

Early Signs:

The Impact of *WorkChoices* on Work and Family

First annual update on the impact of *WorkChoices* on work and family issues in Australia.

A report from the Centre for Work + Life,
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Early Signs – the impact of WorkChoices on Work and Family

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Executive Summary

- This paper was prepared for *Industrial Relations Victoria* in October 2006 and forms the first of three annual reports on the impact of *WorkChoices* on work and family issues, from the Centre for Work + Life, Hawke Research Institute, University of South Australia.
- It draws on research materials, public documents and media reports about the effects of *WorkChoices* on Australian families since the amended *Act* came into effect in March 2006. The report also draws on interviews and focus groups conducted by the Centre in a range of Australian states through ongoing projects which are collecting qualitative material about the lived experience of work, and its conditions.
- Previous research has pointed to the ways in which *WorkChoices* weakens protections for working families (Pocock 2005). This weakening is predicted on several fronts:
 - Slower and smaller increases in minimum wages (in light of the economic objectives set out in the Act for the Fair Pay Commission, and the gap between decisions);
 - Weaker rights to request part-time work or extended unpaid parental leave;
 - A greater role for AWAs which are underpinned by a lower safety net, placing public holidays, rest breaks, annual leave loadings, allowances, and penalty, shift and overtime loadings at risk for many workers, who can now be offered a new contract on a 'take it or leave it' basis. Prior to *WorkChoices* Australian non-managerial employees on AWAs, relative to those on collective agreements, experienced lower pay rates, lower pay rises, longer and more unsocial hours and less time autonomy. Women fared especially badly as did part-timers and casuals, who have disproportionate responsibility for families. Prior to March 2006, AWAs had less access to annual leave, long service leave and sick leave. These are fundamental requirements of working carers. Only 12 per cent of AWAs registered between 1995 and 2000 had any work and family provisions. Only a small proportion of AWAs in 2002 and 2003 had family or carer's leave (25 per cent), paid maternity leave (8 per cent) or paid parental leave (5 per cent) (Pocock 2005);
 - A lesser role for the AIRC - the source and forum for all recent general advances in Australian work and family standards, especially affecting those outside collective agreements and the most vulnerable in the labour market, who are least able to win advances alone.
- It is only seven months since *WorkChoices* took effect and too early to tell how its provisions will affect the labour market overall on average, or even to have a reliable guide to its impact on particular subgroups of workers or on particular issues. That said, some early signs are evident. They do not bode well on work and family issues.
- There is a pressing need for new, comprehensive data about a number of aspects of working life in Australia, including in relation to wages and conditions by industrial instrument, and work and family provisions. This report joins with others calling for

more methodical, comprehensive and timely data and research which allows disaggregated analysis over time.

- This report summarises existing evidence about the effects of WorkChoices, especially as they affect work and family and related issues. The report also offers some preliminary qualitative evidence about the current experience of low paid workers in the services sector, especially in relation to work and family impacts.
- Key negative effects of *WorkChoices* arise in relation to four issues:
 - a changing workplace climate
 - incomes (especially amongst the award dependent and low income earners);
 - job security; and
 - working time (including compensation for working unsocial hours, control over working hours, and scope for family time).
- Analysis of existing research – patchy and imperfect as it is – suggests that the combination of weaker job security and more individualised bargaining in the presence of a weaker safety net has resulted in a backward steps in pay and conditions for many workers, especially those with weak bargaining power. Many of these have direct effects on the ease of combining work with care, especially in relation to working at unsocial times, control over working time, and access to leave.
- There is evidence that some workers are facing conditions which reward the non-use of sick leave or carers leave, and cannot easily access a paid holiday or holiday leave loadings.
- On the positive side, existing evidence shows that there have been some examples of modest improvements – or, more accurately preservation of pre-existing benefits - in work and family conditions in union collective agreements. For example, some ‘side’ agreements in workplaces where collective bargaining is the norm have preserved extended unpaid parental leave, and improved access to bereavement leave.
- In contrast, the available evidence on AWAs reveals loss of penalty rates, overtime payment, holiday loadings and shift penalties. These have a twin negative effect on working families, lowering take home pay, removing the disincentive to employers to employ staff at unsocial times, and potentially expanding the deployment of workers at unsocial times and lengthening the number of hours they need to work to earn a living wage. The evidence on negative impacts on families from these changes is persuasive (Strazdins 2005).
- Qualitative data collected from a set of low paid workers in the services sector suggests that many workers are both time and money poor, and some now find that their hours are manipulated to cut wages, making working hours unpredictable and increasing the difficulty of finding regular, quality and affordable child care.
- These interviews also suggest that employers exercising greater control over the amount and timing of leave entitlements, with changing regulations around annualised average hours of work, meaning some employers are forcing workers to take annual leave at times that do not suit their families. This undermines family friendly work practices and therefore the quality of family and household life;

