

Towards Responsible Procurement Practices and Decent Working Conditions in the Security Industry



★ About United Workers Union (UWU)

We are one of Australia's largest trade unions, with more than 150,000 members working in over 45 industries – including early education and care, aged care, hospitality, logistics, manufacturing, property services and more. We campaign for better wages and conditions, secure jobs, and safe and inclusive workplaces for all workers. Our diversity of membership and industries is our collective strength, allowing us to take on the major challenges our members face and win big, long-term outcomes. We are the union for security guards, and our members have fought hard to improve industry standards and working conditions through our Safeguard campaign.

★ Summary

The security industry is a key service provider to owners of property. The purpose of this service is the protection of people assets but cost cutting and poor industrial practices in the industry produce their own risks for property owners. United Workers Union members want to see these problems fixed and are seeking the support of security users for the solution that they call Safeguard.

Safeguard is a new standard for the security industry. It is a set of conditions that ensures guards are treated with respect. By adopting it property owners can be assured that their obligations to contracted employees are met and they are protected from the problems of the industry.

★ Background: Why Do We Need Safeguard Standards?

The private security industry performs an important frontline role in safeguarding the interests of Australian businesses, government and the broader community.

Yet security guards face some of the most precarious and exploitative working conditions in Australia.

The proliferation of subcontracting arrangements over the last decade, combined with aggressive price-cutting, has resulted in the hollowing out of wages and conditions for security guards. Complex and opaque supply chains and a lack of oversight of contractors make security one of the industries in Australia most at risk of modern slavery.¹

Workforce Issues	Structural Drivers
<ul style="list-style-type: none"> • High levels of job insecurity, driven by contract changes, prolific subcontracting and zero hour contracts • Low pay and wage theft – minimum Award wages are a “ceiling” as opposed to a “floor”, with many security guards underpaid, e.g. over 50% of Victorian security guards surveyed in 2019 had experienced wage theft and 1 in 2 have had their super stolen² • Security guards are not valued or respected – they are mistreated, exploited and face daily abuse, and are unfairly scapegoated when things go wrong • Many security guards are denied access to the union, and union members face anti-union sentiment and discrimination • Poor training and no career path – training and development is often viewed as an unnecessary cost, and employees are regularly misclassified and rarely progressed up classification levels • Unsafe workloads and workplaces, with poor safety policies, procedures and training 	<ul style="list-style-type: none"> • Labour costs make up the primary cost of doing business and so any attempt to reduce costs ultimately impacts on working conditions • Competitive tendering processes and focus on value for money place significant downwards pressure on prices • Complex and informal subcontracting and labour hire arrangements, often involving sophisticated pyramid structures and multiple subcontracting arrangements (including improper use of independent contractors and other forms of sham contracting) • Prevalence of vulnerable migrant workers, often with low English language competency and poor knowledge of Australian workplace laws and precarious (or no) visa rights • Use of unethical “zombie agreements” that allow below Award wages and conditions • Complex company structures and use of shell companies to offload liabilities, resulting in loss of employee entitlements and security companies illegally “phoenixing” • High labour turnover and chronic workforce shortages, which further exacerbate workforce issues, driving ever higher turnover and making it more difficult to attract a well trained, quality workforce

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★ Documentation of an Industry in Crisis

1) FWO Investigations

The security industry has been the focus of multiple investigations by the Fair Work Ombudsman (FWO) over several years, with the industry over-represented in requests for assistance received. The sector consistently represents more than 2 per cent of disputes, despite accounting for only 0.5 per cent of total employment and 0.4 per cent of businesses in Australia.³

A 2018 FWO inquiry into local government procurement of security services identified non-compliance with workplace laws in the supply chains of 14 (61 per cent) of the 23 councils investigated, with breaches relating to underpayment of minimum Award rates as well as under or non-payment of applicable penalty rates and overtime. The FWO found a significant correlation between workplaces breaches and the presence of multiple tiers of subcontracting – 63 per cent of subcontractors were found to be non-compliant compared to 42 per cent of principal contractors.⁴

Investigations into 19 security businesses in Queensland over 2019-20 resulted in the FWO recovering almost \$390,000 in unpaid wages for 163 security guards.⁵ In November 2020, security contractor Securecorp back paid underpaid workers after entering into an enforceable undertaking with the FWO. This was the first FWO enforceable undertaking where a security head contractor admitted that amounts it paid to contracted companies in its supply chain were insufficient to allow those companies to consistently meet their award obligations, and that it was involved in those companies' unlawful underpayments to their security guards, despite not being the employer. According to the FWO, "The message to head contractors is clear – you can be held liable for underpayments in your supply chain if you pay inadequate prices to your contractors".⁶

