the HES collection.⁵ Based on headcount, the period from 1989 to 2013 saw continuing positions increase by 57% from 17,000 to 26,000, while fixed-term numbers increased by 174% from 9,000 to 24,000. On an FTE basis, with casual data included, casual employment grew by 221% over the same period, constituting 21% of all academic employment by 2013 (11,000 out of 54,000 FTE). This compared with a growth rate of 144% for fixed-term staff and 43% for continuing staff over the same period, with each constituting 35% and 44% of academic employment respectively in 2013. The share of the FTE academic workforce by contract type is shown for the 1989 to 2013 period in Figure 2 below.

⁵ National data on academic staff is collected as FTE and headcount basis on the number of full and part-time staff. Casual data is only recorded in a FTE basis. Therefore, the total number (headcount) of academic staff across all contracts (ongoing, fixed-term and casual) can only be estimated.

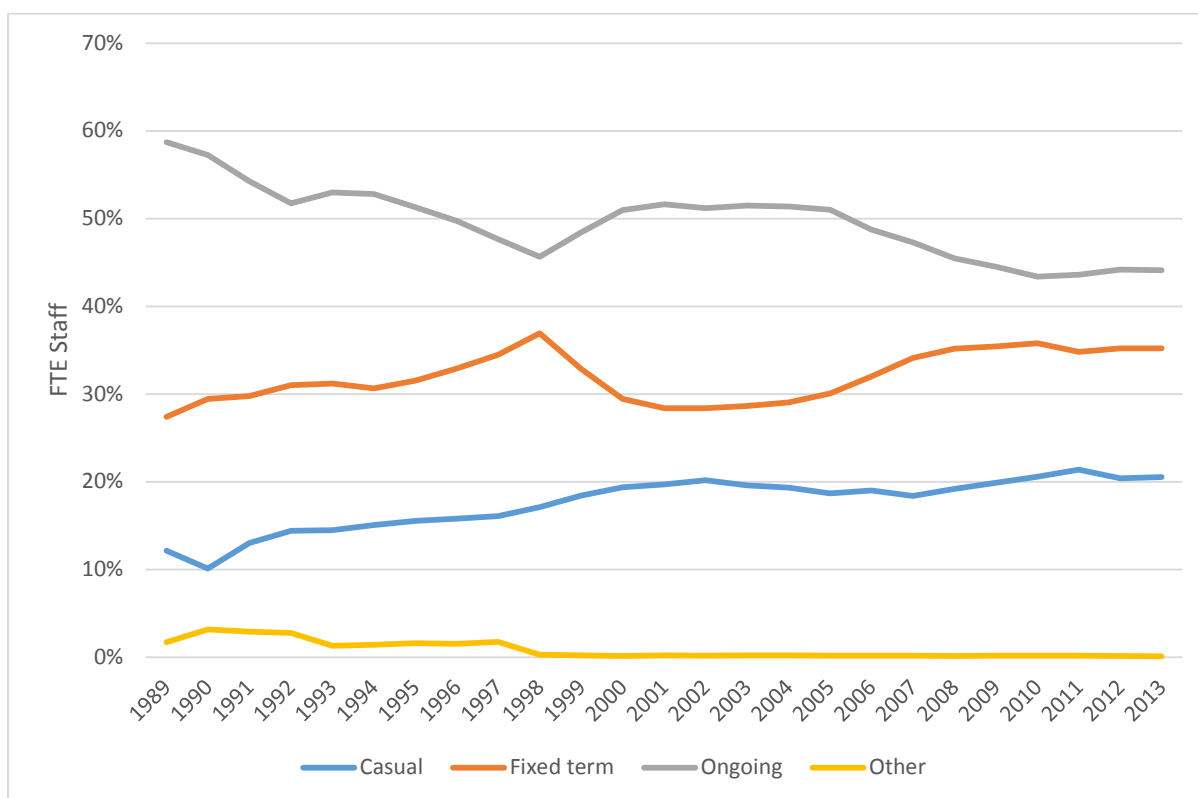


Figure 2. FTE academic staff by contract type (%), 1989-2013 (Source: Australian Government, 2015a)