- There is evidence that of growth in a '24/7' approach to working hours which does not differentiate unsocial working time and is premised on the need of low paid workers to work around the clock to supplement their income with penalty rates and shift allowances (if still available), leaving less scope for quality family time.
- Alongside this, unpredictable shifts and rosters, with sudden changes in working time or very short shifts, jeopardise the capacity of workers on low wages to supplement their incomes through a second job, which is often necessary to ensure a decent standard of living for families.
- Some interviewees say that increased job insecurity means workers are hesitant to report regulation breaches – in childcare centres for example.
- Finally, AWA's have the effect in some workplaces of differentiating wages and conditions for workers doing the same job, undermining workplace morale in some instances.

1. Introduction

WorkChoices came into effect on March 26th 2006, only seven months ago. It is too early to tell how its provisions will affect the labour market overall, or to have a reliable and systematic guide to its impact on particular subgroups of workers or on particular issues. Such analysis must await the collection of comprehensive, representative data. That said some early directions are evident. They do not bode well on work and family issues, as this report summarises.

One year ago, it was suggested that the *WorkChoices* package would result in a number of trends including:

- Growth in individual agreements;
- More minimalist and family unfriendly agreements;
- More minimalist awards with less coverage;
- Lower work and family standards for those in the federal system, and no prospect of general advances;
- Widening dispersion in earnings and access to other conditions (including different rates for workers working alongside each other);
- A tougher labour market for the weaker, namely:
 - young people;
 - immigrants;
 - people returning to work;
 - casuals; and
 - working carers.

It was argued that these trends would have a corrosive effect on family well-being, particularly the most disadvantaged.

This report summarises existing research and draws on findings from new qualitative research with low paid Australian workers which suggests these concerns were not displaced.

2. The need for comprehensive, independent research

The new industrial arrangements arising from the enactment of the *WorkChoices* amendments to the *Workplace Relations Act* create a pressing need for timely, independent research about the changing face of Australia's workplaces, and the impact of these changes on Australian employers, employees and the larger community. There is already some evidence about general impacts. We are, however, some distance from a comprehensive analysis of effects, many of which will take some time to flow through the labour market according to many observers.

There has been no independent analysis of AWAs since the enactment of *WorkChoices*. The little evidence we have has been provided through Senate Committees. This is an inadequate approach to research about such a vital change in Australia's legal and workplace arrangements and represents a very significant break with the past. Traditionally, the federal government has undertaken its own comprehensive research into the overall wages and conditions of workers, and commissioned independent research and open discussion and review of research. Previous federal governments have made regular and thorough reviews of outcomes for particular groups of workers who might be expected to be disadvantaged at work, including women, and NESB workers, and on the specific issue of work and family impacts.

Industrial relations research in Australia is now poorly served by a reticent and politicised approach to data release, with key data only available through Senate Committees, limiting capacity for independent analysis of outcomes.

This report summarises existing evidence around the issue of work and family. It considers some of the anecdotal and more systematic (but limited) evidence around impacts. However, a proper analysis must await the collection of reliable data across a representative set of workplaces, employers and employees. As Gahan recently observed in his analysis of complaints received since March 2006 through the Victorian Workplace Rights Information Line (WRIL):

There is simply no adequate basis on which we can make a conclusive assessment of how employers have used the *WorkChoices Act* at this stage. Although a number of research studies are currently under way around the country, at this point there is no study which provides a systematic assessment of data or available evidence, even in terms of its preliminary effects (Gahan 2006, p 7).