2) Hotel Quarantine Inquiry

During the second wave of the COVID-19 pandemic in 2020, reports emerged of significant security contractor failings at the quarantine hotels linked to an outbreak of COVID-19 in Victoria. Security guards alleged that:

- they were only provided with 5 minutes of training in infection control procedures before being deployed;
- they were made to sign documentation saying they understood infection control procedures, despite not receiving proper training;
- they were provided with a single glove and mask per shift; and
- subcontractors were employing guards with no security experience and on lower wages than security guards employed through the primary contractor.⁷

In subsequent reports, health professionals working at the quarantine hotels raised concerns that security guards were given no training on infection control procedures, and that there was limited space for guards to properly socially distance during break times.

The 2020 Victorian Government hotel quarantine inquiry report subsequently highlighted a lack of government accountability and multiple bureaucratic failures, as well as poor tendering, contract management and oversight practices, plus subcontracting practices and the casualised and insecure nature of security work (with many guards working multiple jobs), as major contributing factors behind the quarantine failures and subsequent outbreak.⁸

3) Victorian Government Review of the Private Security Industry

In 2018, the Victorian Government announced a commitment to review the private security industry, with a view to raising industry standards, improving safety of employees and the community, and ensuring workers are paid properly and employed under fair terms and conditions.

The review took place in 2020 and examined the current licensing and regulatory framework to determine whether any legislative or practice reforms are appropriate to improve the safety and security of all Victorians.

The review highlighted insecure jobs, low wages, vulnerable migrant workers and subcontracting arrangements as key drivers of non-compliance and poor quality, as well as the need for procurers of security services to play a leading role in upholding standards and driving compliance. Undercutting practices were identified as leading to systemic market and regulatory failures, where businesses that do not meet their legislated workplace obligations gain an unfair competitive advantage by being able to offer services at lower costs.⁹

The report noted the development of a Fair Jobs Code by the Victorian Government, which outlines government procurement standards that will support fair working conditions and compliance. The Fair Jobs Code allows the Victorian Government to use its purchasing power to promote secure employment and fair labour standards and to ensure compliance with employment, workplace and industrial laws. The Code comes into effect on 1 December 2022.¹⁰

4) Industry change requires clients taking an active role

For many years, UWW members have campaigned for enterprise bargaining agreements (EBAs) that seek to address industry and workforce issues by lifting wages and conditions. However, the Safeguard EBA standards won by security guards have gradually been undermined by procurers seeking to lower contract prices and irresponsible contractors promising to deliver more for less (which they have only been able to do by subcontracting the work and eroding working conditions).

Procurers and lead contractors have attempted to outsource their responsibility for working conditions and have effectively profited from high levels of non-compliance in the industry.

We are now taking our Safeguard campaign to major clients and procurers of security services. As the key economic decision makers, procurers at the top of the supply chain have a unique ability to be able to lift industry standards and ensure compliance. By implementing responsible procurement and contract management practices, and adopting and funding Safeguard standards, procurers can better mitigate the risks associated with widespread non-compliance, improve service quality and enhance the value of their assets.



★ What are the Safeguard Standards?

There are 5 core Safeguard standards that we are seeking to establish through EBAs with responsible security service providers, as well as through changes to procurement and contract management practices, and related legislative or regulatory changes.

1 JOB SECURITY

- Greater job security at change of contract, with the incoming contractor taking on existing guards and the outgoing contractor paying redundancies
- Restricting subcontracting and reducing incentives to subcontract by making the primary contractor liable
- Eliminating sham contracting and penalising contractors discovered to be engaging sham contractors (e.g. automatic loss of contract)
- Minimum number of hours for part timers to be agreed on at the point of engagement (i.e. no zero hour contracts)

2 LIVING WAGES

- Safeguard living wages that are 6% above Award, enshrined in legally enforceable EBAs
- Living wages in Safeguard EBAs funded by procurers
- Union rights to improve access to worksites to discover any workplace issues and unauthorised subcontracting, plus formal arbitration mechanisms, to ensure compliance with Safeguard wages and standards

3 RESPECT

- Greater access to the union in the workplace
- Fair grievance procedures that allow the Fair Work Commission to arbitrate and rule on any disputes
- Education on Australian workplace laws, including the right to join and participate in the union, at the point of licensing and renewal

4 CAREER AND SKILL DEVELOPMENT:

- Classification rewrite in both the Award and EBAs, to ensure security guards' skills and experiences are appropriately recognised
- Security licenses linked to Award levels
- Level 1 classification to only be used as a probationary level

5 SAFE WORKPLACES:

- Safety first approach to be instituted in all safe operating procedures
- Mandatory safety committee and safety representatives for every workplace
- Risk assessment to be conducted on all single officer patrols and posts

★ How Can Procurers Support Safeguard Standards?

