



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

DEPUTY PRESIDENT MILLHOUSE

AM2023/21

s.157 - FWC may vary etc. modern awards if necessary to achieve modern awards objective

**Modern Awards Review
(AM2023/21)**

Melbourne

10.00 AM, WEDNESDAY, 31 JANUARY 2024

Continued from 30/01/2024

PN2030

THE DEPUTY PRESIDENT: I'll start by taking the appearances this morning. Mr Kemppe, you're I think in an observing capacity this morning, based on your seat in the gallery.

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MR KEMPE: I am, Deputy President.

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THE DEPUTY PRESIDENT: Thank you. Dr Radford, you're here representing yourself?

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DR RADFORD: Myself, yes.

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THE DEPUTY PRESIDENT: Thank you very much. Ms Benton, you're continuing your appearance for NAVA. And Mr Scott, you appear today for ABI and Business New South Wales?

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MR SCOTT: I do. Thank you, Deputy President.

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THE DEPUTY PRESIDENT: Thank you. Mr Scott, I'll start with you. I have just been provided a copy of the submissions that have been filed by ABI in response to matters that have been raised by other parties, and in the context of oral submissions during consultation over the last week or so.

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MR SCOTT: Yes, that's right. And I should acknowledge that those submissions have only obviously very recently been filed, this morning. So the other stakeholders, I apologise that – no doubt you won't have seen those submissions. You won't have had the opportunity to read that. I'm very happy to talk to that document today. It might be the case that if the Commission can make copies available – I can't remember how long the document is. It's not enormous. So hopefully we might be able to constructively look at that and use the time productively.

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THE DEPUTY PRESIDENT: Wonderful. That was going to be the question that I put to you, Mr Scott. I think there is significant utility in inviting you to speak to those submissions in due course, and I do have hard copies for those that are here today. We might commence, though, this morning by hearing first from Dr Radford, who is an artist, teacher and writer, who has indicated some availability this morning to come to the Commission and share some of your experiences in your craft, and how that information in your view might be relevant to the general issues that the Commission is considering in relation to this aspect of the Modern Awards Review.

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DR RADFORD: Yes.

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THE DEPUTY PRESIDENT: And that's really focused upon the award system as it exists, and whether there are any gaps in award coverage that affect you in your role or your occupation, or your experience about how that might affect others, based on your experience and roles within which you've performed work.

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DR RADFORD: Sure.

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THE DEPUTY PRESIDENT: Are you comfortable in telling the Commission a little bit about yourself and what has brought you here?

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DR RADFORD: Yes. So I'm a lecturer at the university (indistinct) got given a contract maybe five years ago, and prior to that worked sessionally (indistinct) use that colloquialism, across many universities and TAFEs across the education sector.

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THE DEPUTY PRESIDENT: And which university are you a lecturer at currently?

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DR RADFORD: The Victorian College of the Arts at the University of Melbourne.

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THE DEPUTY PRESIDENT: And you said that you've been in that role with the university for five years.

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DR RADFORD: Contracted. As a tenured position, yes.

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THE DEPUTY PRESIDENT: Yes.

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DR RADFORD: And prior to that, worked sessionally for 13, casually for 13. Got a nice payout, thanks to the union, the backpay.

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THE DEPUTY PRESIDENT: There's a smiling person on the screen. So you're also an artist and a writer?

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DR RADFORD: Yes.

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THE DEPUTY PRESIDENT: And so how do you split your day or your week?

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DR RADFORD: Considering my PhD was going to be called Tetris Methodologies, it's kind of like shuffling and rearranging and prioritising, depending on what time in the semester it is, in terms of my employment, what deadlines there are. I remember I was part once, maybe about 12 years ago, of a review. ANU would call me once a year and ask me about my work hours. I think it was a work review. I can't remember who was running it. And I confused them, because at that time I had three different jobs, teaching at three different institutions, working as an artist, running an artist-run space voluntarily, unpaid, with board; writing.

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And so they would ask how many hours I was doing a week, and it would shift between 60 to 120 hours. Of course some of those are paid, obviously, because of the teaching, but a lot of it is unpaid, because it's helping to facilitate – younger artists have exhibitions, run space, make your own work, read to write the essays you're writing for another artist that's probably not going to pay you, because they can't afford to, so they'll give you an artwork in exchange. Which is fine, I've got a great art collection because of it.

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THE DEPUTY PRESIDENT: So tell me a little bit about your experience as the artist and running art spaces, because in terms of the position you hold with the University of Melbourne, that appears to be, in your terms, a tenured position. There's a contract that - - -

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DR RADFORD: Now there is, yes.

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THE DEPUTY PRESIDENT: Yes. And so any issues or concerns that you had previously in relation to the way in which you were engaged have been remedied.

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DR RADFORD: Yes, correct.

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THE DEPUTY PRESIDENT: And you have in place a contract that adequately deals with the position of lecturer.

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DR RADFORD: Yes.

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THE DEPUTY PRESIDENT: So I'm interested, then, in understanding your position as an artist. So you indicated that that involves running an artist space.

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DR RADFORD: Artist spaces, yes. Many artist spaces.

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THE DEPUTY PRESIDENT: Can you tell me about how that operates?

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DR RADFORD: All right. Because there are a lot of artists, and I guess since the 90s, especially in Melbourne – so if you think about that there was a session that we had to have, there was a lot of spaces that were free and open, and a lot of people weirdly went back to art school. And there was a growing cohort of makers, I guess. And so they started doing things like finding empty buildings above shops, or even old shops, and renting them, because the rent at that time in the city of Melbourne or Fitzroy was cheap. We paid \$50 a week. So generally, you'd get together as a group of like-minded artists who were thinking in a similar way, that basically wanted to help support – I mean, it wasn't as altruistic as this sounds.

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It's not like we went, 'We better help the community.' It was more like, we just wanted to see art. So they were kind of a bit punky or whatever. And so you would ask people to apply for shows. There was no funding at that time. The funding sector has somewhat changed, but we used to have to charge artists for exhibitions. So the artists covered the rent, we did the labour of promotion and making flyers, getting alcohol for the openings, facilitating conversations. So you'd run through two-weeks cycles of exhibitions over the course of the year, maybe close for a month. So if you go 52, 26 – yes. Anyway, sorry, it's all just in my head, so it's - - -

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THE DEPUTY PRESIDENT: That's all right.

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DR RADFORD: So it would be five people, five artists, generally. So that's where the ARI comes from. And so you'd be working collectively in different roles to do that, between five to 10, 15 hours a week, and then working on your own work. I was worked as a research assistant at that time, for an artist, so I got paid \$40 an hour to read books. That felt good at 24. It's not necessarily good later. Other artists worked as painters, or they worked as installers, or they worked in art shops, or they worked in hospitality.

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So you're kind of collaging and piecemealing together employment in order to pay for – well, eat, rent, and then pay for your practice, which you were not getting any income from, and you were generally outlaying. So you're paying to exhibit. And so there was lots of contra, like, 'Can you do this for me? I'll do this for you', which (indistinct).

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THE DEPUTY PRESIDENT: All right. And so is that your ongoing experience about how those artist-run spaces operate?

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DR RADFORD: I would say yes. I think there's a different system. There's some that get lots of – not lots, but they get some funding in order to pay rent, because there's been a big push that artists shouldn't have to pay rent to exhibit. But there's also the artist-run spaces that exist in backyards, so that still would run the same way, but no one pays, because the rent is paid for by the people living in the accommodation. But, yes, they're still run by generally all volunteers, mostly. The volunteer ratio would be extremely high, and people would be underpaid, on below minimum wage if they're the paid person at the gallery. Because some of them have paid people, which creates a hierarchy in itself, which - - -

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THE DEPUTY PRESIDENT: All right. So just to break that down, then, in terms of that arrangements, if everybody is a volunteer, there's no relationship of employment, or no employer that employs anyone.

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DR RADFORD: In some, but others, they get funding. They usually designate a program manager or director who is paid. So there would be one person paid, and then the artist-run space becomes an incorporated non-profit organisation, generally. And they will pay – often it's an artist, sometimes it's a curator, sometimes it's a writer, or an amalgamation of all three.

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THE DEPUTY PRESIDENT: So if there's only one person that is paid – and we're talking about the curator or the artist – then what's your experience about the relationship of payment that that person is currently engaged under?

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DR RADFORD: What do you mean, the relationship?

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THE DEPUTY PRESIDENT: So are they an employee of the incorporated non-profit?

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DR RADFORD: Yes.

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THE DEPUTY PRESIDENT: And how do you know that.

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DR RADFORD: Because we looked at it when we got grants, a big enough grant to mean that we ran a free space. And we had a very complicated conversation about whether we would pay anyone, but we didn't want to create hierarchy, and also we were a bit terrified of the paperwork. So they would have been an employee of ours, but we decided to run it – so, like, even when I was on un Magazine, the un Projects, which is a kind of a magazine writing project, there's one paid person that's by un Projects. So I was on the board where that happened. We were part of an organisation where that happened.

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THE DEPUTY PRESIDENT: All right. So for reasons of your own, about not wanting create a hierarchy between volunteers and the paid person, the arrangement for effecting payment to that one person that you're speaking about, the curator or the artist, that comes just by way of ad hoc agreement, is that - - -

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DR RADFORD: No. Generally the organisations try to do it the best way, and make sure that there's super, if they can.

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THE DEPUTY PRESIDENT: Do you know what informs how they pay people?

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DR RADFORD: Well, your code of practice, I think; their budget – and their budget, that's why so many people are underpaid. So they kind of ad hoc put it together, by looking at what NAVA suggests, and then thinking about what someone else – well, it's not thinking. They go and ask people what they get paid in different positions, and then see what they can afford and try their best to – so often, they're only .2 positions or .25 positions, two days a week, which is never enough.

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THE DEPUTY PRESIDENT: And so relevant to this review, then, do you have a view or anything that you can share about how the current modern award system doesn't adequately deal with the occasions of employing that person two days per week? Can you speak to what concerns there might be about using an existing award?

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DR RADFORD: I guess it's the nature and complexity of the work, and the skill level, in terms of – I was talking about it with (indistinct) yesterday, that artists have effectively done their apprenticeship or whatever, after the four to five years. They're a skilled worker. They're generally highly skilled at not only making things, but also in terms of problem solving and analytical skills.

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THE DEPUTY PRESIDENT: Yes.

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DR RADFORD: So when you're in one of those positions, not only are you liaising, you're writing budgets – do you know what I mean? It's in the complexity of the job descriptions and the skills and education that the people have in those positions, where it's – I feel confident saying nine times out of 10 is underpaid, well below - - -

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THE DEPUTY PRESIDENT: And how do you reference, in your view, this concept of underpayment? What are you comparing it to?

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DR RADFORD: Well, if you think about what their wage would be per annum, and then similar positions in small organisations or non-profit organisations, so from the Stephanie Alexander program. Do you know what I mean?

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THE DEPUTY PRESIDENT: Yes.

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DR RADFORD: Knowing lots of artists through that sort of stuff, or what a technician wage might be at the VCA, skilled position, must have graduated. Do you see what I mean? The university pays – they pay quite well. So knowing that that may be the higher end of the scale, but it's being able to compare and contrast with other non-profit organisations, i.e. Stephanie Alexander, and then professional organisations.

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THE DEPUTY PRESIDENT: So your concern then lies in the fact that university-run galleries, for instance, have a method of engaging people, and - - -

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DR RADFORD: (Indistinct) what I'm talking about is very much like artist-led sector, or what is called – just above that, probably Chaos as well, which is public galleries that receive more funding.

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THE DEPUTY PRESIDENT: Yes.

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DR RADFORD: University galleries generally, but they're accordant to the university EBAs. They're paid well, like, properly, I would say. Not necessarily always in the best conditions, because it's highly casualised. Because it's a team of – the installers that install the exhibitions are often artists.

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THE DEPUTY PRESIDENT: Yes, but they're employed as installers.

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DR RADFORD: That's right, but you can't – it's rare to find an installer, highly unlikely, that hasn't gone to art school, that hasn't trained as an artist. So I would say it's a specialised industry.

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THE DEPUTY PRESIDENT: All right. So your concern, then, if I were to summarise it, really lies in the comparison points between the way that an artist might be engaged by a university versus how they might be engaged in an incorporated - - -

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DR RADFORD: Free market.

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THE DEPUTY PRESIDENT: - - - in the free market, to use your term. So a smaller gallery, but not a local government-operated gallery.

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DR RADFORD: No, because they're similarly covered.

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THE DEPUTY PRESIDENT: All right.

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DR RADFORD: And then, because artist – so I'm even talking there about artists being employed. That's them being employed in a role that they've got the skills for, because they're an artist, but they're not being employed as an artist, if that makes sense. It's a different breakdown. So as an artist making the work, I'm not going to get paid at all unless maybe I'm exhibiting with a Chaos organisation, who then pay you according to the code of practice, what's dictated in NAVA's – they try to, with super. And a university gallery might, but you don't get to exhibit in those spaces until you've practised for 10 to 15 years, more often than not.

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THE DEPUTY PRESIDENT: But then, as an artist, when you do and practise in those spaces and exhibit, is it your experience that you're coming to that gallery as an artist that runs their own artistic business, and you're then engaging with that gallery?

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DR RADFORD: We would never describe it as a business, but as a practice, yes.

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THE DEPUTY PRESIDENT: As a practice.

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DR RADFORD: You'd go as an artist.

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THE DEPUTY PRESIDENT: Yes.

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DR RADFORD: And you're paid – which is advice by the code of practice. It's not legislation. And also it's not a wage.

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THE DEPUTY PRESIDENT: No, it's not a wage.

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DR RADFORD: So it doesn't – it's a fee.

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THE DEPUTY PRESIDENT: Yes.

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DR RADFORD: And depending on the artist's work or practice, the fee is now quite good than what it was before, but it doesn't - - -

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THE DEPUTY PRESIDENT: But you understand that the award system doesn't deal with relationships that sit outside the relationship of employer and employee.

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DR RADFORD: Yes.

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THE DEPUTY PRESIDENT: So if your concern in relation to artists is focused upon the capacity to negotiate their fee or their commission, then a Modern Award Review is unlikely to resolve that concern, because - - -

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DR RADFORD: Yes. If I can be annoying - - -

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THE DEPUTY PRESIDENT: No, go ahead.

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DR RADFORD: - - - like, in a kind of philosophical sense, then – and maybe if it was idealistic (indistinct) and that didn't go very well, but the artists kind of work for culture. That's a much broader idea.

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THE DEPUTY PRESIDENT: That is a broader idea than the modern award system.

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DR RADFORD: High-level, like the ABI is very useful for artists, because they are working all the time, and then they're kind of given a spot fee as their work enters the public. And that spot fee can range from zero to, I don't know, \$10,000, what it seems. It doesn't get much higher than that.

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THE DEPUTY PRESIDENT: All right.

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DR RADFORD: (Indistinct) that's kind of not a lot of money, necessarily, for the work done, if that makes sense. Is that annoying, what I just said?

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THE DEPUTY PRESIDENT: No. It's probably just not relevant to – my questions are really just focused upon understanding the issues that are relevant to this aspect of the review.

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DR RADFORD: Yes.

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THE DEPUTY PRESIDENT: And I've had the benefit of hearing from some other artists last week as well, who have been able to speak to some of the same issues that you're speaking of today.

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DR RADFORD: Yes.

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THE DEPUTY PRESIDENT: I probably understand the position that you've advanced. I don't have any supplementary questions for you, Dr Radford. Thank you. Is there anything that anybody else would like to contribute to that discussion? Ms Benton?

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MS BENTON: I invited you, Ms Radford, to speak today, to give examples of the types of work you do as an artist that would be – if you were on an artist residency for a period of time, or engaged for I guess some ongoing work, or a long-term commission, where it could be a work engagement, or you could be considered to be - - -

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DR RADFORD: I mean, there's so many examples of that, where you would be writing grants for – for example, I was working with Johannes Gess on a project, after we received some funding – so without getting the funding, I've already spent 10 weeks writing the grant. Do you see what I mean? To get \$40,000, so that we engage in a project. So I'm not getting paid to write that grant. Then I get the \$40,000, which is great, so we get to travel across the world to research prominent spaces of – you know, memorial and genocide at times, and then comes back.