The absence of federal government initiatives to ensure timely and comprehensive data release and independent research around this question represents an important research gap. This gap is especially significant in relation to work and family impacts, in view of the importance of these issues to household and individual well being, as well as to participation rates and labour market outcomes.

The enactment of *WorkChoices* was accompanied by vigorous political debate and contest at the parliamentary and public-political level. However, this contest was not evident in the extensive *academic* commentary that accompanied the passage of *WorkChoices*, with many academic experts agreeing on the probable direction of effects arising from the amendments. And it has not characterised academic literature since March 2006. There is, instead, considerable agreement in the academic commentary and literature that *WorkChoices* had the intent and probable effect of undermining established industrial standards given the ways in which it lowers industrial minima, strips back protections, reduces protection from unfair dismissal and removes rights previously available to employees while bolstering employer prerogative (see for example the *Australian*

Journal of Labour Law (vol 19), *Economic and Labour Relations Review* (Vol 16 (2)), *UNSW Law Journal* (vol 29 (1)), and the *Journal of Australian Political Economy* (vol 56) all of which have published special issues on *WorkChoices* in 2005/06).

Women and industrial outcomes

The absence of good sources for analysis was recently remarked on in relation to women's employment specifically, following a systemic analysis of available data sources. The Women's Employment Status Key Indicators (WESKI) Report was commissioned by the Human Rights Commission (HREOC), the National Foundation of Australian Women (NFAW) and Women's Electoral Lobby (WEL). It points to serious gaps in the existing body of research sources in Australia. It recommends the introduction of annual workplace surveys that give independent, longitudinal, disaggregated workplace data on wages and conditions, as well as annual reports on AWAs by the Office of the Employment Advocate closely analysing (or permitting close analysis of) wages, wage rate changes, the treatment of penalty rates and 'trading' in conditions, hours of work, say over working time, and access to and use of family friendly provisions (WiSER, 2006). We support this recommendation and further recommend specific study of effects on the well-being of workers, their households and dependents and the fabric of the larger community.

The data and research gaps are very significant, and different forms of reporting across different sources of data make analysis difficult. However, what we do know about job security and AWAs, in particular, under *WorkChoices*, does not bode well for work and family issues, especially in relation to wages for the low paid, compensation for work at unsocial times, control over working time and access to leave.

In particular the absence of releases of data about AWAs by the Office of the Employment Advocate in the months since May 2006 leaves a serious analytical gap as various researchers have observed (see, for example, Gahan 2006 and WiSER 2006).

3. Existing Studies and Data

The preliminary studies that exist suggest that some important effects arising from *WorkChoices* are emergent. Analysis of complaints data in Victoria draws attention to the job security impact of *WorkChoices*, with by far the largest category of complaints arising since March 2006 relating to dismissal.

Some case study analysis points to the more extensive effect of *WorkChoices* in smaller rather than larger workplaces. Many larger companies reject the use of AWAs, or arrangements that reduce conditions or exclude unions from workplaces: see for example Bachelard's report of a survey of twelve large firms which found that most did not intend to use these provisions in *WorkChoices* (Bachelard, June 29, *The Age*).

This effect is confirmed by Considine's recent report of October 2006 which made a preliminary analysis of the Victorian Workplace Industrial Relations Survey (VWIRS). She found that larger workplaces are more likely to provide a wide range of conditions many of which are critical to work and family, including annual leave loading, penalty rates, overtime payments and paid maternity leave, while smaller workplaces were not (Considine 2006, p 3).

Considine's analysis also shows that only a third of *all* Victorian workplaces where individual agreements are the main form of pay setting 'have annual leave loading, overtime rates and weekend penalty rates available to non-managerial employees' compared to two-thirds of workplaces relying mostly on awards, over-awards or collective agreements. The reverse is true in relation to annualised salaries and performance-based pay: two-thirds of workplaces mostly relying on individualised bargaining had these arrangements compared to 40 per cent of those mostly using collective agreements or over-awards, and only a third of award only workplaces (Considine 2006, p 3).