The HECE Award introduced restrictions on the circumstances where universities could use fixed-term employment, and these restrictions flowed into subsequent awards and university enterprise agreements. Their introduction led to a sharp decline in fixed-term employment from 1998 to 2000 and an associated increase in continuing employment. However, these changes had no direct impact on the RO or TO workforce. The restrictions also led to an increase in the use of casual employment in areas where fixed-term employment was no longer possible. These restrictions were effectively removed by the Commonwealth government's Higher Education Workplace Relations Requirements ("the HEWRRs") announced in May 2005, which required enterprise agreements made after that time to be devoid of any restrictions on the use of fixed-term staff by universities. The removal of the restrictions was accompanied by a proportional increase in the use of fixed-term appointments between 2005 and 2009. Other factors, however, including increases in the allocations of research funding from the national granting agencies, also led to an increase in the number of fixed-term research only staff during that period. The HEWRRs were abolished in January 2008 and restrictions on the use of fixed-term employment then started to re-emerge in enterprise agreements made after that time.

The type of academic work is highly correlated with contract type. Just under 82% of all TO staff are employed on a casual basis, whereas almost no RO staff (2%) or T&R staff (1%) are employed on a casual basis (not including RO staff employed outside academic classifications). The vast majority of RO staff (85%) are employed on a fixed-term basis, and roughly three quarters of T&R staff (74%) are employed on a continuing basis. The share by contract type and category is shown below in Figure 3.

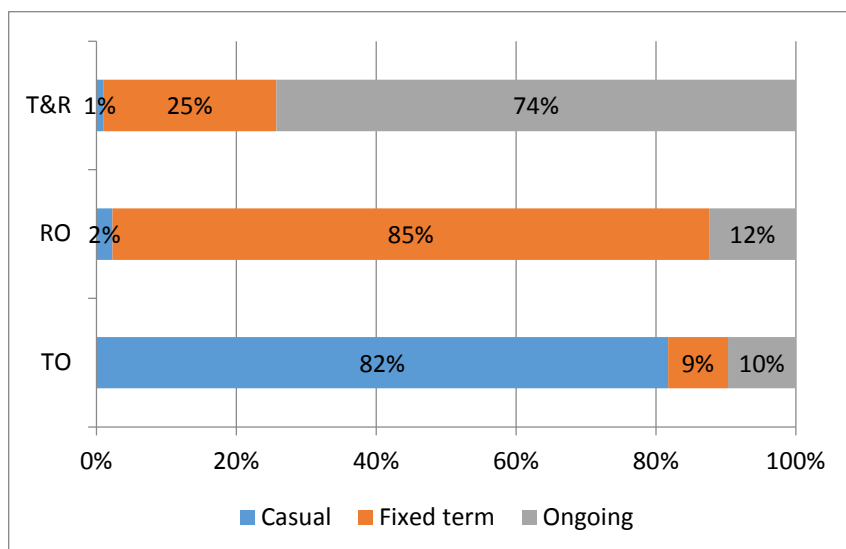


Figure 3. FTE academic staff by function and contract type (%) in 2013 (Australian Government, 2015a)

Although TO staff constituted only 24% of the FTE academic workforce in 2013, this does not give a good indication of the size of the casual teaching workforce and the share of teaching that they undertake. One FTE casual employee may involve work performed by many casual staff. One estimate, based on superannuation data, is that there were 67,000 casually employed persons in academic roles in 2010 (May, 2011), outnumbering those employed on a continuing or fixed-term basis (46,000 based on headcount in 2010) (Australian Government, 2015a). Contrasting the 67,000 estimated casuals from the superannuation data with the 8,000 FTE casuals in the government data for the same year, there were roughly 8 casuals for every FTE employee. More recently, headcount data collected by the Workplace Gender Equality Agency (WGEA) for all university employees (including professional staff) indicated there were 85,000 casual university employees in 2015. Compared to an FTE casual university workforce of 20,000 based on the government data, this indicates a ratio of roughly 4.2 casual employees per FTE (NTEU, 2016). However, due to the difficulties of recording casual data for academic employees, this is likely an underestimation of the total casual university workforce, as well as the ratio of casuals to FTE. Nevertheless, even on this conservative estimate casual academics outnumber ongoing university academic staff in universities.