PN2130

And I engaged – invited, because of the research that we've done, to do exhibitions. So then once again I have to start writing grants, which is outside the scope of what I can do in a work week for my job as a university lecturer. So you're working – you're collaging thigs together, so that we can do an exhibition hosting 20 artists from both Australia and internationally, to exhibit as part of the international festival in Adelaide, figuring out – and in liaison with the director of the gallery. So you're kind of working all the time. And then that money I get doesn't even pay me to do the work. That pays all the other artists that you want to show, and make sure the work can get shipped there, let alone make the work. So you're giving them a nominal for the work they've already made.

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THE DEPUTY PRESIDENT: So in relation to that work – the writing of grants - - -

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DR RADFORD: Reading, conceptualising a project.

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THE DEPUTY PRESIDENT: Is that as part of your volunteer role for the incorporated - - -

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DR RADFORD: No, that's the work of an artist.

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THE DEPUTY PRESIDENT: That's the work of an artist, but - - -

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DR RADFORD: That's legitimately the work of an artist.

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THE DEPUTY PRESIDENT: So maybe a different question would be, in that experience, who would you identify, if any entity, as your employer?

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DR RADFORD: Well, it would be two. The money ended up going – because the university loves that stuff – the money goes through the university, but lots of it got then given to ACE, the galleries where we exhibit, and then the other artists.

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THE DEPUTY PRESIDENT: Yes. But that's funding that's then distributed.

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DR RADFORD: Yes.

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THE DEPUTY PRESIDENT: Yes, all right. Is there anything else that you wanted to speak about in relation to that?

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DR RADFORD: It feels like, as an artist, if you have an exhibition, say, at Bus, which is a lower-tier gallery, your employer is Bus, but they're not paying you anything, because they don't have the funds to pay you. You are exhibiting on behalf of them and yourself. Does that make sense?

PN2143

THE DEPUTY PRESIDENT: Yes. But in your experience, is that gallery becoming their employer, or is it inviting that artist to exhibit - - -

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DR RADFORD: They're a representative of the artist.

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THE DEPUTY PRESIDENT: All right.

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DR RADFORD: I mean, I think that's why – I think it's a very complicated system that would be benefitted by good mapping, I guess. I don't know if that's been helpful.

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MS BENTON: I don't know, I haven't seen – maybe a little bit.

PN2148

THE DEPUTY PRESIDENT: Yes, of course. This is about information gathering. So as much as information that can be brought to bear in relation to your lived experiences in relation to these matters helps inform the views about where possible award gaps might exist.

PN2149

DR RADFORD: Artists generally exist as sole traders. Everyone has to get an ABN (indistinct) the way they're paid through these fractional amounts of money (indistinct), depending on (indistinct) of the organisation that they'll be exhibiting in, which is their kind of employer for that period of time.

PN2150

THE DEPUTY PRESIDENT: Well, it might not be regarded as their employer, as a matter of law, if they operate as sole traders. And that's a key issue that seems to be alive for consideration in the context of the artist.

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DR RADFORD: I guess the sole trader comes about – and I remember when we all had to start getting ABNs, because there was no other way for us to get paid, or we wouldn't have been paid. There would have been no money. So it was like, you'll either be getting an ABN or you do the work for free. And it's kind of like, we want to be paid. That's the – yes.

PN2152

THE DEPUTY PRESIDENT: All right. I understand.

PN2153

MS BENTON: I wonder – only because of Dr Radford's I guess summary, particularly starting in the 90s, I wonder if it's useful – I was reading some of NAVA's archives, and I think they illustrate a picture of why connecting with the Modern Award Review feels like such an important opportunity for the visual arts. And if I can reflect on some reading that I've been doing:

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Characterising the visual arts as an industry led to the establishment of the Arts Workers Union in 1979-80 –

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it only lasted a couple of years –

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and that was for the introduction of appropriate industrial conditions for artists and measures to protect their rights. This was further developed from the early 90s by the National Association for the Visual Arts (NAVA) to encompass copyright, resale, royalties, scales of fees and wages, code of practice, taxation, social security and the concept of a living wage, insurance, superannuation, health and safety, and freedom of expression support.

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The growth of the arts was enormously stimulated by the establishment of the Australia Council –

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now Creative Australia –

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in the mid-70s, and through it the distribution of substantial Federal Government funding across all artform areas.

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So since the 1980s there has been an increased awareness among artists in the sector to expect to be paid professional fees, rather than work voluntarily. So this has been growing really since the 80s as an awareness that prior to that was not a thing. And it has been slow, and it is still inconsistent.

PN2161

While the arts industry has developed a multi-million-dollar infrastructure since the Australia Council –

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now Creative Australia –

PN2163

was established in 1973, the average annual income derived by the majority of practitioners from their arts and crafts practice remains well below the poverty line. Astonishingly, this situation has deteriorated over thirty years of public and private support, and artists remain inadequately remunerated for their services. Falling income levels for the infrastructure organisations have been subsidised through low rates of staff pay. Except those working in public service jobs, like the state galleries and local government galleries, and national, most art workers are not protected by unions and the structure of awards.

PN2164

So by living largely on self-generated income through other jobs and paying the costs of their art practice, artists themselves greatly subsidise the community cultural experience.

PN2165

DR RADFORD: And absorb it.

PN2166

MS BENTON: Yes.

PN2167

In the rules that govern industrial relations and work conditions, there are continuing inequities for visual arts and craft practitioners resulting from the lack of adequate definitions of 'artist' and 'artwork' –

PN2168

and that's been the legislation over many years. And prior to this incredibly opportunity to sit with you this last fortnight:

PN2169

There has been a lack of willingness by government and its authorities to accept that the arts sector has particular characteristics and modes of practice which are different from but have equal legitimacy to other industry sectors.

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I've got a little bit more. There was a study done that reviewed the federal grants and state grants that went to public galleries, independent public galleries. And that was deducted down across how many exhibitions were held with that money, how many staff were paid, and what it worked out is that over almost 2000 artists that had exhibited, the average fee, because it's so disparate, a very rough calculation showed that each artist would receive \$21.24. That is because of this incredible disparity and this lack of consistent tools in the way that people are paid.

PN2171

DR RADFORD: It's a gig economy.

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MS BENTON:

PN2173

Understanding that an exhibition might comprise weeks or months of preparation, and taking into account the costs of materials and transportation of artwork to the gallery, the conclusion is that artists might receive a token payment. However, usually the gallery will provide artists with other kinds of in-kind support. Even so, the obvious conclusion is still that artists are very substantially subsidising the cost of the exhibition of their art in public galleries. And this compares unfavourably with the performing arts, which benefits from the work of trade unions and industrial officers –

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and through the Live Performance Award.

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And you have:

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Numerous times gained government support when performers gained a wage increase through their award process.

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So it's linked.

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DR RADFORD: So the award process is linked to the funding.

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MS BENTON: Yes. I think coming back to this, I guess we are fishing, in a way, on how to connect artists to the Modern Awards Review. And it probably does sit traditionally outside, but there isn't anything else, so I am clinging to this, and I have filled your day to hear from a few artists and researchers, and also gallery leaders, how we could - - -

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DR RADFORD: (Indistinct) cultural work that can be done by artists, because generally it is middle-to-upper-class – this is going to make me cry, because I don't come from the right class, so we have to – I'm sorry - - -

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THE DEPUTY PRESIDENT: That's all right.

PN2182

DR RADFORD: It is really hard – the point to art is to include as many voices as possible. But if you don't have an avenue, a trustafarian family to support you, you generally stop practising after 10 years, because you can't afford the materials, or well before, if you're lucky, if you get through art school. And artists do this amazing thing where they can put together the most amazing thing from the shittest and cheapest material. But if your practice starts to grow, you can't grow with it. You've got no wage. And if you come from the lower classes, you're generally probably going to just stay working at a café, because it's really hard to break that class boundary.

PN2183

And art in Australia does not benefit from artists only being from the upper-to-middle classes, you know, middle-to-upper classes. And it has always gigafied, and as capitalism grows, art goes with it, but no one is getting paid, only a certain proportion of people, if they're lucky, and if they have a commercial gallery representation, which I don't. I don't care for it. But art trades in many ways, and the artist is generally never getting paid. Never. The framer gets paid, the people that make – the petrol gets paid. Everyone gets paid, except for the artist. So they're supporting the economy in a way that – where they're not being supported back, and I think there's lots of studies on that.

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THE DEPUTY PRESIDENT: All right. Thank you.

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MS BENTON: If I can add one more thing.

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THE DEPUTY PRESIDENT: Of course.

PN2187

MS BENTON: I think it's important to note the timing of this consultation so close to the end of last year, where many First Nations-led visual arts businesses closed down for a break, and then this fortnight, that's gone across Invasion Day, Survival Day, has meant the lack of engagement from First Nations practitioners and sector colleagues. I think it's really crucial to consider the unique challenges

faced by First Nations practitioners that have been unheard in this review. They contribute significantly to the industry's economy and cultural landscape, but face so many barriers, such as precarious work, very low incomes, and workplace racism.

PN2188

DR RADFORD: (Indistinct) object to the political position of the time.

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MS BENTON: Yes. A dedicated award and accessibility or access to Fair Work would address these issues and provide much-needed support to - - -

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DR RADFORD: It's the same with the disability sector, the same argument. Lots of women that have children have to stop because of these same reasons. It's an intersectional issue, because there isn't (indistinct).

PN2191

THE DEPUTY PRESIDENT: Thank you.

PN2192

DR RADFORD: Sorry.

PN2193

THE DEPUTY PRESIDENT: Please don't apologise. Thank you for your contribution. Dr Radford, I'm proposing to invite Mr Scott now to speak to the reply submission that his organisation has filed. You're absolutely welcome to remain in the consultation to hear it.

PN2194

DR RADFORD: I'd like to hear it.

PN2195

THE DEPUTY PRESIDENT: Yes, of course. And to that end, just before I invite you to do so, Mr Scott, I'll provide you with a hard copy each of the reply submissions that Ms Scott has filed on behalf of Australian Business Industrial and Business New South Wales. Mr Scot, I welcome the opportunity to hear from you now in relation to the reply submissions that have been filed.

PN2196

MR SCOTT: Thank you, Deputy President, and thank you to Dr Radford and Ms Benton for their contribution this morning. Hopefully you guys can hear me all right.

PN2197

MS BENTON: Indeed, thank you.

PN2198

MR SCOTT: Before turning to the submission, I just want to make some comments in relation to the comments and the contributions from Dr Radford and Ms Benton this morning, because that has been very helpful. Reflecting on those contributions, there's a few things that come to mind. And I think there's a degree

of alignment, and it's not necessarily going to lead to all these great answers to the issues that are being discussed, but can I just make a few observations. The first is, I think the organisations that I'm speaking on behalf of would agree with Dr Radford that the reality is, it is a very complicated system that we're talking about, and it's a broad and diverse sector.

PN2199

So I think the reality is, there are not going to be easy answers that are going to address all these concerns immediately. And I apologise if this is – the tone of this might be slightly pessimistic, but I'll try and be as optimistic as I can. But I just think that there's a need to just kind of haul that out at the outset, that we're dealing with a complicated system. The organisations I represent would say that we would have some reservations about how – whether or not the modern award system is able to adequately address the concerns that have been raised, and I think Ms Benton has effectively expressed a similar view this morning. Reflecting on the comments and contributions of Dr Radford, can I just make these points.

PN2200

Listening to Dr Radford's lived experience and her comments about the issues that the sector faces, it seems to me at least to predominantly a funding issue, as opposed to an industrial relations issue. Dr Radford talked about the concerns around underpayment. Ms Benton has talked about artists struggling to be properly compensated, living potentially below the poverty line, et cetera. That seems from my perspective to stem from either a lack of funding and investment in the sector, or, in respect of individual organisations, issues relating to their capacity or incapacity to actually pay individuals for the work that they're doing.

PN2201

I don't get the impression that the issue stems from there being an absence of applicable minimum entitlements around the National Employment Standards or modern awards. I think the core of the issue is, these organisations – and Dr Radford gave some examples – they have very limited capacity to pay. As a result, there might only be one employee working, employed in this small organisation, and they might be on a pro rata .25 employment model, simply because the organisation can't afford to employ any more people, or can't afford to employ them on a higher basis.

PN2202

So extending on that point, then – and at the risk of stating the obvious, but I'll state it anyway and then move on. If there are concerns around efficiencies with conditions of employment or conditions more broadly outside the employment framework, insecure work, underemployment, I would think that the best way to address that would be through greater levels of investment and government funding, rather than necessarily looking at how the modern award system can try and address those issues. Because I think that is setting too high an expectation on the modern award system, because the reality is, I don't think it's physically able or capable of addressing those issues.

PN2203

So in that context, just turning to the submission – and I appreciate the other stakeholders haven't had the opportunity to read it. They might have it in front of them, but - - -

PN2204

THE DEPUTY PRESIDENT: And just before you do that, Mr Scott, for your benefit you might have seen that we've been joined at the Bar table by another person, who I understand is Mr Andy Butler, an artist, curator and writer who would like to speak to their experience as well. We're going to continue hearing from Mr Scott, but as a matter of courtesy, I wanted Mr Scott to know who was in the room.

PN2205

MR SCOTT: Thank you, Deputy President.

PN2206

THE DEPUTY PRESIDENT: Thank you, Mr Scott.

PN2207

MR SCOTT: Hi, Andy. I'll try and not take up too much time, because no doubt you've got things and contributions that you're able to make, and we'd love to hear from you. Turning to the written submission that we put in, trying to kind of reflect on all of the submissions, the written submissions that have been put, the conversations, the discussions that have occurred during the consultation phase, and trying to look at that through the lens of the modern award system, this is effectively where we have landed as an organisation. The first point is, there seems to be a very high level or incidence in the arts and culture sector of self-employed individuals, and the fact that there is not necessarily a high utilisation of the employment model.

PN2208

So again, at the risk of stating the obvious, the modern award system, in its current form at least, is simply not able to suddenly set terms and conditions for self-employed sole traders, independent contractors, freelancers, et cetera, because the legal system in its current form doesn't work in that way. The second point, then, when we then turn to, all right, well, artists and practitioners in the sector who are employees, if we turn to them, I suspect that there's a fairly high incidence of those employees being employed by public sector organisations and institutions, so that's federal, state, territory, local government agencies.

PN2209

And the submission of CPSU, I think it was, late last year set out the industrial relations arrangements for those public sector employees. And the thrust of that submission, effectively, if I paraphrase, is, there are awards that cover those people, those awards are appropriate, and so there's no burning issue, from what I can tell, in relation to public sector employees. So then we move on to employees as opposed to non-employees outside the public sector, so the private sector workforce. It's clear that there are a number of modern awards out there that cover parts at least of the arts and culture sector, and we make the observation that it is a very broad and difficult-to-define sector.

PN2210

There's the Live Performance Award, there's the Amusements Award, there's the Broadcasting Award. There's a range of awards. And there seems to be some scope to look at how those awards might be able to be varied, either to clarify who they apply to, or, where there are people in particular occupations who would seem to be appropriately placed into that award, but might not currently be in that award, there may well be scope to look at whether or not those awards can be tweaked, if you like, to either clarify or to include appropriate occupations.

PN2211

Given the kind of truncated time frame that this review is being conducted, I don't know that we have necessarily got to a point where there's clear identification of those occupations or cohorts of workers, and specifically the variations that might be appropriate. But I get the sense from how the consultations have evolved that there may well be scope to amend some of those existing awards, to clarify or to ensure that people are appropriately covered by that award. And I've kind of started large, and I'm narrowing in, because what the organisations I speak on behalf of are trying to do is to go, well, it's clear from the submissions, the general flavour of the submissions that there's – and I'm not being critical in any way, but there's this general sense or general submission or assertion that there are gaps in award coverage.