Wages and WorkChoices: Outcomes in the households of the low paid

Existing ABS wages data suggests that average wages have been increasing by around one percent a quarter in the past 18 months: the June quarter 2006 Labour Price Index, released by the ABS in August 2006, indicated steady, relatively strong wages growth on average in the private sector in the period since *WorkChoices* was enacted. Trend increases in pay (excluding bonuses) have been around one percent consistently over the six quarters to June 2006. However, dispersion of earnings continued to widen with many receiving little or no increase, especially if they were on award rates and awaiting the decision of the Australian Fair Pay Commission (AFPC).

State award rates increased with NSW leading with a \$20 flat increase on Monday 26th June 2006, increasing the minimum wage by 4.1 per cent in that state and other states followed suit.

Federal minimum award wages have been frozen at \$484.40 since 7th June 2005 (the last minimum wage decision of the AIRC) and 1 December when the first decision of the Australian Fair Pay Commission (AFPC) takes effect. This decision will give a very welcome increase of \$27.36 to many low paid workers, allowing their pay to broadly keep pace with inflation over the 18 month period.

However, the lag in wage increases for low paid workers in the national system, at a time of strong wages growth has left them behind. In combination with evidence about the loss of penalty rates, leave loadings, overtime payments and shift allowances (see below), many low

income households have fallen behind, further widening inequality in Australia. International literature points to the corrosive effects of inequality (Wilkinson 2005) and the negative effects on social well-being (reaching well beyond the households of the poor) and happiness across societies (Layard 2005).

Insecurity and Dismissal

Changed dismissal laws have had a significant impact upon the climate in many workplaces. Whether their employers use the new power they have to sack someone on a trivial or arbitrary basis - because, for example, their 'personalities don't match'¹ - many employees in companies with less than 100 workers are aware that their employers have such powers.

This has had the effect of making them much more tentative in what they request, and how they express themselves at work. While many casual workers have long taken care to avoid making requests (for example around working hours or shifts) that might inconvenience their employer or manager, the effect of new dismissal rights for employers have been to extend to some previously 'permanent' employees, a sense of impermanence. This has important implications for family friendliness of working arrangements especially around working time.

A survey of 1000 Victorian by the Australian Research Group, reported in February 2006, found evidence that many Victorian workers were worried about their job security eroding as a consequence of *WorkChoices* and 'worried about what the workplace changes might mean for them'. They felt 'less secure' as a consequence of the prospective changes (Australian Research Group 2006).

Evidence arising from a report to the Victorian Workplace Rights Advocate (Gahan, 2006) analysing issues raised on the Workplace Relations Information Line (WRIL) confirms insecurity as a major effect of *WorkChoices*. One in five of WRIL calls received by the Advocate between March and September related to job insecurity (Gahan 2006). Many of these concerns arose in smaller workplaces where dismissal rights for employers have been removed through *WorkChoices*. Gahan concludes from this data:

Irrespective of age, occupation, employment status or tenure, there is a sense of vulnerability among many groups of employees. Surprisingly perhaps, this was true of employees irrespective of the length of employment in their current job...[T]his sense of vulnerability is driven by, among other things, a sense of job insecurity borne from a significant risk, or threat, of dismissal (Gahan 2006, p 20).

This study found that insecurity is especially strong amongst 'prime age workers, unskilled workers and workers in service occupations, along with workers with a record of service with their current employer' (Gahan 2006, p 20-21). Dismissal issues increased in share over the six months from March suggesting that the issue is persistent.

A sizeable proportion of the complaints received by the Office of the Workplace Rights Advocate in Victoria also related to leave: 8.5 per cent of all complaints received between March

¹ In an interview on Adelaide radio Station ABC 891 on 19th April, Matthew Abraham said 'So if you are a pain in the bum to the boss, that boss can sack you?' Minister Andrews said, 'That's true. There are occasions on which personalities don't match. There are occasions on which people don't get on well with their workmates. I think we all commonly know that.' (Workplace Express, 19th April 2006).

and October. A further 7.7 related to discrimination and harassment (Gahan 2006, p 4). Gahan concludes that there are ‘good reasons to believe that [*WorkChoices*] is already beginning to have significant impacts on employment and industrial relations practices in Australian workplaces’ (2006, p 29).

