

Australia: Pressure Mounts on Uber to End Exploitative Business Model

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The rapid growth of the gig economy, particularly during the COVID-19 pandemic, has boosted the coffers of the international tech giants. By the end of last year the meal delivery sector had grown by more than 100%. Uber posted a 40% increase in profit.

But those people working for Uber and Deliveroo have not been on the receiving end of the boom. Because gig economy companies are able to claim that their workforce are independent contractors, they can [erode labour standards](#) and [pay workers less than the minimum wage](#).

A December [Actuaries Institute](#) podcast pointed out that gig workers have “no employment rights under the Commonwealth Fair Work Act to legal minimum pay rates, sick leave, or unfair dismissal protections”.

Its research confirmed previous findings that gig economy workers are over-represented in sections of the workforce with less bargaining power — students, those who have been unemployed and young people.

The death of five meal delivery riders in two months at the end of last year shone the spotlight on delivery riders’ conditions.

Another delivery rider was [seriously injured](#) on March 12. The 20-year-old was rushed to hospital with severe head injuries after being hit by a car in Sydney’s south.

The Transport Workers Union (TWU) has started a campaign aimed at Uber and Deliveroo. It is seeking justice for delivery and ride share drivers who have been unfairly dismissed, injured at work or have been pressured to work faster than is safely possible.

At a vigil outside the Sydney Uber Eats headquarters last November, TWU national secretary Tim Kaine said that the drivers were a vital part of the economy and one reason why Australia had managed so well during the pandemic.

Uber and other meal delivery companies have been “allowed to get away with trampling on

workers' rights and risking their lives," [Kaine said](#).

Those rallies and vigils organised after the drivers' deaths helped focus a national spotlight on the drivers' poor conditions which, in turn, has forced Uber to offer some concessions.

For instance, it was [recently announced](#) that delivery riders will now be supplied with safety gear including lights, reflective vests, bells and phone holders.

A new feature on the Uber app will detect whether riders are wearing a helmet before they can accept jobs, though Uber are still not offering drivers free helmets.

While new safety measures are welcome, the onus remains on the drivers to complete a mandatory roadworthiness checklist of their bike. It maintains responsibility with the riders and may be used to punish and restrict riders whose bikes are not up to standard.

[In March](#), the TWU started pushing for delivery companies to pay the fines given to riders for breaking road rules, while trying to meet unrealistic delivery deadlines. It said that workers are being unfairly punished for the companies' business model.

Conditions improving?

While gig economy workers are often forced to choose between safety and making enough to live on, there is some hope following several TWU wins to protect delivery workers, including unfair dismissal cases against [Deliveroo](#) and [Foodora](#).

The campaign for rights has been bolstered by a landmark case in the [British Supreme Court](#) in February that ruled that Uber drivers are workers, not contractors.

Two former Uber drivers, James Farrar and Yaseen Aslam, took Uber to an employment tribunal in 2016, arguing that they worked for Uber and should receive associated workers' rights.

They won the case and are now General Secretary and President of the App Drivers and Couriers Union. Uber appealed the case three times, only to lose in the Supreme Court.

Uber claims it is simply a matchmaking service for passengers and drivers. However, the Supreme Court ruled that there was "no factual basis" for that claim.

The judgement referenced five major controls that Uber has over drivers including: the rates charged for rides; the terms of company contracts; the Uber rating system as a performance management system; the determination of which jobs are offered to drivers and penalties for rejecting jobs; and the fact that drivers cannot market themselves outside of the Uber app.

Uber has [now been forced](#) to pay workers the minimum wage and offer pensions and holiday pay in Britain. In Australia, the TWU is urging the federal government to regulate the gig economy.

The court ruling has given hope to the campaign here. The major difference is that Britain has three categories of worker — employee, contractor and worker — whereas Australia only has employee and contractor categories.

It will be more difficult for gig economy workers to achieve employee status here than it was to achieve worker status in Britain.

However, the Supreme Court ruling sets up a good foundation for the case to be made.

The union campaign for gig economy workers' rights has to continue as the corporate giants fight back. Uber Eats drivers and riders are now required to hold [Australian Business Numbers](#), making it harder for drivers to argue that they are only employees.

This change was pushed by Uber Eats after it settled a case with a driver outside court to avoid the case being appealed to the Federal Court.

Kaine described the change as "a sign of absolute desperation". The TWU are pushing for a new independent tribunal to monitor the gig economy and ensure workers are not disadvantaged.



November 25 vigil in Sydney for Uber drivers killed at work. Photo: Peter Boyle

Opposition leader Anthony Albanese has committed Labor to improve conditions for gig economy workers if it is elected to govern.

In February, Labor [pledged](#) to make job security a priority including legislating for workers' entitlements in insecure industries and for a cap on back-to-back short-term contracts for the same position. Daniel Mookhey MLC has been named as shadow minister for the gig economy.

The [Greens](#), which opposed the government's industrial relations "omnibus bill" said it was a priority to "outlaw insecure work and protect gig economy workers". Greens leader Adam Bandt has previously sought support for a private members' bill to classify gig economy workers as employees, to allow them to receive minimum pay and rights.

Kaine said that the small improvements that have been won are "down to the bravery and

tenacity of food delivery riders” and added that the union would continue to speak out against the “Silicon Valley behemoths”.

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Featured image: Sydney vigil in November 2020 for Uber drivers killed at work. Photo: Peter Boyle

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