PN2212

And coming from a legal perspective and an industrial relations perspective, we've gone, all right, well, let's try and identify these gaps. You take non-employees, because the award system doesn't regulate them. You take out the public sector employees, for the reasons I've indicated. You then turn to private employees, and some of the modern awards do cover some of those people. The next question then becomes, well, which private sector employees specifically aren't covered by one of those existing awards?

PN2213

And that's where I think the evolution of the consultation has kind of directed its attention, and I think the reality is, at least in my mind, there is still a lack of clarity as to precisely who these occupations or employees are. Again, without being critical, there's been discussions over the last couple of weeks of particular occupations, and when those occupations have been discussed, the submission has been, most of them are sole traders. And so from an award coverage perspective, I just don't see how – I think, on the material before us at the present time, I cannot identify with any precision the cohort of private sector employees who are not covered by a modern award.

PN2214

I'm very happy to be constructive, to explore that, and we have done that in our written submissions, where we have effectively looked at specific occupations that have been canvassed and discussed throughout the last fortnight. And we've tried to effectively express a preliminary view as to where we think they sit within the legal framework. And I'm not saying there are no occupations that slipped through the cracks, but at this point, we can't identify, at least with any precision, which ones we're talking about.

PN2215

I'll throw the annoying legalistic caveat in there, which, at the risk of banging on about something that we raised in December, the reality, from a legal perspective, is, it's virtually impossible to say which award applies to a particular employee doing a particular job if you don't know who they're employed by. And we appreciate the efforts of the parties and the stakeholders, and Ms Benton in particular, trying to assist us with that. And that's been helpful, but there always has to be this caveat that if an artist works for BHP, well, the award that covers that person might be different to an artist who works for a small gallery in the CBD of Sydney or Melbourne.

PN2216

Who they are employed by will be relevant. I'm not using that as some kind of tactic to say, 'It's all too difficult, we don't know the answers'. But that is just the reality of how currently the system works. I'm not putting it up as a barrier to trying to explore whether there are ways in which the modern award system can be improved. But we cannot, and, in my view, no one participating in this review can, hand on the heart, say, these occupations will be covered by this award, or these occupations will be award-free, without looking at who they're employed by.

PN2217

I can see Mr Kemppi has rejoined us, and no doubt he will at least – he might not like it, but he will accept that from a legal perspective, that is how the system works. So I think, without going on ad nauseam, that is effectively the thrust of our submission. Now, I kind of prefaced the fact that perhaps this will all be perceived as being pessimistic rather than optimistic. But we have genuinely engaged in this review process, and where we have landed is, 80-odd per cent of artists are not employed, so the modern award system can't help them.

PN2218

Of the 20 per cent that are employed, a chunk of them are covered by the public sector instruments. So there's then a smaller percentage of private sector employers for which, when we started to look at who they are and what they do, Live Performance Australia have said, well, a bunch of them are covered by the Live Performance Award, and a bunch of them are covered by the Broadcasting Award, and a bunch of them are covered by the Amusements Award. And I'm hoping that this will be in the spirit in which it's intended, but we've genuinely tried to engage, and I'm just not clear who's left.

PN2219

And I'm not saying there aren't people who are falling through the cracks, but in order to do anything about it, we need to first identify who they are. I accept that that's not a straightforward thing. My view is, in the time frame that's been provided to undertake this review, it becomes very challenging to do that. Those are effectively the comments that I wanted to make. I'm very happy to hear initial reactions from the other stakeholders. And hopefully, if they are able to take up the opportunity to read that submission in full at their leisure, happy to then engage if there's any further comments. So Deputy President, that was all I was proposing to say.

PN2220

THE DEPUTY PRESIDENT: Thank you, Mr Scott. I appreciate the oral submissions. Is there anything that anybody would like to say? Dr Radford, I think you wanted to raise something in response.

PN2221

DR RADFORD: If I'm allowed, that would be amazing. I guess it was just in response to your first remarks regarding that it should be a space of – relegated to funding and philanthropy for art. I guess the problem with that, and especially with the visual arts sector – I mean, as Penelope said, the Live Performance Award changes in accordance to wages, so the funding changes. Art doesn't have that. And if you leave art to be funded by the state, then, if something like where artists have a protest against, say, the Sydney Biennale in 2014, you can get some retaliation from ministers, in terms of what funding is cut.

PN2222

And that really severely affected the sector, and maybe it's still recovering. So arts organisations closed. So that's one example. The other example is, in the current climate, with the – and I'm going to say this – the war on Gaza, you have artist, philanthropy, lots of amazing philanthropy from very wealthy Jewish – people that give money. Philanthropists, but it's like patrons (indistinct) arts, right? So it's really an amazing sector. I write for The Saturday Paper. But with political positions perhaps being challenged, or not in alignment, this funding – and this is a global problem, but it's very particular to here in Melbourne.

PN2223

It's threatening a lot of the arts sector. Artists have been asked to buy their artworks, which could be extortion. But without a wage, without some kind of regulation, it is almost impossible to prove. And then, other people are withdrawing funding from universities, art galleries, and this all – it all stays. Because there is regulation, like a wage – living wage, this award, not only does it give artists outside of the traditional structures an access point to exhibit as artists, work as artists in the sector, but it means that there would be roll-on effects that are both important with regards to being vulnerable to the whims of whoever's in power and whoever has the money. I guess that would be my – that was a bit full on. Sorry.

PN2224

THE DEPUTY PRESIDENT: No. Thank you.

PN2225

DR RADFORD: But it's a sector at risk, because it doesn't have those things in place, and constantly precarious. And as I was saying, it was uberfied or gigafied well before the gig economy was recognised as a thing. And there was no choice in us being relegated to sole traders. That was the only way to get paid. We didn't choose to be sole traders. That was the only way to get paid.

PN2226

THE DEPUTY PRESIDENT: Mr Kempfi, please, take a seat.

PN2227

DR RADFORD: Thank you. Have a great day. Good luck.

PN2228

THE DEPUTY PRESIDENT: Thank you for your contribution, Dr Radford.

PN2229

DR RADFORD: Nice to meet you all.

PN2230

THE DEPUTY PRESIDENT: Nice to meet you.

PN2231

DR RADFORD: Thank you.

PN2232

THE DEPUTY PRESIDENT: Mr Kemppi.

PN2233

MR KEMPPI: Thank you. I had intended to quietly observe, but I feel like I've been specifically drawn upon, possibly because of my terrible poker face. I do just want to respond to one of the points that Mr Scott put, the (indistinct) about knowing the employer. We would quibble with that point and say you don't need to know the employer. This is an exercise of identifying every single employer of every single arts worker. You simply need to know things about the employer, which category they are, which cohort they are and so on. In the same way, I don't need to know which café a chef works for. I just need to know that they work for a café and not, say, a catering company or a cruise ship, or something along these lines. That's what I will say on that point.

PN2234

THE DEPUTY PRESIDENT: Mr Scott, is there anything that you wanted to raise in response to any of the matters that have just been advanced?

PN2235

MR SCOTT: Just very briefly. I think we're in furious agreement, because – so to clarify, I don't want to be taken to have submitted that we must know the specific identity of the employer, i.e. Paul's Café Pty Ltd. But we do of course need to have some information about the character of the employer, for example, which industry they might fall into. So that is all entirely uncontroversial, and I think there was an issue raised in December, I think some of the stakeholders did endeavour to provide that, and I think the information has progressively been forthcoming as it evolves, or as the consultations evolve.

PN2236

But the reality is, if you look at a particular occupation, everyone who works in that occupation may not be covered by the same award, because the industry in which their employers operate may be different. So if one occupation works for a cleaning company and the other works for a black coal mine, and the other works for a retail establishment, the award answer will be different.

PN2237

Now, I accept that some of those examples might be absurd when we're talking the arts and culture sector, but the point is, whilst we can do our best to try and form a view about award coverage – and I'm not saying we can't reach a view and say, well, most of these people are likely to be covered by this award, because – Ms Benton for example has indicated that most of those people work in small privately-run galleries. We can probably do that, but the caveat is simply, we can't be definitive that every one of those occupations is absolutely covered by that award. I think that's the point, but I won't rabbit on, because we are in agreement.

PN2238

THE DEPUTY PRESIDENT: Thank you, Mr Scott. Mr Butler, I might come to you. Welcome to the Commission. I am interested in understanding your experience as an artist, curator, and a writer, and what it is that you wanted to share with the Commission in the context of this overall review of the modern award system as it pertains to the arts culture sector. What has brought you here today?

PN2239

MR BUTLER: Well, like many other artists, I am a sole trader who – and the position that I hold within the arts sector is that I don't really work with the small galleries, although that has been in my history as an artist. Now, I come on as a sole trader, as both an artist and a curator, depending on the project for institutions who receive significant amounts of government funding, through things like the Visual Arts and Craft Strategy, through the Australia Council, and also museums attached to universities.

PN2240

So these are organisations that don't run off sort of one or two people. These are organisations that have ongoing full-time and part-time staff, anyone from 10 to 20 people at sort of that level. So I'm brought on and sort of paid a nominal artist fee and a nominal production fee, to work alongside these organisations for in excess of a year, in order to deploy projects have taken and board and sort of want to see come to fruition.

PN2241

THE DEPUTY PRESIDENT: All right. And in terms of the way in which you're engaged, then, you spoke about being a sole trader, you're paid a nominal artist fee. The duration of your engagement varies, but might be in excess of a year.

PN2242

MR BUTLER: Yes.

PN2243

THE DEPUTY PRESIDENT: So do you have a view about whether any of that would change, should be a specific arts culture modern award, for instance, or is that going to be something that doesn't necessarily impair or alter the way in which you're currently being engaged?

PN2244

MR BUTLER: It would absolutely change my capacity to engage with the arts, because the reality is that I'm at a point where I've got a bit of momentum in my practice. So I have four back-to-back outcomes with large-scale institutions, three of them in Australia, one in New Zealand, between now and July. These projects I've been brought on to develop have actually been going on for about two years in some cases. And collectively the amount that I've been paid by these organisations still falls well below the poverty line, despite there being moments of intense full-time work.

PN2245

THE DEPUTY PRESIDENT: All right. So if I were to understand your position, then, you would say that despite your current status as a sole trader, if there were capacity for you to be an employee of these organisations, that is what you would be seeking?

PN2246

MR BUTLER: Absolutely, yes.

PN2247

THE DEPUTY PRESIDENT: You would be seeking permanent full-time employment, or employment for a specific project as an employee?

PN2248

MR BUTLER: Yes. I think that a fixed-term contract – because I have made the decision to no longer work within institutions for various sort of reasons. And the sort of career that one has as an artist, as they build their own profile, it means that there's not really time for me to work within an institution in a full-time role. That is maybe more recognisable to people who have worked in the sort of nine-to-five sort of workplace environment. But it has left me being brought in by these institutions to do a lot of administrative work outside of just sitting in the studio and dreaming up ideas.

PN2249

So if I was paid some sort of award rate for the year, 18 months, two years that I am in conversation with these organisations, then it would completely change my capacity to continue contributing to the arts and cultural sector of Australia. And I guess to give context to what I do, so I make large-scale video works. So it's making experimental video and installation for a gallery context. Those aren't cheap to make. It's not the same costs as sort of the mainstream film or television, but there are significant costs involved in delivering these works.

PN2250

The organisations know (indistinct) and their contribution to my work, the financial contribution to my work doesn't even touch the sides of the amount of money that's involved. So I'm not being paid an award rate, nor am I getting paid a living wage. But when I deliver these projects, given they're so collaborative, they take so many sort of different people, I then am entrusted to pay a living wage, according to an award, to the subcontractors that I hire in order to deliver these projects. So to me, I just feel like as someone who works in video, that takes a lot of collaborating, maybe a production crew of 10 people, I am brought

on as the lead artist and the instigator of these projects by these larger scale organisations that are well-funded by the government.

PN2251

I'm not necessarily covered by an award, but then I am expected to then source my own money, with a lack of support, sort of work very closely with marketing teams, production teams, the directorate within these organisations to deliver elements of their program. And I'm then also expected to pay a living wage, according to an award from the MEAA, for people who work in the film industry. I then pay that to people that I work with, without sort of any money left over, because, rightfully so, Mr Scott did point out the funding situation, and Dr Radford pointed to that too, I'm able to get enough money to pay other people according to an award, but without much money left to myself.

PN2252

THE DEPUTY PRESIDENT: All right. So there's just one issue in relation to that that I might just interrogate. In terms of concept of you then subcontracting work to other artists or other individuals who might be covered by the MEAA union, and thereafter the Broadcasting Award or the Live Performance Award, or something along those lines, how do you think that structure would work if you became an employee of these galleries or organisations? Would you be anticipating that you would still then subcontract?

PN2253

MR BUTLER: So working in video is quite unique, because you need such a large production team. I would in some ways still need to bring these other people in, and I assume that it would be on a project-to-project subcontracting sort of relationship, but covered by the – is it the Motion Picture and Publishing Award?

PN2254

THE DEPUTY PRESIDENT: Yes.

PN2255

MR BUTLER: MPPA, so that I then pay subcontractors according to that award, yet I have no award with the institutions that are then bringing me on as an artist to deliver vital elements of their yearly artistic (indistinct).

PN2256

THE DEPUTY PRESIDENT: All right. So I can understand your distinction between you not being an employee, but you then paying rates to subcontractors that you engage. But I think the difficulty with the proposition that you've advanced is it involves an arrangement that would see you be engaged as an employee by a gallery, but then your desire to really continue still operating in effect as a sole trader, with the flexibility to then subcontract to others to assist you in the production of your ultimate work.

PN2257

So that's an issue that probably strikes me as creating some additional complexity, appreciating that everybody in the room today recognises that there are complexities that arise in relation to all of these aspects. But that's one matter that

particularly strikes me as potentially being problematic in respect of the proposition you've advanced. Ms Benton, you wanted to say something?

PN2258

MS BENTON: Yes. I think that's probably a matter of language and perspective, because in the same way that Mr Butler is contracted, I suppose, and then subcontracting, as an employee, you could still outsource components of work. And I even myself in my own role will outsource a grant writer to write something for us, even though it's part of my job. I don't have capacity to do everything in my job. I've also commissioned an artist to produce a membership campaign. But we're outsourcing all sorts of work, and that doesn't – because you're an employee, that doesn't discount the possibility that you would still continue to outsource or contract other workers.

PN2259

THE DEPUTY PRESIDENT: But is the distinction that, in those circumstances, you're arranging for the outsourcing – and that might not be quite the right term, but in your role with NAVA, you're arranging for other organisations to perform duties or contracts for NAVA, as opposed to you outsourcing elements of your duties as an employee of NAVA?

PN2260

MS BENTON: No, the latter. I'm definitely doing that.

PN2261

THE DEPUTY PRESIDENT: You're outsourcing elements of your duties.

PN2262

MS BENTON: Yes.

PN2263

THE DEPUTY PRESIDENT: All right. Mr Scott, is there anything that you wanted to contribute to the discussion that's been had?

PN2264

MR SCOTT: No, I don't think so. Not at this stage.

PN2265

THE DEPUTY PRESIDENT: All right. Thank you. Mr Butler, is there anything else that you wanted to speak to the Commission about in relation to your experiences?

PN2266

MR BUTLER: Yes. I guess I'd just like to make it really clear, the sorts of rates that we're being paid as sole traders for the sort of level of work that we're expected to do, and the amount of work that's involved. So to give an example, so the project that I was referring to is for a major upcoming commission with the Australian Centre for Contemporary Art that opened on June 28. I initiated discussions, I had discussions initiated with ACCA in August 2022. At the beginning of 2023, I then engaged in four months of conversations. Obviously not full time; there were studio visits involved, there was me going to visit the

gallery. There were sort of lengthy discussions about the logistics and the concepts behind the work. I signed a contract I believe in about June – I may be wrong, but in that sort of time frame – for an outcome in June this year, so 12 months later.