AWAs

According to recent information, 129,678 AWAs have now been lodged under *WorkChoices* (Workplace Express 19th October).

There are now a range of AWAs on the public record which, if implemented, takes a backward step on pay and conditions. There are also clear signs that the practical intent of AWAs in many workplaces is to set work and family arrangements backwards, in terms of removing penalties for unsocial working time, weakening employee say over working hours and their configuration, and reducing employee access to key family-friendly provisions like holidays, paid leave, and use of sick and carers leave. To give four illustrative examples (see Gahan 2006, p 13 for others):

- AWAs offered by Global Tele Sales’ Lufthansa call centre in Melbourne proposed cuts to base pay of 3-10 percent, and cuts to penalty rates. According to the union, these changes would reduce pay for an average worker by \$80 a week. The company is also said to have told workers who refused to sign the AWA that they would forfeit some benefits, raising issues of duress. These AWAs included a bonus scheme whereby those who made use of sick or carers’ leave would miss out on bonus payments – an arrangement that is certainly family unfriendly, and might well be illegal under Victorian discrimination law (this has been taken up by the Victorian Workplace Rights Advocate) (Workplace Express 9th August 2006).
- AWAs offered at stationery company Esselte Australia in Sydney applied *WorkChoices* provisions allowing the company to average hours of 38 per week over 12 months, by cutting hours in slow periods and increasing them in peak periods. This arrangement reduces overtime loading payments. These AWAs also removed rostered days off, union picnic days, meal allowances, paid meal breaks and penalties for unsocial working time (Workplace Express 26th May 2006).
- The individual agreements that have received perhaps the most public attention were offered at the Spotlight store in Coffs Harbour (one of 100 stores nationally, employing 6,000 workers). These AWAs offered a pay rise of 2 cents per hour in ‘exchange’ for the loss of penalty rates, overtime rates, leave loadings and paid rest breaks. The net effect of this change was a significant cut in pay for workers. Clearly such an arrangement is a major loss for workers and their families. In another Spotlight AWA (at Mt Druitt) the company is said to have offered an AWA which removed all of the above conditions without the extra 2 cents an hour compensation, and with a guarantee of only four hours work a week compared to the twelve hours minimum in the award (Workplace Express, 25th May, July 4, 2006).
- AWAs offered in the private childcare industry in May are reported to have frozen wages, reduced sick leave entitlements and removed other conditions including rest breaks, annual leave loading, supervisor allowances, overtime payments for more than two hours overtime and first aid allowances (Workplace Express, 22nd May 2006).

Other examples of AWAs give considerable scope to the employer in terms of payment of penalties and bonuses, and in some cases cut real pay very significantly (see for example, the

example of Martin Donnelly Pty Ltd in Canberra in October (Workplace Express, 10 October 2006)).

AWAs: Rolling back rewards for working unsocial working time

On 29th May 2006, the Employment Advocate released results of the first registered AWAs at the Employment, Workplace Relations and Education Legislative Senate Committee hearing. This revealed outcomes in a sample of 250 (4 per cent) of the 6263 agreements registered between the enactment of *WorkChoices* and 30 April. This showed that:

- 100 per cent of the sample excluded at least one award protected condition.
- 16 per cent ‘expressly excluded’ *all* protected award conditions
- Leave loadings were excluded in 64 per cent of the sample
- Penalty rates were excluded in 63 per cent
- Shiftwork loadings were excluded in 52 per cent
- 41 per cent did not retain declared public holidays
- 22 per cent of agreements did not offer any pay rise over their life (of up to 5 years) (Workplace Express, 29th May 2006).

A significant proportion of agreements that did not expressly exclude provisions, modified them. These include provisions like overtime loadings (31 per cent of agreements modified this), rest breaks (29 per cent) and public holiday payments (27 per cent).

The Employment Advocate also made clear that six per cent of agreements did not meet the annual leave minima in *WorkChoices*.

Although 78 per cent of these AWAs provided for a pay rise over their life the Employment Advocate did not offer any analysis about the quantum or timing of increases. Twenty-two per cent of agreements did not offer *any* pay increase in their life (of up to five years).