Universities are heavily reliant on casual staff to perform the bulk of university teaching. Coates and Goedegebuure (2010) estimate that casual academics undertake 50% to 70% of undergraduate teaching. Academics in T&R positions may be nominally engaged in teaching for about 40% of their workload (e.g. with another 40% dedicated to research and 20% for other duties), while RO academics may have few formal teaching hours. Although in practice many T&R staff will be engaged in teaching beyond the nominal 40%, teaching time for these staff often includes paid hours for associated duties such as curriculum development and staff meetings. On the other hand, casual staff are only paid for a limited range of duties and only during the teaching semester. Casuals may be engaged in other collegial and teaching development activities, but are unlikely to be paid for this time (Strachan et al., 2012). Due to this narrow specialisation, an annualised FTE casual teaching workload constitutes a much greater share of direct teaching duties than the equivalent teaching load of staff employed in combined T&R positions.

In attempting to estimate the extent of teaching undertaken by contingent staff in Australian universities, we have assumed that T&R staff, employed either on a continuing or a fixed-term basis, are 40% engaged in direct teaching and associated activities compared to 100% for TO staff. Applying this assumption to 2013 figures, staff with continuing appointments are responsible for 40% of the teaching workload, casuals are responsible for 44%, with a further 16% undertaken by fixed-term staff. Using this modelling, it is only in recent years that casual employment has become the main contract type for teaching staff, with Figure 4

showing change over the period from 1989 to 2013 in the share of contract types for FTE teaching staff weighted for workload (0.4 weighting for T&R staff).

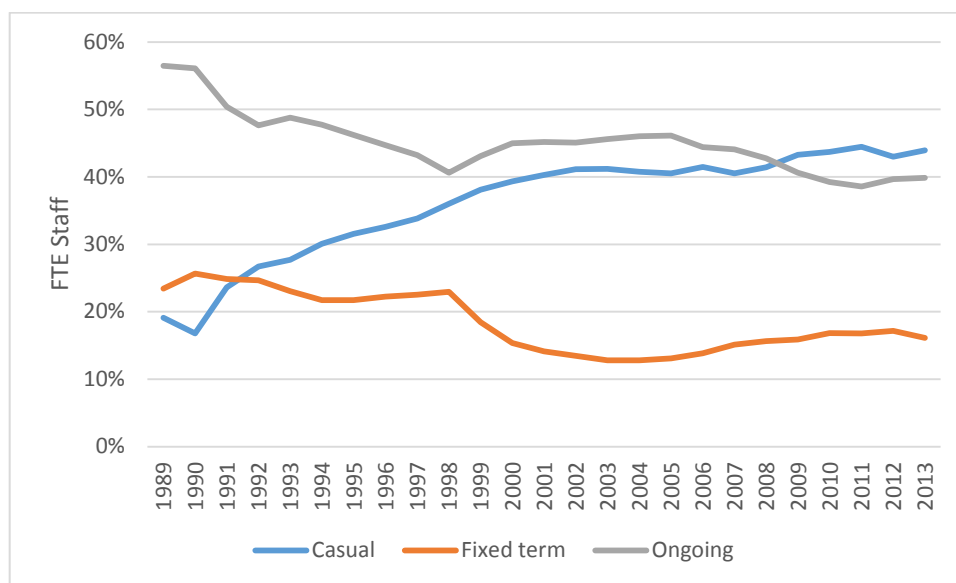


Figure 4. FTE teaching staff weighted for teaching workload (TO+0.4*T&R) by contract type (%), 1989-2013 (Source: Australian Government, 2015a)