PN2267

THE DEPUTY PRESIDENT: Yes.

PN2268

MR BUTLER: My artist fee is \$4000.

PN2269

THE DEPUTY PRESIDENT: Yes.

PN2270

MR BUTLER: For a year's worth of work, with intense periods of full-time work. Previous to me signing that contract, there was already 18 months of research that goes into making a robust and generative and professional artwork. It takes two to three years for these projects to come to fruition, for an artist fee that's the amount of money that I use to live, to pay my rent, I will get \$4000. So they gave me \$10,000 in production. They knew, in those discussions, that – and they wanted me to make a big video work, and I came to them with about \$40,000 with funding that I'd already gotten from state and federals and local levels, from three different levels of funding bodies.

PN2271

I gave them the figure. I said, 'This production will cost at least \$60,000, at least. That is the bare minimum for me to do it'. So they knew the discrepancy between the money that they had, the money that I had, and what they were able to pay, yet they still did the contract. So all of these things, and a contract was still made to bring me on as a sole trader. And within that time, with this \$4000 fee since I've signed the contract, the amount of work is immense. Out of that \$60,000 production, I'm actually only going to pay myself \$4000.

PN2272

So for a year's worth of work that involves incredible expertise – to give you context, my work has entered international collections. My work is discussed at universities. I circulate internationally. People talk about my work as contributing to significant issues around the lack of cultural diversity in the arts. A lot of national and international discussion has centred around my work, and I'm really proud of that and so grateful for it.

PN2273

But to then be brought by the Australian Centre for Contemporary Art – and I really do respect what they do, and I'm glad to work with them, because it's one of the few places where you can go on this scale. Yet for 12 months of very significant work, with a lot of expertise, they paid me \$4000, out of a budget of \$60,000, \$50,000 of which I was tasked with sourcing myself. I will be able to pay myself \$4000. So in total, \$8000, with no sick pay, no holiday pay. They did pay me super, which is – we've had to fight tooth and nail for, for a decade at least, to get these organisations to start paying super.

PN2274

So for 12 months under that contract, they paid me \$4000. Out of the production money that I've sourced myself, I'm able to pay myself \$4000. The subcontractors I am working with, who are a part of this project for a much shorter time, are getting paid more than me, or a better rate than me, because I'm obliged to pay them according to the MEAA rates for people who work within the film industry, because I make films, even though it's within a gallery context. So that's kind of where the murkiness arises.

PN2275

THE DEPUTY PRESIDENT: Yes, I understand.

PN2276

MR BUTLER: Is that - - -

PN2277

THE DEPUTY PRESIDENT: Yes, that's helpful. I've had the benefit of hearing from some other artists over the consultation, and I really welcome the opportunity to hear from you today, and your experience. It's been very helpful. I understand the nature for the complexities that you're raising here.

PN2278

MR BUTLER: Is it all right if I also talk about my experience as a freelance curator?

PN2279

THE DEPUTY PRESIDENT: Yes.

PN2280

MR BUTLER: Because I feel like – so obviously, the curatorial work that one does within an institution involves a lot more administration. It involves a lot more logistics. It isn't sort of coming up with the creative ideas, it's sort of deploying one's relationships with artists, understanding of these broader cultural dialogues, in order to sort of put together a major exhibition that does cost money. So at the moment I am about to have an exhibition open on Saturday that I curated, through the Monash University Museum of Art.

PN2281

They're a very significant and internationally renowned museum university, probably with one of the highest profiles for a museum university in Australia. For 12 months' worth of work that used my relationships, my expertise, my profile, things that don't exist in the (indistinct), I have been paid a \$10,000 fee for 12 months, and that is generous within the landscape of these organisations. And to give you as sense of what that \$10,000 has covered – so I'm working with an international artist from Berlin.

PN2282

That was meant to cover about three weeks of sort of two or three days a week in the studio with this artist, talking about this exhibition, coming up together with what her work would look like. So that was about three weeks in Berlin; when I was back in Australia, over about a month. There was maybe a half-day meeting,

one day a week, for about five weeks, with another artist, based here in Australia. That is the sort of – that's part of the work, and alongside of that is also doing marketing and media, providing them with my networks, assisting them with their philanthropic strategies, all of these sorts of things that are within business-as-usual of an institution that (indistinct) that is covered under an award.

PN2283

I've been brought in for \$10,000 for a year's worth of work, obviously some of that part-time, some of that full-time. I think at least three months of that would be full-time. But the discussions were initiated in March last year.

PN2284

THE DEPUTY PRESIDENT: All right. It's very helpful context, Mr Butler. It really does develop some of the themes that I've been hearing over the last couple of weeks, and it's nice to hear from you in relation to that experience that you're having. It helps to build the tapestry of my understanding of the situation. I probably don't have any supplementary questions for you. Ms Benton, is there anything that you wanted to say in response to what Mr Butler has just raised?

PN2285

MS BENTON: I think I'd just like to thank Mr Butler for his appearance and contribution to this important opportunity for our sector.

PN2286

THE DEPUTY PRESIDENT: Yes, I agree. Thanks for taking the time. Thank you. Now, it's anticipated that the director of MUMA, as we spoke about, Dr Rebecca Coates, will be in attendance, but not anticipated before midday today. So I would propose that we adjourn until midday, at which time we'll return to hear from Dr Coates. And then later this afternoon, we have three supplementary artists or representatives from the industry who are proposing to provide some experiences: Professor McQuilten, School of Art, RMIT University; Associate Professor Badham from School of Art, RMIT University; and then also Eugenia Lim, who is an artist.

PN2287

That's anticipated, as I understand, between approximately 3 o'clock today. In terms of Eugenia Lim, I just note that Eugenia Lim is available from 3.30 'til 5. I'd like the opportunity to hear from Eugenia Lim, but I also want everyone to know that the court sitting day will traditionally finish at about 4 o'clock. So if you're able to get in touch and invite Eugenia Lim to perhaps attend a little earlier, perhaps at 3 o'clock if at all possible, at the same time as those representatives from RMIT University, I would be most grateful.

PN2288

MS BENTON: I'll do my best.

PN2289

THE DEPUTY PRESIDENT: Thank you very much, everyone. We'll adjourn until midday.

PN2290

MS BENTON: Thank you.

PN2291

THE DEPUTY PRESIDENT: Thank you.

PN2292

MR BUTLER: Thank you.

SHORT ADJOURNMENT

[11.34 AM]

RESUMED

[12.19 PM]

PN2293

THE DEPUTY PRESIDENT: Thank you, everyone. Now, I understand that we have Dr Coates that has joined us today. Dr Coates, thank you very much for your attendance at the Commission. As you will be aware, we are conducting a consultation in relation to an aspect of the Modern Award Review 23-24 insofar as it concerns the arts and culture sector. In your capacity as director of Monash University Museum and Art I'm interested in understanding about - in understanding your experience in relation to the industry, and in particular, issues that you have confronted or matters that you would like to share your experience of insofar as it concerns the employment of artists or art workers and how your organisation typically goes about that exercise. So would you like to tell me a little bit about the Monash Museum of - I'm sorry, the Monash University.

PN2294

DR COATES: MUMA.

PN2295

THE DEPUTY PRESIDENT: About MUMA. Can I say MUMA?

PN2296

DR COATES: (Indistinct)

PN2297

THE DEPUTY PRESIDENT: Thank you very much. I will say MUMA. Thank you.

PN2298

DR COATES: Thank you very much, and it's great to be here and, you know, I'm delighted to participate and to see that this happening. I should start by saying that I have been at MUMA for six months. It's an institution and an organisation that I have known for many, many years and have worked within a number of different capacities over my working life in the arts, but as director in this role, it's six months.

PN2299

So the reason that I spoke to you about it was that I worked quite closely with the previous director when she was benchmarking and looking at this because it's a topic that has come up a number of times and I had undertaken a vast piece of work in this space in my previous role which was as director of Shepparton Art Museum.

PN2300

So I will speak to MUMA and I will also touch on what I was doing at Shepparton because it was a very different context and it was a different organisation. We transitioned from local council to a standalone not-for-profit, so this was a huge piece of work.

PN2301

THE DEPUTY PRESIDENT: Yes. Wonderful. Thank you.

PN2302

DR COATES: So MUMA is quite unique. We have got 11, an EFT of 11 staff, and we have a very large casual pool because we have a cap on EFT, and yet the work that we do in the organisation is far larger than 11 staff, and I would - and the ambition and the position and the reputation of the organisation is far larger than the size of the organisation. So that's a quite interesting challenge in itself on how do you manage that. How do you manage it equitably and fairly?

PN2303

We sit within Monash University's EBA so we're - and it's a very comprehensive document that is going through a review process. So within that, we work within the current confines of the university and that framework, and my experience of EBAs is that they're much clearer, particularly for a whole range of roles within an arts organisation that don't really fit and are difficult to categorise, in terms of the EBA tends to cover it.

PN2304

The biggest challenge that I have had historically with EBAs in local council is that they didn't recognise that our work was not 9.00 to 5.00, that it was a seven day a week, and that we were open to the public. So the best analogy that I could have in a local council context was to say sort of sporting facilities and the performing arts, and yet each of those was different again.

PN2305

THE DEPUTY PRESIDENT: Yes.

PN2306

DR COATES: So in the university context, we tend to take our guidelines from NAVA in terms of a certain number of rates of pay and benchmarking against that so that we are comparable and we also work within the university context of academic and professional staff, and that's a pretty clear demarcation of those casualisation - for the casualisation that has been going on to good and to bad in the university context more than the rates of pay for one-off events.

PN2307

So we know very clearly that a lot of our programs are artist led and artist driven and we have a large number of artists who work across casual roles, whether it's in the education space or whether it's in the install or it's on the collection works, and so to ensure that they can have some sort of sustainable working arrangements that are fair and equitable and reflect the expertise that they bring is part of the benchmarking that the former director did, that I was involved in and worked with her on.

PN2308

There are small things that we can do and they are to address probably issues that you have heard from a number of different people. One is that in different, larger contexts, there is no way for people who are non-visual arts or non-arts and cultural to adequately assess the skills that are required for certain roles. So, for example, if I don't have good in store crew that I can work with and who understand the difficult - the challenges of working with different materials, I have no shows. No shows; no education. No shows; no audience. No shows, you know.

PN2309

THE DEPUTY PRESIDENT: Yes.

PN2310

DR COATES: And, historically, both at local council and in other organisations, that was seen as a very low level role. So I think the skills and the aesthetic judgments and how you assess the value of aesthetic judgments is quite hard to do. We have brought it up to - I think it's issue 5. So we have raised the - - -

PN2311

THE DEPUTY PRESIDENT: The installer?

PN2312

DR COATES: Yes. From the lower level 2 to a higher level 2 acknowledge those skills, and the way that we have been able to do it is to use those key words, 'problem-solving', and you know, 'collaborative working', so we have worked within that to benchmark across the university.

PN2313

We have also reviewed the curatorial and collections positions, and the first port of call is to always benchmark against other organisations to look at like for like. So universities fall within an organisation called UAMA, which is the university's association, and so there's a very good network, and you know, I think it's widely that university roles are seen as very attractive roles because the super is usually higher. The EBA is essentially better.

PN2314

So that is a very positive place to work on a whole range of different levels, but those terms and conditions, it's a larger organisation so the HR support, the related professional development resource and seeing, you know, the career development is part of what is offered, and I think often in smaller organisation that can't be offered.

PN2315

THE DEPUTY PRESIDENT: Yes.

PN2316

DR COATES: So it's tangible intangible, I think, in terms of how it's - how it's managed. So that's current and it has just recently gone through a review. It's benchmarked, and as I say, it's widely seen as quite attractive within the arts and

cultural space because of the related, the on-costs if you want, or the support networks around those roles, and also because of the EBA itself.

PN2317

THE DEPUTY PRESIDENT: Yes.

PN2318

DR COATES: So that's MUMA and we would work with UAMA in terms of benchmarking across Australia. So it's a national organisation, and then when we review the rates that we are paying for artists or for any of those people involved in activities, we will go to NAVA. We will work with our colleagues at PGAV. So the Public Galleries Association of Victoria is also good.

PN2319

THE DEPUTY PRESIDENT: Yes, and we will hear from the Public Galleries Association.

PN2320

DR COATES: And when we're advertising roles or looking at roles we will often benchmark against other more recent positions, but there is - there's massive discrepancies depending on what the organisation is and what, historically, what they could afford to pay.

PN2321

THE DEPUTY PRESIDENT: And you're going to NAVA in the context of artists because they are not captured by the enterprise agreement?

PN2322

DR COATES: To ensure that there is some sort of parity.

PN2323

THE DEPUTY PRESIDENT: Yes.

PN2324

DR COATES: To ensure that we have some sort of ability to support the decisions that we're making and the mechanisms that we're proposing. Yes, there's no - there's no recommended, and I think that there's been a resistance to that too because some people can't afford to pay it. So it's, you know, when therein the big discussion around artists fees were in train it was - there was a real worry of how do we do this?

PN2325

THE DEPUTY PRESIDENT: Yes, and so just to be clear, the enterprise agreement that applies doesn't capture the work that artists perform for that reason?

PN2326

DR COATES: No. So even casual staff and we put a lot of those artists and our transitory roles as - we employ them as casuals on rolling contracts because it means they don't have to pay their own professional liability and they are covered,

all of their insurance and other support, you know, all of that sort of related support in the workplace is covered under their casual contracts.

PN2327

THE DEPUTY PRESIDENT: Yes.

PN2328

DR COATES: So that's what we have done. It actually rolls over every three months, so it's a huge amount of administration, but we are very mindful of how we can support a largely independent workforce.

PN2329

THE DEPUTY PRESIDENT: Yes.

PN2330

DR COATES: And how we do that, you know, fairly and equitably as employers, but also for a group of workers who are - who are complicated because they do so much of so many different things. This will be one part of their sort of working practice.

PN2331

So that's really MUMA and I think that's probably about it. I mean you may have questions, but that's probably about all that - it's probably all that's relevant to say at the moment, but the step before that was at Shepparton and that's when we were part of local council.

PN2332

So again, we sat within the local council EBA and we transitioned to a standalone not-for-profit and moved on to an award, and the problem we had with the award was that I had two challenges in this transition. One was that the award was the best - there was a lot of questions around which award we would sit under, first of all, and that wasn't clear. The one that we eventually sat underneath was - it wasn't totally fit for purpose, and I also had the challenge of the local council had made a commitment that all of those staff that were transitioned to the new organisation would retain all of their rights and entitlements under the EBA, so the cost for the organisation was exponential.

PN2333

THE DEPUTY PRESIDENT: Yes.

PN2334

DR COATES: And they would conclude when they finished their contract, but it created, in the short term it created a really difficult climate and culture of two streams and the perception, though it wasn't a reality, that some were better off than others. So in terms of a happy and cohesive workplace, those two streams was really difficult.

PN2335

THE DEPUTY PRESIDENT: Yes. I imagine, and when you say that you had some challenges identifying the appropriate award, where did you land on that?

PN2336

DR COATES: I think it's the Amusement.

PN2337

THE DEPUTY PRESIDENT: Yes.

PN2338

DR COATES: I would have to go back and check because it was quite difficult and I had someone advising us who had come from a hospitality background who was arguing that you could argue that there was another award that it could sit within because we had a large hospitality offering that sat within our front of house component. So it wasn't cut and dried, and that was - I do remember the discussions were quite difficult.

PN2339

THE DEPUTY PRESIDENT: So the most popular ones of the awards that you are referring to are either the Amusement Award (indistinct) - - -

PN2340

DR COATES: No, it wasn't (indistinct). No, it must have been the Amusement, yes.

PN2341

THE DEPUTY PRESIDENT: And the Amusement Award has often come up on the basis to remind you there is a scope provision which talks about the coverage of the award and then defines this industry, the Amusement, Events and Recreation industry to include all of these things.