This data suggests that those who work under AWAs are experiencing a significant and widespread loss of compensation for working at unsocial times (for example on weekends, public holidays, at night and on shifts).

It also became evident at the Senate Committee that the Office of the Employment Advocate does not check that AWAs conform with legal requirements prior to approval. This absence of compliance machinery introduces new hazards into Australia’s industrial system where the absence or weakness of compliance leaves the most vulnerable without real legal protection. This includes significant numbers of children and young people.

Data from the Office of the Employment Advocate, shows that between July 2005 and May 2006, 598 AWAs were approved for children under 15 years old (85 in April and May 2006 after *WorkChoices* was enacted). A further 7,779 were registered by young people 15-18 years (1077), and 13,269 for young people 18-21 years old (1,772) (OEA data supplied to Senate Estimates Committee on Question Number W206-07).

The combination of weak compliance and young negotiators in a ‘take it or leave it’ environment underpinned by a weak safety net, amounts to a new low in industrial governance in Australia.

In sum, existing evidence suggests that a significant roll back of penalty rates and compensation for working overtime and shifts is underway in Australia especially where individual agreements

exist. These have important implications for workers and their families where they reduce take home pay and foster an increase in unsocial working time (given that they remove any cost disincentive to its use). In addition, significant numbers of Australians are affected by the loss of holiday loadings, and of holiday leave itself, as well as the lost opportunity for paid meal breaks. Others are being affected by bonus and other arrangements that make access to leave (holiday, sick and carers leave) more difficult (ie bonuses are paid based on lower, or no, use of sick and carers leave).

Open-ended hours agreements

Some union officials have drawn attention to AWAs, for example in the federal public sector, that offer increased pay alongside 'open-ended' hours provisions, with actual hours determined by employers or operational requirements. The implications of these expansive hours requirements are obvious for those workers with caring responsibilities (Workplace Express, 3 March 2006). They particularly affect women in negative ways (given their greater care responsibilities) and are likely to further retard Australian women's representation in management and other senior positions – already low by international standards.

Harassment and Employee Say

The 'take it or leave it' nature of AWAs has been repetitively demonstrated through examples that have made their way into public life and industrial courts in recent months. For example, at a media conference on 4th July, Lorissa Stevens, a 21 year old trainee mineworker alleged that she was 'bullied, harassed and then dismissed when she refused to sign an AWA' in June. This AWA included provisions (which she found objectionable), that she give 12 hours notice of any absence from the 12 hour roster or face a \$200 fine as well as loss of her pay as a casual; gave her employer the right to dismiss her at an hours notice while she was required to give a weeks notice; and required her to repay the costs of her induction (Workplace Express, 4th July 2006).

On the Positive 'Work and Family' Side: Collective Agreements in Retail and Hospitality

Against the evidence about negative work and family impacts arising from AWAs, union collective agreements have resulted in some positive work and family advances or at least continuing protections - sometimes through side agreements - of items that now might constitute 'prohibited content'.

Such union collective agreements remain the dominant form of agreement making under *WorkChoices*. In the period since its enactment, 971 such agreements have been enacted, covering 254,605 employees.

In some feminised areas of work, like retail, unions have taken steps to improve work and family provisions through such collective agreements. For example, in an agreement with Target, signed in July 2006, 20,000 employees became entitled to unpaid parental leave of two years (previously 18 months), can return from unpaid maternity leave on fewer than their regular hours until their child is school age, and have five days bereavement leave if a parent dies (previously three days) (Workplace Express, 28th July 2006).

In the case of Target, the SDA also negotiated the removal of all prohibited content into a memorandum of agreement. This collective approach to agreement making, which characterises Coles Myer more generally, contrasts with that of other companies that have taken the individual agreement road, with important implications for retail workers in the companies offering AWAs that significantly cut take home pay (see examples above).

Collective agreements are also a means to positive advances on work and family conditions in the hospitality sector. For example, on 20th October, a collective agreement covering 2,200 table games dealers, room attendants, food and beverage workers, cleaners, security workers, and finance and maintenance workers at Star City Casino, retained a number of prohibited items by means of a side agreement. In addition, work and family provisions like access to better bereavement leave, more paternity leave (access to two day days sick leave at birth or adoption), and improved maternity leave (which was corporate policy but now exists as an industrial condition) were also provided through the agreement.