The union position on contingent employment

The NTEU has for many years been focused on achieving greater security of employment for contingent academic and other staff, with its most significant achievement being the introduction of restrictions on the use of fixed-term employment referred to above. The NTEU has also been successful in negotiating caps on the use of casual staff in various enterprise agreements and the inclusion of conversion provisions for contingent staff in many agreements. The NTEU argues that contingent employment:

- is inimical to intellectual freedom;
- is bad for the individuals involved; and
- impacts adversely on the quality of education.

For many years, the NTEU strongly opposed the proposition that universities should be able to employ continuing staff on a teaching only basis, regarding this as an erosion of the academic right to research. However, since 2010, and as a means to provide greater job security for casual staff, the NTEU and universities have negotiated enterprise agreements which specifically allow for the creation of a limited number of fixed-term teaching positions in replacement of casual work, and to allow for other fixed-term teaching-focused positions for early career academics. Over the past 5-10 years, universities have recruited up to 1,000 scholarly teaching fellows with dedicated non-teaching workloads (NTEU, 2014). New enterprise agreement clauses have also created teaching specialist pathways to full professor for academics in T&R positions, and some “contingent continuing employment” for RO academics on rolling fixed-term contracts.

The university position on contingent employment

There is no one employer view on contingent appointments, and the attitude of individual universities towards contingent employment is likely to vary considerably on various issues relating to the use of casual and fixed-term academic staff. At the most senior levels, universities are concerned about managing financial risk and providing programs within a cost envelope, and casual employment allows flexibility. Most decisions on academic casual hires are made at department or school level, where Heads of School or Deans hold financial and hiring delegations. Here the benefits of flexibility are complemented by ease and speed of engagement and termination of employment. At the same time, the potential impact of casualisation is cause for concern, and almost all universities provide facilities and offer training in teaching to casuals, although the level and extent of this varies considerably.

Fixed-term employment is almost invariably used for academic staff funded by research grants, although larger research-based universities have recognised the negative impact of contingent employment on researchers, and have introduced a “contingent continuing” employment category that provides continuing employment but with easier termination arrangements in the event that the researcher misses out on being engaged under a subsequent grant. The severance payments for this form of employment are also lower than the standard academic redundancy payment entitlements.

Discussion

Our research has confirmed what we already knew; that there is an escalating trend in the number and percentage of academic staff on contingent appointments, and a declining trend in the percentage of academic staff with continuing appointments who undertake both teaching and research. The Australian higher education system is heavily reliant on the use of contingent academic employment to deliver outcomes and manage risk. The question remains whether a continuation of the trend to use an increasing proportion of contingent employment is sustainable, and whether it benefits higher education in Australia.

For many Australians, excessive use of casual employment is seen as exploitation. This is particularly the case for young people engaged predominantly as casuals in service sector industries, leading to uncertainty of employment and lesser benefits and career prospects. However, casual jobs in the service sector and university sector share little in common besides employment status (see: Nadolny & Ryan, 2013). Paradoxically within universities, the NTEU’s success in negotiating enterprise agreement provisions which impose restrictions on the use of fixed-term employment has led to greater reliance by universities on casual employment. Attempts by the NTEU over many years to place caps on the use of casual employment have been relatively unsuccessful, as have been provisions in enterprise agreement to convert casuals to more secure forms of employment. It is against this backdrop that the NTEU has more recently sought the establishment of large numbers of low-level teaching-only positions, with eligibility restricted to existing casual academics and some existing fixed-term academic staff.