PN2342

DR COATES: That's right.

PN2343

THE DEPUTY PRESIDENT: And there's a (indistinct) on the museums and galleries section there at (v).

PN2344

DR COATES: Yes. So one of the other things that we did in this transition was that the rates of pay were far better under the EBA than they were under the award.

PN2345

THE DEPUTY PRESIDENT: All right.

PN2346

DR COATES: So we worked through how we were going to manage that, whether it was setting up a precedent and expectation, whether actually it was fair and reasonable given the expertise, but how we would then subsequently manage that at a board level, at a governance level, and also in terms of attracting staff.

PN2347

So in a regional context it's quite difficult to get good staff and to keep them for a period of time, so that was quite useful in having a higher level than was actually the standard under the award.

PN2348

THE DEPUTY PRESIDENT: Yes, from a retention point of view?

PN2349

DR COATES: From a retention of staff point of view.

PN2350

THE DEPUTY PRESIDENT: And once you have got over that challenging aspect of identifying what the appropriate award that you would apply is - because I appreciate that that can bring some difficult issues to bear - - -

PN2351

DR COATES: Yes.

PN2352

THE DEPUTY PRESIDENT: - - - particularly if there was a mix of hospitality and the like - did you then, upon landing on the Amusement, Events and Recreation Award, identify any other issues with compliance with the award once you had aligned the employees to it, and by that I mean beyond identifying the appropriate rates?

PN2353

DR COATES: Yes.

PN2354

THE DEPUTY PRESIDENT: Were there other issues that you can recall that affected, in your view, the proper application of that award to that cohort of people?

PN2355

DR COATES: Not particularly. I had one staff member working in education who had come from schools, and again, had come from a very different experience and a different award. How they were governed, you know, was a very different process so there was - it made me aware that the expectations and understandings within the arts and cultural sector was quite different from those coming in from other disciplines on whom we relied.

PN2356

THE DEPUTY PRESIDENT: Yes.

PN2357

DR COATES: So that was one thing that I think a lot more work needed to be done in terms of a cultural - cultural expectations that fit an organisational fit. I think that a lot of these things would have been normalised after the last people who had transitioned from the local council EBA had concluded, and obviously I wasn't there at that stage, but I don't - I'm not aware of anything particularly under the award that wasn't worked through in the normal scheme of things.

PN2358

THE DEPUTY PRESIDENT: Yes. Okay. So the challenge with Shepparton really was about selecting the most appropriate award to cover the workforce?

PN2359

DR COATES: Exactly.

PN2360

THE DEPUTY PRESIDENT: And the difficulties associated with doing that?

PN2361

DR COATES: And then working through the implications of it, and how did you marry the implications of the award - the implications of that, yes, that process to the actual business needs and, obviously, ensure that it was fair and equitable for all parties?

PN2362

THE DEPUTY PRESIDENT: Given your other contractual obligations?

PN2363

DR COATES: Absolutely.

PN2364

THE DEPUTY PRESIDENT: All right, and so then just going back to MUMA then.

PN2365

DR COATES: Yes.

PN2366

THE DEPUTY PRESIDENT: In relation to the reliance upon the rolling casual contracts, is it the case that MUMA has traditionally been using those casual arrangements to employ people that it engages as artists, or are we more so talking about - NAVA draws a distinction broadly between the artists and then the art workers who perform the other supplementary work, front of house and perhaps, you know, access coordinator, installers, educators and the like, and so when you're speaking about your experience of using those casual contracts does it cover both categories?

PN2367

DR COATES: It covers both categories because we are quite unique. We're on the Caulfield campus and we're actually located alongside MADA, which is the Monash – which is the Faculty of Art, Architecture and Design. So we will have some staff who are artists who work as lecturers or teachers.

PN2368

THE DEPUTY PRESIDENT: Yes.

PN2369

DR COATES: And they may work with us in the collection space. They may work with us - we may engage them to work in education, which would be a

separate contract. So they wouldn't be casuals in the education space, or we have artists in residencies. That's a separate contract. So they wouldn't be as casuals.

PN2370

THE DEPUTY PRESIDENT: No, and that's the distinction that I'm seeking to explore.

PN2371

DR COATES: Correct. Yes.

PN2372

THE DEPUTY PRESIDENT: Yes.

PN2373

DR COATES: So we will engage artists as casuals. We have a large - some of our front of house have training, you know, they see themselves as artists who have an expanded practice, and part of that may be arts administrators. They may write. They may - you know, one of my curators is actually in Tasmania at the moment installing a show of her photography. So it's much more hybrid in this role than I have had in many other roles.

PN2374

THE DEPUTY PRESIDENT: And so to that end, when you're engaging the artist under a casual contract, is it the case that what you're really doing is engaging somebody to perform the role of front of house, but that person - - -

PN2375

DR COATES: Correct.

PN2376

THE DEPUTY PRESIDENT: - - - just happens to bring with them that skill set and that life experience as an artist, as opposed to being employed - - -

PN2377

DR COATES: As an artist.

PN2378

THE DEPUTY PRESIDENT: - - - as an artist?

PN2379

DR COATES: Yes. So when we engage artists - how do you say it - artists for artists, but you know, we do a lot of artist led programs in the education space and in the public program space. They will be employed on a separate contract, and it's usually a one-off event or it's a fixed period of time, and we will then - and it's not covered under the EBA and it's not - but we will check in on the guidelines with an organisation such as NAVA to ensure that there is some sort of parity across the sector.

PN2380

THE DEPUTY PRESIDENT: Yes, and then tell me a little bit about the artist in residence.

PN2381

DR COATES: This is something that I actually set up at Shepparton, and so part of it was a desire to turn the exhibition into a working artist led education space.

PN2382

THE DEPUTY PRESIDENT: All right.

PN2383

DR COATES: And because, you know, inquiry, learning, risk-taking and process of creativity are quite different in that sort of creative space than they are in a classroom, in a school, and also via non - a curriculum approach from someone who is trained as a teacher, but not with those skills coming to teach are quite different. So that's why we do it, and then when I got to MUMA they had seen it, thought it was such a good idea, it had such good incomes, that they had borrowed it, so I walked in and it was very familiar.

PN2384

THE DEPUTY PRESIDENT: Yes. Wonderful.

PN2385

DR COATES: So we have three or four artists in residencies or artist led programs, and we call it an education lab because they're actually in residence. They do a series. They develop up a series of workshops or teaching modules, and then they roll that out and work with specific schools that will come in and actually do that onsite in the museum.

PN2386

THE DEPUTY PRESIDENT: I see, and that's why you referred a moment ago to having a separate contract under the education stream - - -

PN2387

DR COATES: Absolutely.

PN2388

THE DEPUTY PRESIDENT: - - - because they're actually providing an education program?

PN2389

DR COATES: So it may not be under the education stream, but that will be a separate contractual agreement.

PN2390

THE DEPUTY PRESIDENT: Yes.

PN2391

DR COATES: So they're not casuals because they're not ongoing. They don't work as install crew or front of house so they're not ongoing roles. It's a one-off commitment in that particular context.

PN2392

THE DEPUTY PRESIDENT: Yes. So are they employees?

PN2393

DR COATES: No, they're contractors and they usually all have their own ABNs. They have their own, so yes. Yes.

PN2394

THE DEPUTY PRESIDENT: Ms Benton.

PN2395

MS BENTON: Yes.

PN2396

THE DEPUTY PRESIDENT: I have been arguing, I think in various ways, that although the current practice is that an artist engaged in that way is a contractor because that's the only way to do it right now, could they be considered an employee for the sake of an award? I guess that's a question to you in the way that you work with (indistinct).

PN2397

DR COATES: In theory, yes. I mean in practice what I have discovered is that the HR processes, so every employee needs to be inducted which can take up to a week of compulsory induction, and I think if you were coming to do a one-off workshop or lecture and were an employee, it would be quite onerous.

PN2398

THE DEPUTY PRESIDENT: Yes.

PN2399

DR COATES: So that's it.

PN2400

THE DEPUTY PRESIDENT: I mean I think I have already heard the argument that the other reason for employing these types of workers on a contract is also for administrative ease.

PN2401

DR COATES: Yes. So there is an administrative pragmatism I think, and you know, I think people would look at, in doing a one-off lecture and having to do the equivalent of two days - - -

PN2402

THE DEPUTY PRESIDENT: I'm sorry, (indistinct)

PN2403

DR COATES: So that's not. It's not three months. I think it's usually a number of weeks, and yes, in theory, I think that could be. You could. It could be as an employment contract. I think you would have to have a look at - it's not impossible.

PN2404

THE DEPUTY PRESIDENT: But it's not the approach that you presently adopt?

PN2405

DR COATES: It's not the approach that we presently adopt and I think part of it is to do with the administrative load for the artists as well as the organisation.

PN2406

We also, I mean at the university we do an increasing number of - I don't know how - I haven't quite worked out how to even describe them, but we will work with different faculty and develop up modules that will actually go into their teaching and the teaching onsite, so in the gallery or in the museum spaces, and also having programs that we can actually work with them to have artist led, which increases employment and increases employment opportunities, is something that we're doing.

PN2407

So we're working with the business school. We are working with science. We're working with - we do a lot of work with MATA, so Art, Architecture and Design, but again, there are - our point of differences is artist led programs within the museum context and each of those will usually be a one-off contract.

PN2408

THE DEPUTY PRESIDENT: Yes.

PN2409

DR COATES: And they do go through the university's process. So I can't see that you would do it any differently because it might be two days of work. It's not the duration. It's actually the administrative load and what is better for the artist.

PN2410

THE DEPUTY PRESIDENT: And so have you had any indication from an artist for an arrangement of that type, two days work, that they would be anticipating or seeking to become an employee for that period, or is that just a little illogical to be considering an employment relationship?

PN2411

DR COATES: It's illogical. I think it's illogical because, you know, unfortunately their workload will usually be made up of a series of short-term contracts, and this is what the problem is, which is high on administration for them and it's - - -

PN2412

THE DEPUTY PRESIDENT: And uncertainty?

PN2413

DR COATES: Uncertainty. So for our museum technicians, for example, who, as I said, are artists and will be doing a whole lot of other things, I said, 'There are a number of things that we can put in place to help you. We can, at the beginning of the year, we can give you fixed dates of all of the install periods.' We can actually look at the crew and what's best for the crew and review the banding, which I did, and because they're casual.

PN2414

So I also spoke with HR and I said, 'There's three-month live contracts and we have to send them a reminder that they have to put a piece of paper in', you know, so the processes don't necessarily support the individual. 'Can we make it six months because these are relationships that are valuable to the organisation and we can help them by not having to keep doing three-month contracts?' So, 'Can we increase the length that the contract covers?' So that's a win. So I will do the back end and look at how we can work with the organisation to support the worker, but that's, as you said, that's a contract position.

PN2415

THE DEPUTY PRESIDENT: That's right, and whilst that's very generous and thoughtful in terms of making that facility available and as seamless as possible, a specific award, for instance, for the arts and culture sector, is not going to, it appears, remedy that situation.

PN2416

DR COATES: No, it's not. It's not. The casual aspect, I don't - part of it is a norm, so it's well-established, and part of it is, as we said, an administrative pragmatism.

PN2417

THE DEPUTY PRESIDENT: Yes. Dr Coates, that's very helpful information. Is there anything else that you have at front of mind that you might like to share?

PN2418

DR COATES: I think that's probably all. Thank you.

PN2419

THE DEPUTY PRESIDENT: That's a really, really helpful context and you're the first person that has attended who has the type of experience that you have brought to bear, and also your views from the university perspective being really helpful, so I'm indebted to you for taking the time and sharing your experience here with the Commission. Thank you very much. I found it very helpful.

PN2420

DR COATES: A pleasure.

PN2421

THE DEPUTY PRESIDENT: Ms Benton, is there anything that you wanted to say to supplement what we have heard from Dr Coates this afternoon?

PN2422

MS BENTON: Thank you. I do have some questions that maybe we can take offline. That would be useful for our follow-up, but otherwise, yes, I really appreciate your contribution.

PN2423

THE DEPUTY PRESIDENT: All right. Thank you very much. We will adjourn and we will return at 3 o'clock. Thank you very much.

PN2424

DR COATES: Thank you.

LUNCHEON ADJOURNMENT

[12.50 PM]

RESUMED

[3.07 PM]

PN2425

THE DEPUTY PRESIDENT: Thank you all for your attendance. I'm going to start by confirming the appearances of those that we have with us this afternoon.

PN2426

Associate Professor Badham.

PN2427

ASSOC PROF BADHAM: That's me. Thank you.

PN2428

THE DEPUTY PRESIDENT: And you are from the School of Art at RMIT University?

PN2429

ASSOC PROF BADHAM: Correct.

PN2430

THE DEPUTY PRESIDENT: Ms Powell. Thank you.

PN2431

Professor McQuilten. Thank you.

PN2432

Eugenia Lim.

PN2433

MS LIM: Yes.

PN2434

THE DEPUTY PRESIDENT: Ms Benton, continues your appearance.

PN2435

Mr Scott, you continue your appearance for ABI Business New South Wales.

PN2436

MR SCOTT: I do. Thank you.

PN2437

THE DEPUTY PRESIDENT: And Mr Kemppe, you're in an observing capacity this afternoon.

PN2438

MR KEMPE: Yes.

PN2439

THE DEPUTY PRESIDENT: Thank you, everyone, for taking the time to come to the Commission this afternoon. As Ms Benton may have explained to you, there was an opportunity for us to hear from you and we thought that, given the submission that has been filed, and in order to develop my understanding in the context of these particular issues, I would love to hear you speak to the matters that have generated your submission here in the Commission, and I also thank you, Ms Lim, for your attendance. I would love to hear from your personal experiences as an artist in due course this afternoon.

PN2440

If I might start with those from RMIT. I have obviously had the benefit of reading the submission that has been produced as part of the review. I thought that there might be, it might be helpful initially for me to understand the nature of the visual arts work research project. Does anyone feel comfortable kicking off and speaking to that?

PN2441

ASSOC PROF BADHAM: Sure. I will do a very short introduction and then we can pass over to Grace for the conclusion.

PN2442

THE DEPUTY PRESIDENT: Thank you.

PN2443

ASSOC PROF BADHAM: So we're near the end of a three-year Australian Research Council research project with our colleagues at RMIT, here in the room, as well as Professor Kate MacNeill at the University of Melbourne in arts management with a legal background, and also Associate Professor Jenny Lye who is an economist and statistician.

PN2444

So together with our colleagues at NAVA, as well as the Australian Galleries, or I'm sorry, Australian Museums and Galleries Association, AMaGA, and advice from Accessible Arts Australia, as well as Terri Janke and Co, Indigenous lawyers, we have developed this research project looking at how to create a more sustainable sector.

PN2445

Our major focus over the last couple of years of empirical research has been primarily on the hybrid and diverse career and work patterns of artists and arts workers. So, of course, there was a lot of data collected with the largest academic survey delivered across the country of more than 700 respondents, as well as more than, I guess, almost two dozen in-depth interviews with artists and arts workers talking about the complexity of their work patterns. So we have published a series - many actually - reports and papers and things like that which brings us to this moment which is around proposing interventions into the sector.

PN2446

So really, really briefly, some of the key findings of the broader research is around the diversity of the sector, not only in terms of work habits and patterns, but the people who were involved. Artists from all different social, economic and

cultural backgrounds working in many, many different ways. So particularly since COVID there's been an increase in digitalisation internationalisation and this sort of hybridity of being an artist, but also being an arts worker.

PN2447

So that's what we learned about that, sort of that flip-flopping of roles and aptitudes, experiences and skills that they can offer the sector and the industry beyond their sole role as an artist or a sole trader.

PN2448

THE DEPUTY PRESIDENT: And by that hybrid nature and that flip-flopping, do you mean, as a matter of practice, that one might be an artist, but might be engaged by a gallery, for instance, as an art worker to perform those (indistinct)?