Overall, the existing analysis since *WorkChoices* was enacted is patchy and incomplete. There is a pressing need for better data sources which allow disaggregated analysis. However, what we do know suggests that the combination of weaker job security and more individualised bargaining in the presence of a weaker safety net has resulted in a backward steps in pay and conditions for many workers, especially those with weak bargaining power.

4. The Impact of *WorkChoices* on Work and Family Issues: Some Qualitative Evidence amongst Low Paid Workers

The absence of good quantitative evidence about the overall impact of *WorkChoices* has been noted above. This remains the best way of assessing the general impact of *WorkChoices* on many key issues such as wages outcomes, conditions changes, and the reach and effect of change.

However, *WorkChoices* has introduced new complexity and diversity to Australia's industrial and workplace conditions as the system has increasingly turned away from comprehensive minimum standards, and increased the scope for individualised instruments like AWAs. The absence and weakness of compliance machinery is also a concern in the new environment.

These factors make qualitative research valuable, in going 'beneath' aggregated data and unpicking the detail of complex trades of wages, time and other conditions, as well as understanding workplace behaviour and climate. Qualitative research is also essential to understand the *impact* of changes on workers, households, workplaces and the larger community.

The sections below report on some preliminary qualitative evidence arising from 84 interviews of low paid workers conducted across three Australian states most of them since *WorkChoices* was enacted. These workers were being paid \$14.03 per hour or less², and were interviewed for around an hour by telephone. The interview group includes cleaners, childcare workers and hotel workers in five star hotels in Melbourne, Sydney and Adelaide and was drawn from a group generated in response to newspaper advertisements, requests through employers for participants and union membership lists. We also interviewed and conducted focus groups with community stakeholders providing a range of services to low paid workers, and interviewed employers in the hotel, cleaning and childcare industries³.

We begin by considering the general climate shift underway in some Australian workplaces since the introduction of *WorkChoices*. This is followed by a more detailed analysis of the implications for families and households, with particular attention to wages and conditions; working time; leave entitlements and family friendly workplace provisions. While these interviews are not representative of Australian workers overall, they represent a qualitative account of the experience of a set of low paid workers in the service sector in metropolitan settings. They are an indicator of how *WorkChoices* is affecting people at the bottom end of the labour market in terms of pay and conditions and they allow us some insight into the effects that flow from industrial conditions onto households and work/family balance.

Climate Shift and Security

The most striking aspect of these interviews is commentary made about a climate shift underway in many workplaces since the introduction of *WorkChoices*. Interviewees reveal a deep sense of insecurity and concern about the industrial relations reforms.

² Or an equivalent weekly (\$533) or annual (\$27,713) pay rate.

³ These interviews were conducted by Helen Masterman-Smith, Robin May and Jude Elton through an ARC Linkage project (LP0455108) in partnership with the Brotherhood of St Laurence, the LHMU, and labour councils in SA, NSW and Victoria. They will be the subject of a book to be published by Allen & Unwin in 2007.

They say that they feel the 'goal posts have shifted' - most fundamentally on the issue of unfair dismissal rights. The removal of protections against unfair dismissal has forced some into a new world of arbitrary hiring and firing at the discretion of employers. Reflecting on her community service client base, Charlie observed 'job security definitely is a thing of the past even if you are full [time] permanent ... what you've got today might not be there tomorrow' (community service officer). Similar views were expressed by many individual interviewees irrespective of their job tenure or hours. May remarked that under the new laws that:

... [It] doesn't matter [if] ... you are permanent or not. If they don't need you - 'bye'. So I don't feel secure (30s, luxury hotel worker).

Rhonda describes a similar vulnerability: 'I am really worried about it you know. ... if the employer wants to sack you they just can sack you like that. Give you the flick ... without any say' (40s, luxury hotel worker). In essence, these workers feel that employers are no longer bound to a duty of care towards them, and that in the absence of such protections they are more at the mercy of management prerogatives and financial imperatives. Jim explained:

...I don't think the workers should be intimidated by anyone. I think managers should be more accountable and act more responsible ... I think it's their duty of care to look after their employees (20s, luxury hotel worker).