The intervention of procurers of security services is absolutely critical to addressing the current workforce crisis, promoting compliance, and lifting industry standards. Procurers can support Safeguard standards by adopting three key recommendations:

1. Funding and supporting the take up of Safeguard wages and conditions, and ensuring contracts are priced appropriately to meet these standards
2. Prohibiting or restricting the use of subcontractors
3. Implementing responsible procurement and contract management practices (e.g. prequalification of contractors and use of model contract terms) that support the Safeguard standards, following consultation with security guards and UWU

The FWO has highlighted the important role that organisations at the top of security supply chains can play in influencing workplace practices and promoting compliance with workplace laws. This model of “strategic enforcement” focuses on the role of procurers in driving compliance by setting labour standards at the point at which services are tendered and procured, rather than relying purely on auditing compliance with labour standards during the life of a contract.

The FWO has recommended that procurers amend tender documents to reflect best practice contracting and labour standards and ensure that the amounts paid in their contracts are sufficient for contractors and subcontractors to cover employee entitlements.¹¹

In 2021, UWU security members began lobbying the Victorian Government to take the lead in addressing widespread non-compliance and lifting standards in the security industry. As a result of our members’ efforts to highlight the workforce crisis and their relentless advocacy for better working conditions over many years, the Victorian Government recently announced its commitment to implementing Safeguard standards in government security contracts.



The Victorian Government has committed to funding Safeguard living wages of 6% above the Award in all government security contracts from 1 February 2023.

In announcing its commitment, the Victorian Government recognised that security is a low paid industry with many worker reliant on the Award to set their pay and conditions, and said that it’s decision to support above Award remuneration for security officers is consistent with its continuing support for fair pay and conditions for low paid and insecure workers.¹²

The Victorian Government will also be making positive amendments to the Security Services State Purchase Contract in support of better working conditions and compliance. UWU will continue to engage with the Government on the introduction of further limits to subcontracting, amongst other government procurement and contract management practices for security services.

UWU is now seeking to renew or enter into Safeguard EBAs with reputable security contractors to ensure that additional government funding towards wages is legally enforceable and passed on from contractors to security guards.

We will continue to campaign with our members to highlight the workforce crisis, and will expand our engagement to include all major procurers of security services across the country. The risks to procurers of continuing to engage in “business as usual” procurement practices and turning a blind eye to exploitation and modern slavery in their supply chains are outlined in the table below, as well as the steps procurers can take to address these risks, and the benefits of taking action.