PN2449

ASSOC PROF BADHAM: Absolutely. They may also be an arts gallery director. So they may be holding high level roles as well as managing their arts practice, or they may be, you know, web designers and producers in other ways, as well as managing a career as an arts educator. So there's a lot of complexity across the sector.

PN2450

THE DEPUTY PRESIDENT: I see.

PN2451

PROF MCQUILTEN: The majority of artists that work in multiple jobs, very few are actually just solely practising as artists and arts workers are also working multiple jobs, and that's been one of the biggest issues in the data. So there's major issues in the major datasets around incomes I think because they often ask what your primary occupation is and because visual artists and arts workers often have multiple occupations we're missing huge amounts of what they're doing.

PN2452

The other question that's often asked is, you know, 'What you were doing in the week before', for example, 'the Census? What was your main job last week?' and because artists' jobs are changing from week to week, we're not getting that accurate picture of what they're actually doing.

PN2453

So another big finding of the research is issues in the data and that we're not really understanding the true volume of how many artist are practising. There's a lot more than is reflected in the existing datasets because of these issues, and we're also not understanding, I guess, the full picture working wise of how much they are earning and just how they're working.

PN2454

MS POWELL: I think in terms of the art workers type of thing, but often an arts worker will have multiple roles as well because there's not one job that can sustain them and they may choose to contribute to different organisations in different ways as well, and so that is a similar issue in terms of seeing them in the data. Also, not everybody identifies, you know, they work in a local government

art gallery, for example. Some people consider themselves council workers, but they are actually a huge part of the art sector.

PN2455

ASSOC PROF BADHAM: How we report in ABS doesn't actually show the true reality of what's actually happening. So, for instance - and we will hear from Eugenia as well - you know, artists may work for five years on a project before they make any money off it.

PN2456

MS LIM: (Indistinct)

PN2457

ASSOC PROF BADHAM: Yes, or can't make any money at all. Yes, exactly, and you know, income is employment, contract fees, grants and other types of works, so yes, quite a complex sector.

PN2458

THE DEPUTY PRESIDENT: Indeed. That's certainly the picture that I have been given over the last couple of weeks.

PN2459

ASSOC PROF BADHAM: Yes.

PN2460

THE DEPUTY PRESIDENT: So obviously the focus of this aspect of the review is upon - if we just put it colloquially - - -

PN2461

MS BENTON: We have been here for a long time.

PN2462

THE DEPUTY PRESIDENT: It's such a big day, but I put it in colloquial terms, that the issue that I'm focusing on as part of this aspect of the review is upon the potential to identify award related gaps in the Modern Award system.

PN2463

PROF MCQUILTEN: Yes.

PN2464

THE DEPUTY PRESIDENT: And so it's those issues that I would really seek to probe with you today in relation to both categories that you have identified; the artists and the art worker. So does it makes sense for us to start by looking at the artist first, and tell me a little bit about what your research has derived and what your understanding is about the nature of the way that artists are engaged and what issues you have identified with those approaches?

PN2465

PROF MCQUILTEN: Yes. I mean would you like me to go back through the submission we submitted?

PN2466

THE DEPUTY PRESIDENT: Yes. If that's provide some helpful context, please do.

PN2467

PROF MCQUILTEN: Yes, I will. I will go back through some key points, key findings around artists' incomes and how they're working. So the average income from an art practice in 2020-21 was \$11,321. So just there you have got a snapshot of one of the major issues which is that artists are not earning very much money at all from their arts practice. So it's quite rare for an artist to just be an artist. They're maintaining other jobs and other work in order to supplement the fact that the income is very low.

PN2468

We also noted significant gender disparities. Male artists reported an average income from their practice of \$22,906, while female artists only reported \$8507, and non-binary artists, around \$10,000. Not only did male artists earn more from their art practice than female artists, it's proportionately even more when accounting for the hours spent at their practice.

PN2469

A better measure is the median income which moderates the impact of the outliers at the higher end, so those that are actually full-time artists and earning, you know, \$100,000 can skew the picture, and on this measure the gender gap is reduced somewhat, but is still significant, with the median income for male artists being around four and a half thousand and for female artists, \$2600, which is only 60 per cent of the male artists' median income,

PN2470

This is a key one, I think, for your purposes. Only 30 per cent of respondents spent 100 per cent of their working time as an artist. So that gives you a picture of what it's like for the majority of working visual artists. They're juggling multiple roles.

PN2471

Sixty point seven per cent of those who identify primarily as visual or craft artists received at least some form of income from outside the visual arts and crafts sector, many from other employment, but also including private income and family support. Thirty-five per cent of artists also have employment in the non-arts sector, with over half working either in a casual or fixed term employment or are self-employed.

PN2472

So we're seeing this multiplicity. They will be working as an artist. They will also be working as an arts worker and they might be working in the hospitality or in education or in any other field, so that's why, again, it's very hard to capture to complexity of their working lives.

PN2473

The big issue, I think in terms of award representation, is that they might be covered in one job by one award and another job by another award and one job no award, but what we're not seeing is any of these awards representing their skills,

their qualifications and their experience to assess what they're doing in the visual arts, and that's something, yes, that we wanted to mention as part of our submissions that it does, you know, most of the artists we surveyed were highly educated. They are doing very specific skilled jobs that require specialised knowledge in the visual arts, but that's not reflected in the existing kind of award system in classifications.

PN2474

The other thing that even in a bullet point here that is really worth underlining is the amount of unpaid work that happens for visual artists, and this came through very strongly in the survey and in the interviews. We had free text comments in the surveys, so there was also an opportunity for people to provide additional information and the issue of unpaid work came through.

PN2475

MS LIM: Yes, for both groups.

PN2476

PROF MCQUILTEN: Yes.

PN2477

MS LIM: It's very much an expectation within the sector because there is no protection around that. There's no sort of way of identifying what is voluntary work and what is actually unpaid labour, and so people were often caught out by that, but to have an opportunity you're expected to do certain things.

PN2478

ASSOC PROF BADHAM: Yes. The difference between kind of recreational volunteerism or charity volunteerism, like being on a board or volunteering in the gallery, but what we're talking about is, you know, when we get contracted as artists and we go into the gallery to produce the show, but then we end up doing the talks. We fix the works. We do training with the institution around the cultural complexity of the work. So there needs to be moments for that sort of reorganisation and reallocation of things or extending contracts as well.

PN2479

THE DEPUTY PRESIDENT: And what would be said to be the contrary view to that? Would one say that the gallery, for instance, is making payment of a commission, together with contractual terms or otherwise, but which identify that as part of exhibiting your craft you are also required to oversee the installation to make sure that it reflects the way that you want your work to be presented, speak to the gallery so that, you know, all of these additional components that is intended to form part of the commission fee? Is that the argument that might be put against you in relation to that unpaid component?

PN2480

MS LIM: Yes.

PN2481

ASSOC PROF BADHAM: Please jump in.

PN2482

MS LIM: Yes. I would say that usually those terms of public programs or the installation in terms there, they are outlined in the contract, but perhaps it's about that gap between the commission, what's expected, the level of polish on I guess the, yes, the quality with which, you know, the artists wants to produce work and has been invited to do so, and the sheer volume of hours and production values and resourcing that it might actually take to produce something at that level.

PN2483

So, you know, in my own experience, I make work which is about working conditions and fair work remuneration. So these are matters really close to my heart, and I'm often employing, you know, subcontractors. They are creative teams who are coming from the film production industry or they're coming from live performing arts, so they do have award rates that I always pay them at or above because that's - I can't make them work ethically unless I do that, but the irony will be that I might get paid \$5000 for a commission for a new work. It might be two years of work.

PN2484

The work that I want to produce may cost \$20,000, so in the end, I'm lucky if I'm breaking even with my own fee because I have tried to ensure that my collaborators are getting paid under the award, but because I don't sit within an award and I want to make the work, I want to make work which is about fair work, but the irony is that, I guess, as the kind of lead artist who oversees this, yes, those same kinds of protections are not necessarily afforded to me.

PN2485

Yes, I think it's more about perhaps what it takes, the number of hours and also the level with which - I'm often working with, you know, government stakeholders and Melbourne Water, and, you know, kind of engaging on quite a - yes, quite a high level, and that takes a lot of work in relation to time and, yes, that's definitely not captured in a kind of commission contract.

PN2486

ASSOC PROF BADHAM: And as a very, you know, experienced and established, you know, well-respected artist, you have been through the system a few times, but there's a lot of artists that don't have that experience and understanding of how to do that, so without that kind of, you know, standards or awards protection there's a lot of lost labour and intellectual property through the process.

PN2487

MS LIM: Yes, I would agree. I mean I have been practising over 15 years now and I have done so many decade-plus of so much unpaid labour and I think, yes, as has been mentioned and, unfortunately, because there aren't really - there's not really protections for artists as workers, you just - you do it because you want to make the work. You want to survive.

PN2488

I'm at a point now where I can push back. I have, you know, a certain amount of experience to be able to do that, but for the young artists, emerging artists who

are, you know, they're facing a much more expensive world as well. The cost of living, you know, I mean it's a crisis right now, so I think, without some measures in place, I can't, yes, I can't see how any of these issues will, yes, go away. I feel like they will just be exacerbated.

PN2489

MS BENTON: Can I add something to the unpaid component of work as well?

PN2490

THE DEPUTY PRESIDENT: Yes. Of course.

PN2491

MS BENTON: As part of NAVA's revision on the code of practice, but also a regular, we deal with a lot of disputes. Artists will call us for help when they get stuck and though often when they have - they have agreed to a contract and a set amount of work, that then they turn up and then they're asked to do this, and then this and then give advice on that, and something that's not related to what they agreed to - there's no - quite often no scope to negotiate variation. So if they ask to negotiate a variation that's usually a few back and forths of hostile discussion when they will come to us for advice.

PN2492

Occasionally you will get a gallery that will say, 'I didn't realise', and offer to pay additional fees for that extra work, but more often than not, the gallery may cancel the contract altogether so all of that work is now gone, and you know, it can be quite damaging to an artist's reputation or - actually they're pretty much the two situations. So there isn't scope. So this is where when they say when you get stuck doing unpaid work, there isn't an avenue to negotiate that fairly.

PN2493

MS POWELL: If you have a contract. I have worked in organisations that they don't actually have formal contracts with artists.

PN2494

MS BENTON: That's right.

PN2495

MS POWELL: You know, there's the assumption that that happens, but - - -

PN2496

MS BENTON: It could well.

PN2497

MS POWELL: Yes. I mean so much of it is done just on agreement, so it's not always written down which leaves it open for a whole range of things.

PN2498

THE DEPUTY PRESIDENT: And so the issue that I have been probing other attendees here at the Commission about - over the last couple of weeks - is, is it possible for the Modern Award system to address this issue in circumstances

where the award system is dealing with employment relationships? Is it your experience that artists are typically engaged as contractors and not as employees?

PN2499

MS LIM: It really depend.

PN2500

THE DEPUTY PRESIDENT: When you say it depends, tell me about your experience about different types of engagement.

PN2501

MS LIM: Well, I mean one thing I would say, it depends on the scale of the organisation that you're dealing with. So speaking as an arts worker, I have worked with artists in mostly small to medium organisations and that's where a lot of that formality isn't in place. If it's an artist working with a larger institution, let's say like the NGV, you would hope that those things are more formalised. Certainly within the university sector I have seen that more formalised, but not always.

PN2502

PROF MCQUILTEN: I think commonly what you see is an artist might be commissioned to make an artwork, but also employed as an arts educator at the same organisation, or employed as an adviser (indistinct), or employed to do a community arts project, or employed to do public outreach and engagement programs.

PN2503

So I think, again, that's the complexity. It's that artists are rarely ever just an artist working as a contractor in this really discrete way with, you know, an organisation. It's often this multiplicity and because of that, they have even less opportunity to push back because they're relying on these organisations for employment in a range of different ways; maybe as a casual employee or a part-timer, and then maybe to get a commission as well.

PN2504

THE DEPUTY PRESIDENT: So the challenges then that are apparent in relation to the engagement of artists appear to be such that an award itself is not going to be capable of rectifying those issues. We're talking about variations to commercial contracts that the award doesn't otherwise capture because we're not dealing with the relationships of employer and employee, but when we're talking about the hybrid role or the artist that is engaged as an arts worker to perform other duties, then it sounds as if that falls more traditionally into your master/servant style employment relationship where the award system has pivotal work to be done.

PN2505

That's really the distinction that I have just been seeking to understand from the discussions that we have been having over the last couple of weeks about the experience of the artist and whether anyone has been able to bring to the Commission some lived experiences as an artist where they are employees or are seeking to be employees versus artists who are employed in the manner that you

have been speaking about this afternoon, in a different role, in a front of house role or something different.

PN2506

MS LIM: Yes.

PN2507

THE DEPUTY PRESIDENT: Ms Lim, are you able to speak to that concept at all?

PN2508

MS LIM: I will try and speak to that. Yes. I feel that the nature of how hybrid the working model is for many artists is because perhaps of that lack of, I suppose, yes, employee availability of that kind of employee/employer model.

PN2509

What is generally on offer is a kind of one-off contract or very casualised kind of structure, although I think, for myself anyway, I, yes, I have had to supplement what I do through university, you know, taking on a PhD, earning income in other ways because that kind of relationship isn't necessarily on offer.

PN2510

I feel that, yes, if it - if it was possible so many more artists would want to enter into it, but I think it's interesting to perhaps consider, yes, even in my own work, how perhaps that relationship is also blurred again because sometimes, yes, I am an employer paying within different awards perhaps to myself.

PN2511

THE DEPUTY PRESIDENT: Yes. That's right.

PN2512

MS LIM: And that's challenging. So I think maybe taking into account, I think within the visual arts artists are working between film and live performance, craft and design. I mean they're kind of straddling so many different types of disciplines and sort of art forms, but yes, their own, I guess their own kind of discipline isn't really protected and covered in the award system clearly.

PN2513

PROF MCQUILTEN: As an example, like if you had the opportunity to have a commission with a gallery and it took two years to develop, and you had the option to be employed as an employee instead of being, would you take the employee role?

PN2514

MS LIM: Possibly. Possibly because, I mean with the contractual kind of agreement you are never covered for holiday or sick leave or, you know, you have to take out your own public liability insurance. All of these things as, I guess, a sole trader that - - -

PN2515

PROF MCQUILTEN: (Indistinct)

PN2516

MS LIM: Yes.

PN2517

PROF MCQUILTEN: One of the issues we found as well, relating back to gender, is there's a real issue for, it seems, for women returning to work after having children, as I understand it, with arts workers, and I think that's partly because there's a lack of those provisions. You know, because they're working either as contractors or be it short-term or casual positions they're not getting parental leave and they're not getting flexible work arrangements or return to work pathways, and it's - it's partly because artists want the independence, want to maintain their IP, but it's also partly because the opportunity to be an employee is actually not available.

PN2518

MS LIM: Yes.

PN2519

PROF MCQUILTEN: It's simply not offered.

PN2520

MS LIM: Definitely. I mean as a recent example, I undertook a residency through (indistinct) of Contemporary Art, and I am an artist parent so I have full-time caring responsibilities as well, and I know that I'm dealing with arts workers, in this example, the director of the organisation who, yes, would enjoy a sort of annual wage and kind of, you know, I guess working conditions that would be favourable to her being a parent, and in this instance, I mean the fee was sort of a set fee for a residential residency.

PN2521

So I would be away from home and I would also have to employ someone to care for my daughter at the time as well, and when I did the maths I would have been out-of-pocket, you know, to be able to afford to sort of employ a carer as well as live away from home for seven days and it became, yes, kind of fairly untenable.

PN2522

I, again, you know, because I have some experience I can kind of go back to the organisation and try and ask for them to do better, and they spoke about how, you know, there's provision for (indistinct), but yes, there was a difference between actually what that means when it comes to caring responsibilities and what that consists of.

PN2523

THE DEPUTY PRESIDENT: Yes.