From a university management perspective, the complex “tenure-type” protections that apply to academic staff mean that a high-risk cost applies to any appointment made on a continuing basis, exacerbated by generous academic redundancy provisions. This situation acts as a deterrent to the use of continuing employment in cases where it is possible to make a fixed-term appointment instead. While the use of fixed-term employment for staff on research grants is prudent risk management, given limited funding and low success rates for grant applications, it is also recognised that contingent employment has a major downside in terms of attraction and retention of quality staff, and that insecurity of employment can detract from productivity. It is therefore not surprising that universities have engaged with the NTEU in looking at various measures to provide increased security of employment for casual academic staff.

The operation and supervision of the casual labour force (including hiring, firing, management and quality assurance) involves costs and a level of activity largely hidden from senior university managers, given the devolution of budgetary and hiring responsibilities to academic units. It is important to gain a better understanding of the direct and indirect costs of casual employment, as well as the impact of casualization on the quality and productivity of the Australian academic workforce.

As one Vice-Chancellor wrote in the CASA (Casual, Adjunct, Sessional staff and Allies in Australian Higher Education) blog on the use of casual employment by universities:

I think we do have a problem and it is time to take a pause. Firstly, we do need to question whether the system overall is delivering outcomes that work for the participants. We need to stop and remember that casual staff are human beings. We need systems that allow them to plan their lives and get some certainty about career direction. We need to make sure that schools don't only discover their requirements at the last minute and we need to ensure we communicate effectively and make casual staff feel a genuine part of the academic community...⁶

Certainly, the solutions are neither clear nor easy. Although it is too early to tell if appointments of existing casuals to fixed-term early career academic or TO positions will actually occur, based on past performance, it is likely that such measures will have limited impact. Even if solutions which increase security of employment were evident, universities still need to manage ever-increasing countervailing forces, in particular a projected reduction in research and other government funding, increased competition for student numbers, and the volatility of the international education revenue stream.

Part of the solution lies in better understanding the Australian casual academic workforce and providing greater support for individual career development. It will be important to find out more about:

- The impact of the casual labour force on the quality of educational outcomes in Australia.
- The extent to which the casual workforce comprises aspirant or treadmill academics, research higher degree students and professionals contributing to the development of the profession.
- The extent to which the attitude of and the nature of work undertaken by casual staff teaching in professional disciplines differs from that of other casuals.
- The extent to which independent contractor arrangements are being utilised by universities, with the implication of lower control over quality and outcomes than occurs with direct employee engagement.

In looking to the future, we question whether an incremental approach based on responding to union initiatives in industrial negotiations around casual employment conditions will develop an optimal future academic workforce able to sustain Australia's universities, and wonder whether a fundamental rethink to employment structures is needed. Certainly, there is a need to identify ways in which greater security of employment can be afforded to persons currently engaged as casuals, to examine the job roles undertaken by casuals to explore ways to better integrate their employment with their academic colleagues, and to develop processes which ensure improved quality assurance. It is important that casual staff are fairly treated.

For fixed-term academics, we need to examine employment practices to ensure that fixed-term employment is not a default mode when such employment is permitted by enterprise agreements. The practice of employing staff on "rolling" end-on-end fixed-term contracts over many years without competitive processes raises many questions about quality, let alone the impact on morale and other impacts that insecurity of employment can bring. In looking to change current practices, it will be important to examine patterns of contract renewal at institutional level to determine the number and types and discipline areas of

⁶ <http://actualcasuals.wordpress.com/2014/04/08/the-arrogance-of-wizards-or-a-view-from-dumbledores-office/>

academic staff engaged on rolling contracts with a view to creating longer term engagements or appointments as may be permitted by enterprise agreements similar to the “contingent continuing” employment category.

None of the proposed actions of themselves will result in a lock step change, and new issues and approaches may emerge. Any radical departure from the current employment structures will be difficult, and indeed industrial negotiations surrounding any proposed changes may be fraught. But to continue the earlier quote from the Vice-Chancellor in relation to casual employment on the need to tread carefully:

“... The solutions will not be simple and there will be trade-offs. But, as with most things in life, the fact that the path is uncertain should not stop us from walking it.”

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