★ Summary of Risks, Solutions and Benefits from Safeguard

Risks	Suggested Risk Mitigation	Benefits
<p><u>Supply chain risk:</u></p> <p>Any procurer that is suspected of serious deficiencies in governance arrangements with regard to the procurement and oversight of security contracts could become a target of investigation by the FWO. Under section 550 of the Fair Work Act, any person or organisation who is knowingly involved in contraventions of workplace laws could be held liable as accessories, meaning all participants within a labour supply chain are exposed to potential penalties if they turn a blind eye to any workplace breaches.¹³</p>	<p>Procurers of security services need to undertake appropriate due diligence to understand and respond to supply chain risk. Due diligence mechanisms that focus solely on suppliers, without attention to the procurement and contract management practices of procurers themselves, will fail to address the structural drivers of non-compliance. Procurers should implement responsible procurement and contract management practices (e.g. prequalification of contractors and use of model contract terms) that support better labour standards and drive compliance.</p>	<p>Companies that expand their risk assessments to include labour and human rights impacts in their supply chain often create new value, as well as avoid potential risks (e.g. wage theft scandals). Companies with high ratings for environmental, social and governance (ESG) factors have a lower cost of debt and equity and outperform the market in the medium and long term.¹⁴ The investment in procurement reform (and any associated increase in contract prices) is minimal relative to the value of their assets, and has no negative impact on investment returns. The potential uplift in terms of enhanced reputation, effective risk mitigation, improved tenant satisfaction, increase in property values and the attraction of investment capital, is significant.</p>
<p><u>Modern slavery risk:</u></p> <p>Security is an industry that has one of the highest risks of modern slavery in Australia.¹⁵ Withholding of wages, immigration-related coercion and threats, deceptive recruitment, excessive overtime, debt bondage, confiscation of personal and travel documents, and dangerous and substandard working conditions are all ...indicators of modern slavery and are common practices in the security industry¹⁶ These practices start at the point of procurement, with tender processes that encourage cost cutting resulting in contracts being awarded at prices that do not allow for the payment of minimum wages and entitlements or safe workloads. Poor oversight of contractor compliance with labour standards, use of subcontractors or labour hire, and a workforce that does not feel safe to speak up, are also key risk factors for modern slavery.</p>	<p>In order to effectively mitigate the risk of modern slavery occurring in their supply chains, procurers of security services must undertake appropriate labour and human rights due diligence with regard to the procurement, management and delivery of security services. Engaging and consulting with workers and unions in compliance activities is critical to effectively identifying and remediating breaches, and mitigating risks.</p>	<p>A focus on tackling modern slavery will not only help protect vulnerable workers and prevent human rights violations, but it will also bring a number of key business benefits too, including reputational benefits and more transparent, responsible and stable supply chains.¹⁷ Companies have the opportunity to establish themselves as leaders in modern slavery due diligence, compliance and reporting.</p>
<p><u>Industrial risk:</u></p> <p>Unresolved workplace issues and failure to lift industry standards and improve working conditions could result in worsening labour shortages and industrial unrest, which could disrupt business operations.</p>	<p>Procurers can actively manage industrial risks by engaging with security contractors to ensure that they appropriately consult with security guards and UUU to 1) investigate and remediate any workplace issues, and 2) implement the Safeguard standards.</p>	<p>Companies that engage with key stakeholders can gain valuable business intelligence, build goodwill and respond to their labour and human rights challenges to create shared value. In doing so, companies can minimise business disruptions sparked by industrial conflict. Strategies to eliminate discrimination, prevent harassment, protect health and safety, pay decent wages and allow grievance reporting can improve employee engagement, boost productivity, and reduce costs associated with staff recruitment, leave benefits and litigation.¹⁸</p>

<p><u>Workplace health and safety risk:</u></p> <p>Failure to comply with WHS duties can attract penalties under work health and safety regulations, with both security contractors and procurers of services potentially liable as “persons conducting a business or undertaking” (PCBUs). According to guidance released by Safe Work Australia, each PCBU in the contractual chain must consult with workers and their representatives on WHS. This includes giving workers a reasonable opportunity to express their views or raise issues about WHS at the workplace. A PCBU must take into account the views of workers and their representatives and advise them of the outcome of the consultation.¹⁹</p>	<p>There is a clear need for procurers to ensure they have effective and robust contractor management systems in place. This includes the vetting and procurement process to engage contractors as well as the processes in place to manage contractors and WHS risks. At a minimum, procurers should ask security contractors to disclose their safety performance and consult with security guards and UUU to improve WHS management and outcomes</p>	<p>Not only does effective WHS management reduce incidents and injuries and result in a healthier bottom line, but also for procurers it is a good indication of a contractor’s financial position, operational performance, and competency in managing WHS risks and delivering the services required under the contract.²⁰</p>
<p><u>Reputational risk:</u></p> <p>Failure to address unsafe working conditions, breaches of industrial laws and turning a blind eye to the poor treatment of vulnerable workers exposes procurers of security services to significant reputational risk. Media coverage of exploitative and unsafe working conditions could damage the reputation of both security companies and procurers.</p>	<p>It is essential for procurers of security services to take responsibility for working conditions of security guards in their supply chain, and address contracted labour and supply chain issues when they arise. Transparency, open communication and collaboration are critical to avoiding reputational damage. Responding proactively to sector wide labour compliance issues in the security industry could provide an opportunity for procurers to establish themselves as leaders and enhance their reputation.</p>	<p>Comprehensive reputation risk management reduces the risk of reputational damage and helps companies to respond quickly and effectively in the event of any incidents.²¹ Demonstrating leadership by acknowledging and addressing supply chain labour risks could have reputational benefits for procurers of security services.</p>
<p><u>Compliance risk:</u></p> <p>All of the risks outlined above pose compliance risks, given potential breaches of laws, regulations, codes of conduct, and responsible investment guidelines and policies.</p>	<p>Procurers of security services should ensure they have adequate contract management systems and procedures in place to prevent and detect any compliance risks that relate to the contracting and management of security services.</p>	<p>Appropriate disclosure of the full spectrum of compliance risks will help procurers appropriately manage and mitigate those risks.</p>

★ Footnotes

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