PN2524

MS LIM: So, yes, it ended up being – yes, I mean, yes, I ended up having some other fees from another institution that could fill the gap, but actually if I just looked at what I was offered through that opportunity, yes, I would have been something like minus \$700 in the red for it and that's - - -

PN2525

ASSOC PROF BADHAM: Plus all of the time to like work all of this out; right?

PN2526

MS LIM: Yes. Well, I think I was going back and forth with the emails and also you are often made to feel like - I don't know what you're made to feel like - you know, 'You're so lucky to be given this opportunity.' It could be any other number of artists and it's really hard because you value your work. You really care about what you do and it's really difficult when you're suddenly made to, often made to feel that you're asking too much or, you know, your work is maybe not worth it anymore or something, so yes.

PN2527

ASSOC PROF BADHAM: I'm sorry that happened.

PN2528

MS LIM: I mean I think in terms of the award, the concept of an award and how that may protect people, or just the protection itself is important, and it is possible, like if you look at performing arts, obviously they have an award and I'm sure there are complexities in working it out, but it is possible. You're engaged with an organisation, you know, on set terms and so that's, you know, there should just be some sort of structure around that.

PN2529

PROF MCQUILTEN: For long periods.

PN2530

MS LIM: Yes.

PN2531

PROF MCQUILTEN: I think that's the other thing. It's not like they're buying an artwork from you and it's a simple exchange, but it's actually having to work with you quite closely for a long period of time with a power dynamic where the art organisation has more power.

PN2532

MS LIM: Yes.

PN2533

PROF MCQUILTEN: So there are some, you know, similarities to the employer relationship, but it's all on the terms of the art organisation, and you know.

PN2534

ASSOC PROF BADHAM: And their potential empathy with the situation which his not where you want to start your negotiations.

PN2535

MS LIM: Yes.

PN2536

ASSOC PROF BADHAM: Just the other thing to mention is that, you know, this potential award framework could assist with, you know, other precarity and

incomes for artists, but across the sector there's a lot of inequity because of these sort of individual deals made on social (indistinct) and kind of reputation.

PN2537

So, you know, in one of the deidentified interviews I did, you know, the artist said, 'Actually they paid me 20 grand for that because I had to do all of this, this and this', but then they found out the next artist did the exact same thing, but got paid five grand, you know, and it's because this one artist has perhaps a, you know, higher kind of reputation at the time, or because this person, you know, they felt they could get, you know, something off them because they're more emerging, the artist. So there's just that kind of equity that needs to happen in the sector which this award will be, you know, instrumental in making it happen.

PN2538

PROF MCQUILTEN: Yes, even if - - -

PN2539

ASSOC PROF BADHAM: Making things transparent would be - - -

PN2540

PROF MCQUILTEN: Yes. (Indistinct) really clear things. So between organisations and even within organisations and across the sector it's just wildly different. I'm sure you have experienced that too.

PN2541

MS LIM: Yes.

PN2542

PROF MCQUILTEN: You could be employed as a curator in one place and be paid wildly differently as you would in another site, whether it was a commission or an artist fee or as an arts educator at the gallery. That's just, yes, it varies.

PN2543

ASSOC PROF BADHAM: And people have different career stages and pay levels for different expertise, but just making it transparent around what one might expect to be paid after you invest in education and your developmental practice as well. Yes. We are giving you a lot of information.

PN2544

THE DEPUTY PRESIDENT: Thank you.

PN2545

ASSOC PROF BADHAM: Is that useful?

PN2546

THE DEPUTY PRESIDENT: Yes. Absolutely, and so I think, based on what you have been discussing, perhaps a takeaway from your experience is that artists are traditionally engaged as contractors, being sole traders or similar, but perhaps if there was an award system that contains some baseline conditions for transparency, that there may be capacity to shift that within the industry, such that there might be some capacity to start making offers of employment to artists that

aren't traditionally being offered because there's no set terms and conditions against which one might apply.

PN2547

MS LIM: And I think also for it to be understood as it is, you are employing an artist. I mean just because we don't use that language now doesn't mean that's not actually the case. It's just very - there's no structure around it to define it so all of those gaps are where things can kind of blow up, or where people can be - I hate to use this word - but exploited, because there isn't that infrastructure around that, and it doesn't have to be - the award doesn't have to touch on every single aspect of how an artist works. I don't think that's possible for any industry, but I think it could certainly address some of those fundamental basic rights.

PN2548

PROF MCQUILTEN: Yes, and I think just making that possible to have an employee and employer relationship for artists with arts organisations would be significant because we teach a lot of art graduates and they're not graduating wanting to be sole traders and business people. They're wanting to have opportunities to create and make work, and a lot of the artists that we have interviewed seek out employment part-time, regular employment in a stable base, because that's what they prefer, and then try to find ways to build their art practice around that, and if their art practice could also be built into these sort of more stable forms of employment I think many people would definitely opt in.

PN2549

MS LIM: Yes, and it's acknowledged as employment I think as - - -

PN2550

ASSOC PROF BADHAM: Yes, which can start the basic kind of value conversations, but you know, these aren't new issues at all. You know, incomes for artists and art workers have always been low and falling. We have had that data for many, many, many years from (indistinct) and all of that, but you know, an award would also influence other types of standards.

PN2551

We talked a little bit around taxation, around insurance and things like that, but also funding. You know, the ongoing incredible work that NAVA and others have done with, you know, hundreds of artists and industry people around developing codes of practice and standards of payments, these are things that are legislated in other countries.

PN2552

So, for instance, where I'm from in Canada, you know, if the National Gallery hires an artist to do something they have to be paid at a certain level if they're getting council funding grant - all right - so if public tax money is going into it, there's a certain standard that has to be there, and that's our responsibility in our sector as well as, you know, labour regulators.

PN2553

So I think that, you know, it's a bigger issue than kind of just the nuts and bolts of it, in that we need to agree that, you know, artistry workers, arts workers are

valued like others, and we just need to work around how to best do it because all of the research is there. It continues. Lots of lived experience and, you know, many of these voices are not in conflict. There's a shared understanding around that and there's a lot of people who are willing to work on this with the Fair Work Commission so we really encourage you to take this on.

PN2554

THE DEPUTY PRESIDENT: That's all really interesting. Thank you. That's been quite helpful insofar as it concerns the artists. Probably my final question in relation to the artist then is do you anticipate that there would be some artists who would not like to see that their engagement with organisations, galleries and like, are subject to employment related terms and conditions? Do you think that there are artists that see themselves as operating their own business and want to continue to negotiate their \$20,000 commission fees and the like?

PN2555

PROF MCQUILTEN: Yes, there are, but they're not the majority.

PN2556

THE DEPUTY PRESIDENT: All right.

PN2557

PROF MCQUILTEN: They're the minority. As we showed in here, only 30 per cent of the artists we surveyed work full-time as artists, just as a starting point, and of those not many are making a full income by their practice. So there would be a small number of artists who it works really well for them to be as a self, you know, managed employee and contractor or whatever, but it's not the majority.

PN2558

THE DEPUTY PRESIDENT: All right.

PN2559

SPEAKER: I know one artist. One who doesn't have a job outside of being an artist, but their income is pretty much solely grant funding. So they work to secure those grants to then develop bodies of work, and their income is also supplemented by their partner, like they live with somebody else, but they are the only person I know who - and which sounds crazy, but it's true. I mean it doesn't happen often that an artist is at a level that they just live on saleable work or commissions. It's very rare.

PN2560

MS LIM: And generally I think that's a good point that they will, yes, they all have family support or come from wealth to be able to do that, whereas I guess if you're a kind of a working artist or coming from a different socioeconomic class, it's incredibly difficult to survive as an artist purely off your work. So it will generally be, I guess, artists engaged more in the commercial art sector who are creating paintings or sculptures and that's their - that is their business.

PN2561

I can imagine they wouldn't necessarily - this wouldn't necessarily be relevant to them, this idea of an award, but that's definitely, yes, in my experience it's the

minority of artists and, yes, most - most others are really cobbling together income across a range of streams. Some would really love some security, especially after the pandemic lockdowns and, you know, yes, the difficulties of those years as well.

PN2562

ASSOC PROF BADHAM: There's one other brief instance that I want to mention which comes from our research and a number of collaborations and relationships too. There's a number of Indigenous artists as well who are not necessarily interested. I won't speak on behalf of all, of course, but - and expressed disinterest in employment because in Australia there's no laws around intellectual or cultural property, traditional property, so ensuring protection of their mob's contents is paramount. It is paramount, so which would, you know, it could be a variation in the contract agreement, but the way that, you know, the current sophistication of the system isn't working through those things individually so in that case people would often choose to be a contractor.

PN2563

MS BENTON: If I can add to that.

PN2564

THE DEPUTY PRESIDENT: Yes.

PN2565

MS BENTON: I mean there has been a commitment by the government to establish some legislation around ICIP and I think that that will have impact for workers in any industry, First Nations workers in any industry, and I don't necessarily think that it is only art specific and I don't think that it would have impact on how people are employed. I think it's more likely that all work - all industries and all work contracts will have clauses around ICIP and that work is underway already, give or take years, but it is underway.

PN2566

THE DEPUTY PRESIDENT: Yes. With the result that the artist retains the IP in their work, in the event that they become an employee of an organisation?

PN2567

ASSOC PROF BADHAM: Yes.

PN2568

MS BENTON: Well, yes. Well, no, I mean the protections of ICIP will be recognising Indigenous cultural and intellectual property and that knowledge is not unique to the arts. It is unique to Indigenous practitioners of any type of work.

PN2569

So any - any First Nations employee anywhere will be bringing with them ICIP and that will be applied in business protocols, so probably giving advice and I think it's much bigger than our sector. I don't know. I don't think that it would be - I don't think - it's definitely not unique to the arts in a way that it would interrupt employee relationships because I do think that the result of this work, because it will be Australian law for all Indigenous cultural and intellectual property to be

recognised, that that will have impact on every working industry in the sector, if that makes sense.

PN2570

ASSOC PROF BADHAM: Yes. Thanks, Penelope. That's great news.

PN2571

MS BENTON: It is wonderful news because it's been, yes, decades of advocacy for a number of people. It's very exciting actually.

PN2572

THE DEPUTY PRESIDENT: That was very helpful.

PN2573

Mr Scott, is there anything that you wanted to contribute to this aspect of the discussion insofar as it concerns artists as opposed to art workers?

PN2574

MR SCOTT: It's interesting that you just phrased that question in the way that you have, Deputy President, because I did - I was contemplating that exact point as I reviewed the written submission of everyone here.

PN2575

It might be a very silly question. It might be somewhere in the document and I might have missed it, but I was just curious. The submission seems to kind of draw a distinction between artists and then arts workers and it might just - I think there's obviously a broad stakeholder group and there's terminology thrown around by various people. I was just curious to kind of get your view as to what precisely those terms are meant from your perspective because I just don't want to assume it means one thing and then be wrong.

PN2576

PROF MCQUILTEN: So in our survey, just for context, we ask people to identify primarily as an artist or an arts worker as one of the first questions, and then the questions that followed varied, depending on which answer they selected. So that's why we have analysed the data separately, but it should be noted that there was a large overlap. So I think it was about 40 per cent - - -

PN2577

ASSOC PROF BADHAM: Yes.

PN2578

PROF MCQUILTEN: - - - were both artists and arts workers and they completed both parts of the survey because they identified as both.

PN2579

ASSOC PROF BADHAM: As both.

PN2580

PROF MCQUILTEN: And we do have a definition of 'arts worker' right here ready for you which we will read out.

PN2581

MS POWELL: So I'm also an arts worker I should say. So we define them as people working in the visual arts and crafts sector who contribute to the development and delivery of cultural activity across a range of areas.

PN2582

So when you walk into an art gallery anyone who works within that gallery I would consider an arts worker, and that's how we define an arts worker. So it could be the person at the front desk who provides information about the exhibition. It's the person, yes, out the back who have built the furniture to show the work. It's the director of that organisation whose job it is to lead the vision and bring the funding in, and there's a range, a huge range of roles and responsibilities within that type of work. It's also a highly educated workforce, as are others, and so it's a broad term.

PN2583

I think often - yes, I'm working with arts workers at the moment in a separate research project and I ask people to say, 'How do you explain what you do?' and they always go, you know, because it is - it is a very unique sector - 'Once you're in it you know it', but to explain it outside of that sector is - is complicated and weird, and people generally say, 'I just tell people that I put on exhibitions', or, 'I just tell people I work with artists.'

PN2584

That is fundamental to it, that you work with artists and it's a huge part of that role, of any of those roles, is that you're working with artists to facilitate engagement with that artwork and with that artist's work. It's not an even playing field by any stretch either, so - - -

PN2585

ASSOC PROF BADHAM: That's the really key thing, I think, is that they're working with art and artists to mediate those experiences, objects, ideas with the public or with the kind of commercial receiver of the work. So they're kind of the mediators between, and sometimes they have the technical training to put on the shows of the media, or it might be the curatorial trained educators and arts workers who, you know, oversee lectures in the art school as well. So it's those. Those are the sort of the mediators. (Indistinct)

PN2586

MS POWELL: Yes, we will be facilitators. It's not how I describe myself. I think (indistinct) my job. That's how I describe myself. So, you know, it's facilitating how art is in this world and how people engage with it, and there are many different ways that you can be involved in that, and often within those roles, especially in the small to medium sector, you are often doing the work of multiple people. So you might be marketing and communications and development - all right - so you might be bringing in money to the organisation while also communicating in an entirely different language with the outside world about what it is your organisation does.

PN2587

PROF MCQUILTEN: And in all of these cases you need specific skills and experience and often qualifications.

PN2588

MS POWELL: And multiple.

PN2589

PROF MCQUILTEN: Yes.

PN2590

MS POWELL: And you are paid (indistinct).

PN2591

PROF MCQUILTEN: Yes.

PN2592

MS POWELL: And I do understand that like from an artist's perspective it does look like a much more secure working environment, and of course it is, compared to being an artist out there on your own, but it does come with its own issues as well. It's not - - -

PN2593

THE DEPUTY PRESIDENT: Mr Scott, does that give you a better understanding of the way in which those terms are being used?

PN2594

MR SCOTT: It does. I mean it's quite funny to say those inside the sector, they get it, and those outside the sector don't, and as a lawyer I know which category I fall in.

PN2595

You know, I might just put back a proposition, and if you disagree with it can you just let me know because I think I understand it. I just want to confirm. From a kind of dataset, or a survey that you have obviously been involved in and produced, I took from your response that it's not the case that, you know, they are been grouped as artists are non-employees versus arts workers are people with an employment contract. It's that definition that you referred to earlier as to it's more about how do they describe the work that they do as opposed to what model of engagement they have.

PN2596

PROF MCQUILTEN: Exactly. Yes. In our questionnaire the issue of how they were employed came out later. So initially it was really how they identify their main occupation as either an artist or an arts worker based on what they do, not how they're employed.

PN2597

MS BENTON: Yes, and also where their main income comes from. I mean some people define their role, their working role as where their main income comes from, but we were asking people like what their - what they see their main role being.

PN2598

MR SCOTT: That's very helpful. Thank you.

PN2599

ASSOC PROF BADHAM: We will forward you one more report.

PN2600

MR SCOTT: I will look forward to it. I'm sure I will have a number of questions.

PN2601

PROF MCQUILTEN: Yes, and I should note this is just some extracts from some larger reports which have a lot more detail, including graphs that show you exactly how many were employed as casual and contractor and so on. So we can forward the full reports which might be illuminating in terms of you looking at the detail of it.

PN2602

THE DEPUTY PRESIDENT: Sure. All right. Well, should we turn our focus then to the arts worker?

PN2603

ASSOC PROF BADHAM: Sure.

PN2604

PROF MCQUILTEN: Yes.

PN2605

THE DEPUTY PRESIDENT: You have set out a little bit of information in bullet points in your submissions, like you did with the artists. Would you like to take us through those?

PN2606

PROF MCQUILTEN: Yes. I think (indistinct) So the first point is that there is a clear trend of underemployment for artist workers, and basically we're talking about artist workers wanting to work more and have more hours of work, but aren't getting it. So that came through quite clearly.

PN2607

Arts workers are largely underpaid, earning significantly less than other working professionals, with an average annual income of \$51,000. That's for a full-time working week from the arts worker compared to the general population average, which at the time that we wrote this, was around \$92,000. Arts workers tend to be around the same age as the working population as a whole and predominantly female.

PN2608

There's a significant issue of unpaid work in the visual arts and crafts sectors, which we have already discussed in relation to artists, as both volunteering time and additional work within (indistinct) often going unpaid, and at 23.3 per cent, the gender pay gap for female arts workers is much higher than Australia's broader gender pay gap at 13.3 per cent.

PN2609

Arts workers are highly qualified. That was another key matter that came through and yet they're earning significantly less. There's, yes, obviously income impacts on their current and future financial security, and as I said before, many are wanting more work than they're getting, and yes, reported being paid less than with the full nature of the work and the hours that they were doing, and I'm sure you have had that experience as well having worked both as an artist and an arts worker at different kind of - - -

PN2610

MS LIM: Yes. Definitely. Yes, unfortunately, it's never the full amount, but yes, there's a lot of volunteering paid people as well.

PN2611

PROF MCQUILTEN: So what we're seeing a lot of is artists who are not earning very much as artists, who are also working as arts workers and not earning very much as arts workers, and in their role as arts workers, working as casuals or on short-term contracts without job security as well.

PN2612

So they're sort of dealing with these multiple layers of insecurity and precarity, and as I mentioned before, you know, really significant power relations with their employers because they're relying on these employers often for opportunities for future work, but also in their art careers, as well as in their arts work careers, so it sets up, I guess, just not a very level playing field in terms of negotiating employment.

PN2613

ASSOC PROF BADHAM: And as we have seen from NAVA's surveys and what not as well, you know, major mental health impacts in the sector due to the precarity of employment.

PN2614

MS LIM: I think also knowing that you're giving so much of yourself and you have worked really hard to get where you are, but you also know that that's not always recognised and you don't even see what you do in an award. I mean that's the fact that they're, like again, drawing on my experience, I have been covered by the most random awards, if any at all.

PN2615

THE DEPUTY PRESIDENT: Which ones?

PN2616

MS LIM: Like retail when I'm a curator. Like I think I was mentioning to you first thing today, when you actually look up to find out about, you know, what sort of rights you have as an employee, a curator doesn't actually come up in the database at Fair Work.

PN2617

So it's, when you're working in that role, it's quite kind of alarming because you're like, 'Well, who am I then?' You know, 'This is my job. This is my job title. This

is the work that I do', but I'm not recognised as such in any formal way, and that then makes you sort of feel even more so that you're out there on your own, so that impacts your mental health as well.

PN2618

Often the scale of the organisations too means that, yes, you don't always have somewhere to go or somewhere to sort of back you up and it means that without an award that acknowledges what you're bringing to the table in terms of your expertise, your relationships, your capacity to work with others, then the expectation is there that you do it and that you bring it, but it's not acknowledged and it's not paid for.

PN2619

PROF MCQUILTEN: And there's huge inconsistencies as in wages for organisations.

PN2620

MS LIM: Huge. Yes.

PN2621

PROF MCQUILTEN: Yes. That's something that's come through from our partner, the Australian Museums and Galleries. They have been trying to do their own research on benchmarking salaries because there's such inconsistency, and so they have been trying to ask their partner galleries to share job advertisements with them so that they can see they actually contain, you know, the salary amount. There's a lot of opacity.

PN2622

So often salaries aren't advertised. People don't know, until they apply for the job, how much they're going to be paid. Then there's wild differences between organisations, between states, between, yes, between different types of galleries and different types of museums. So it's that real inconsistency and just lack of transparency and workers don't know what people are earning.

PN2623

ASSOC PROF BADHAM: And employers don't know how to contract them either. You know, they do their best, but - - -

PN2624

MS LIM: Sometimes.

PN2625

ASSOC PROF BADHAM: - - - sometimes they don't. Yes.

PN2626

THE DEPUTY PRESIDENT: In the preparation of your submissions in December, and having regard to the discussion paper that was issued by the Commission to generate discussion and to inform some submissions did you have an opportunity to give any consideration to those aspects of the discussion paper which identified some possible awards that might have coverage? I would be

interested if you had any initial views about the accuracy or the application of some of that preliminary thinking by the Commission in the discussion paper.

PN2627

PROF MCQUILTEN: Yes. Our colleague, Professor Kate MacNeill, has a background in industrial law, so she's been very important for us in terms of developing (indistinct).

PN2628

THE DEPUTY PRESIDENT: Yes.

PN2629

PROF MCQUILTEN: Her main point, which is driven home very clearly to us, is that none of these awards are reflecting the specificity of the jobs in the visual arts and arts sector and that's the problem. Their roles that are described are really different to what they're doing and the skills and experience that people are bringing to their jobs are quite unique and individualised to that sector. Yes, so that's the issue, at the moment, that the other awards might or might not captured.

PN2630

ASSOC PROF BADHAM: Yes. Things like the Live Performance Award, thinking how to relate it to visual artists. The Amusement Award. The Local Government awards, of course. I think Penelope would probably be best to speak to that because you did quite a good sort of analysis of the responses you got from the sector around whose covered by what, but there's just gaps and gaps in all of them. So, yes, I mean - - -

PN2631

THE DEPUTY PRESIDENT: So using the Amusement Award, for instance, that defines that industry as including museums and galleries - and appreciating that this is not dealt with in your written submission and, you know, I'm not going to hold you to a position today, but just for discussion purposes - do I understand then that your position might be that whilst it recognises scope for covering employees employed in museums and galleries, that the concern that you have just identified really is focused upon the application of the classification descriptions in that award to the work that the art workers are doing?

PN2632

PROF MCQUILTEN: Yes. I will give you an example, and this is not precise because I'm not looking at the - - -

PN2633

THE DEPUTY PRESIDENT: I can provide you with a copy if you want it, but be careful what you wish for.

PN2634

MS BENTON: Yes. You might have a tour guide who works in, you know, the recreation industry who is employed at a certain classification level to lead people on tour. A gallery tour guide might need an undergraduate degree in art history to be able to explain the work to the audiences that they're showing through, so it's a

very specialised skill and it's, you know, deep knowledge. They need a lot of training and experience in art.

PN2635

So like I was saying, this is just an example that I'm aware of, but in a specific to the visual arts and crafts industry there are really unique skills and training of vocations and experience that are required to teach (indistinct), but rarely accurately understood or represented or reflected in other awards, and I think most arts workers and artists wouldn't see themselves in those awards, or wouldn't even know to look in those awards to define what they do for a living.

PN2636

THE DEPUTY PRESIDENT: So is that a problem then with the award system or is that a problem with the education campaign that's creating some issues about people not knowing how to apply the awards correctly, or a misapplication or a confusion about the way in which the existing Modern Awards system operates?

PN2637

PROF MCQUILTEN: I think it's a gap in understanding the visual arts and crafts sector as an industry, and the skills and experience and roles that are required in that industry. I think that's the problem, like that is not represented in the awards that we have at the moment.

PN2638

THE DEPUTY PRESIDENT: Yes. Some of the awards, I mean the way in which the award system operates across many of the awards is not to drill down into specific occupation names. The awards might, for instance, provide indicative position titles, which is designed to sort of provide some guidance about where a person might fit within those level classifications, but then otherwise might try to keep the description in the award quite broad on the understanding that it needs to apply to lots of different organisations and is deliberately broad.

PN2639

When you say that there's just not enough specificity, just so that I can understand that as best I can, is it the case that, in your view, that is only cured by having occupation titles such as 'curator' and the like listed, or is it the case that if one looks at grade 8 in the Amusement Award, for instance, and says an employee at this level possesses qualifications or experience such as, indicative, advanced level - I'm sorry - advanced engineering or technical skills or post trade or diploma level, or who undertakes tutors of a more advanced or complex level?

PN2640

I mean that's as broad as it gets I think. That's the entirety of the classification descriptive for a grade 8 under the Amusement Award, and I'm interested in your views about why that might not work for a person with the skills that you say the arts workers bring to bear in their roles.

PN2641

ASSOC PROF BADHAM: May I clarify?

PN2642

THE DEPUTY PRESIDENT: Yes.

PN2643

ASSOC PROF BADHAM: Are you asking if there's a possibility of adding job titles or careers?

PN2644

THE DEPUTY PRESIDENT: No. I'm also asking what you're asking the Commission to do?

PN2645

ASSOC PROF BADHAM: Yes.

PN2646

PROF MCQUILTEN: I think the issue is the misapplication of these systems by arts organisations when they are so broad, and what we're seeing that are chronic issues of underemployment and underpayment, below the levels of skills and qualification that people have, and I think when the awards and the classifications are so broad, I think it's (indistinct) misapplication to happen, and so, yes, in terms of addressing the problem of underpayment, to which is, I guess, the significant one, is being very specific about what the job requires and what pay level it should be.

PN2647

So I think that's where we're coming from, and without scrutinising every kind of descriptor in each award, it's there is a real issue of misapplication, or just lack of application because an organisation thinks, 'That's got nothing to do with us.' You know, 'It has nothing to do with us and we're just going to pay what we think are industry (indistinct)', I think regardless of whether we are actually parity. So I think that's why the specificity is needed because I'm not sure that any of these awards are being applied and certainly not consistently.

PN2648

ASSOC PROF BADHAM: Yes. It's definitely not consistently and not state by state and industry by industry. I think we would advocate for its own sector award and if it was looked at moving into other existing awards there's work to be done within that. That would be an inclusion of that specificity as a fallback.

PN2649

MS BENTON: In looking at that, I'm sure you have got notes on that.

PN2650

THE DEPUTY PRESIDENT: I do, but I appreciate it's also after 4.00.

PN2651

MS BENTON: We're coming back tomorrow.

PN2652

THE DEPUTY PRESIDENT: No, I'm not going to cut you short. Please contribute, Ms Benton.

PN2653

MS BENTON: Well, I also want to check if there is anything Ms Lim might like to offer before we do wrap up because I can come back tomorrow. I know we will be coming back tomorrow because I have confirmed that. I'm sorry, is that the one or is that something else?

PN2654

THE DEPUTY PRESIDENT: Wonderful. This is just an agenda setting for tomorrow which I can pick up. That's great. So I understand you're coming back.

PN2655

MS BENTON: Yes, I'm coming back.

PN2656

THE DEPUTY PRESIDENT: (Indistinct) that are going to appear tomorrow with you.

PN2657

MS BENTON: That's right.

PN2658

THE DEPUTY PRESIDENT: All right.

PN2659

MS BENTON: That's right.

PN2660

THE DEPUTY PRESIDENT: Very good.

PN2661

PROF MCQUILTEN: Eugenie, do you have any - - -

PN2662

MS LIM: Yes. I don't have too much more to add, but just that I guess like in my understanding of the award system there's the Live Performing Arts or the Live Performance Award. It covers, you know, dance, music performance, live performance as a kind of broader field of practice, but it does, you know, it's specific enough that it can be applied to dance, artists, musicians and that kind of thing, whereas I feel that there is a gap for the visual arts because artists are working between live performance, between film, between sort of sculpture.

PN2663

Many different art forms, but galleries, institutions, councils, they don't necessarily know which award to look to so I think they are kind of benchmarking their own rates, kind of effectively making it up or going against, you know, looking at NAVA's codes of practice which is an excellent resource, but - - -

PN2664

PROF MCQUILTEN: But there's no regulation.

PN2665

MS LIM: Yes. Exactly.

PN2666

PROF MCQUILTEN: It's entirely optional.

PN2667

MS LIM: Exactly, and so I think that's where the difficulty is because there is no transparency per se, and when artists and arts workers point to the NAVA code of practice there's nothing to, yes, to require the employer to actually honour that and they might just give the work to an arts worker or an artist who agrees to be paid less because they're willing to work for that. So I guess that's, yes, that's kind of my feeling.

PN2668

SPEAKER: I think there's something too with the Live Performance Award. I think even just having it named, people accept it as a type of employment. It was even during COVID it was recognised more, you know, 'Oh my goodness, all of these productions being shut down', but at the same time, a whole lot of exhibitions and galleries and everything were shut down as well. It wasn't spoken about in the same way and I think that's largely because people don't understand this sector.

PN2669

It's like Grace was saying. It's that kind of, without that knowledge of what the sector is, it's very hard to represent us, but that doesn't mean that we shouldn't be, and it is possible for people to learn and for, you know, an award to be created to represent the workers within that sector, so like the live performance (indistinct) because there is a lot of complexity. I mean I don't understand performing arts. I don't. I don't know all of the different roles that are in that sector.

PN2670

MS BENTON: You have to think that there is a system where - - -

PN2671

MS LIM: Yes, and you know, people are paid by the hour. They have come to - to work that out, but I think it's also, in a way, more easily understandable, let's say, to someone, you know, walking down the street because they're like, 'Okay, there's theatre. I know that, okay, there's (indistinct).' There's someone, you know, taking tickets. There's, you know, people marketing the shows. There's so many things around that type of work which actually does happen in the visual arts too. It's just not so visible, and I do think that naming it is a huge part of helping it become visible.

PN2672

PROF MCQUILTEN: Absolutely.

PN2673

THE DEPUTY PRESIDENT: Mr Scott, we have been speaking about the issues concerning arts workers.

PN2674

MR SCOTT: Yes.

PN2675

THE DEPUTY PRESIDENT: Which are that category of employees who may well be engaged in an employment relationship and covered by an award and I wondered whether there was anything that you wanted to contribute to this aspect of the discussion this afternoon?

PN2676

MR SCOTT: Well, I will say that I think it's been a really, really good discussion. I don't know that there's anything that I can add in terms of progressing that discussion, at least today, like I think the reality is it's a complex sector. There's different people doing lots of different things, very diverse, different engagement models. Equally, I think it can fairly be said that the Modern Award system is not certainly straightforward in all cases.

PN2677

I think the organisations I represent would say that employers, so organisations out there, would advocate for a Modern Award system that's clear and easy to understand. I have heard what's been said about that. I don't know that I'm in a position to necessarily respond to it, but rather than me rambling, given it's past 4 o'clock, can I just say I think that was a really enlightening, productive discussion, and we will see what comes from it in terms of the rest of the consultations and thereafter.

PN2678

THE DEPUTY PRESIDENT: All right. Thank you. I will agree with that. That was so illuminating. I'm really thrilled that you came along and spoke to your submission this afternoon, and thanks also for the really helpful real life, on the ground experience that you have brought to bear, Ms Lim. It's been a very, very useful discussion and I'm grateful to you all for coming along.

PN2679

Unless there's anything else, I propose to adjourn until 10am tomorrow. You're welcome to come back then if you have more to speak about. We're continuing to consult for the balance of this week.

PN2680

PROF MCQUILTEN: Thank you very much.

PN2681

ASSOC PROF BADHAM: We will share that report in the career life cycles which gives a bit more illumination into how artists and arts workers actually function.

PN2682

THE DEPUTY PRESIDENT: Thank you.

PN2683

ASSOC PROF BADHAM: But thanks to you, Penelope, for making sure we were needed here. I really appreciate your carriage of it.

PN2684

MS BENTON: Thank you.

PN2685

THE DEPUTY PRESIDENT: Indeed. Thank you, Ms Benton. Thanks, everyone. We're adjourned.

PN2686

ASSOC PROF BADHAM: Good luck.

PN2687

THE DEPUTY PRESIDENT: Thank you.

PN2688

ASSOC PROF BADHAM: It's a bit of a project.

PN2689

THE DEPUTY PRESIDENT: It certainly is.

ADJOURNED UNTIL THURSDAY, 01 FEBRUARY 2024

[4.15 PM]