The effects of insecurity and a new workplace climate are not confined to employees. Some employers are also aware of the general downward pressure on conditions. As one employer interviewed prior to *WorkChoices* taking effect put it, she feared for her employees' wages and conditions, acknowledging that the law would intensify competition and cost-cutting in the childcare sector:

There would be a lot more tension on the management group in terms of the temptation to put people on minimal conditions ... whereas now we are all protected by the award. (Alison, childcare employer)

There is a sense amongst workers in these service sector jobs, that the unfair dismissal changes have effectively casualised whole sections of the labour force, particularly in enterprises with less than 100 employees.

Many interviewees shared a concern that job insecurity had the effect of reducing bargaining power. New employer scope to arbitrarily dismiss an employee is rendering them more easily replaceable, at least at the lower skilled end of the labour market. Vicky summed up the situation like this:

Everyone feels less secure, more vulnerable ... that the employers have a lot more strength than any unions ... God forbid if anyone went on strike now ... in our centre we'd just all be turfed and they'd just get a whole new lot of bunnies in (50s, childcare worker).

Jasmine believed her low skill status left her particularly defenceless in terms of bargaining power: 'The other jobs ... I can think about. It's all the low payment. It's very hard for us to change' (30s, luxury hotel worker). Despite low official unemployment, many low paid workers perceive that they have few alternatives in the labour market.

Beyond these structural barriers to bargaining power, many workers had little information about how their pay and conditions are determined and what their entitlements are. English language skills were an obstacle for some workers. Insufficient time to keep abreast of legislative

developments was an obstacle for others like Victoria, who explained ‘I was so busy with my life I never sitting down and listen what happens ... whatever that’s happened, they try to keep the workers quiet...’ (50s, cleaner).

These factors, taken together with the literacy issues in Australia⁴, suggest that the extent to which employees possess the time, skills and resources to negotiate individual agreements requires closer consideration. The task of industrial bargaining on an individual basis assumes a level of detailed and specialist knowledge (leaving aside the question of power) that many workers lack, especially if English is their second language and they are time-poor.

An atmosphere of fear, vulnerability and confusion characterises the working lives of many low paid workers, affecting their morale, productivity and quality assurance at work. As one put it, ‘when the morale is down for a lot of people, then things like the wages and stuff is going to play on you even more’ (Sienna, 40s, childcare worker). Another explained that increased job insecurity meant that she was now more hesitant to report regulation breaches in the childcare centre where she worked.

Others also noted that they would no longer raise quality issues for fear of dismissal. The erosion of workers’ wages and conditions affects quality of the service and thus the service users, customers, clients and general public who use them.

The effects of *WorkChoices* reach beyond low paid workers to their families and households. Many employees we interviewed found it difficult to balance their work and non-work commitments. Their low incomes meant that they were often both *time* and *income* poor. Many had traditionally relied upon penalty rates to get their weekly pay rate up to a liveable level. Of particular concern, following *WorkChoices*, was the loss of such pay premiums as well as the erosion of control over working time, which jeopardised or diminished the giving and receiving of care between fellow household and community members. According to some workers, working hours were being manipulated in order to cut wages and their hours were now less predictable. Greater employer controls were also being exercised about the amount and timing of leave entitlements. The combined effect of these processes is to undermine family friendly work practices and consequently the quality of family and household life. These issues are explored in more detail below.

Implications for Wages

Through personal experience or social networks most employees we interviewed were aware of instances in which the new regulations had been used to cut pay rates or conditions. Importantly, the new regulations do not need to directly affect many workers to have the indirect consequence of generating trepidation amongst the workforce more broadly.

Some participants recounted specific examples of pay cuts. For example, a childcare employee stated:

Where I’m from, there’s people on the vines down there in Coonawarra
... their wages have gone down and also in the meat industry down

⁴ This point is echoed in 2005 research that found 30 per cent of Australian school leavers are functionally illiterate (Nelson, B. 2005. *Hansard, Parliamentary Debates, House of Representatives*, No. 19, Commonwealth of Australia, Canberra., 14).

there... they're trying to drop them about \$4 an hour (Mandy, 30s, childcare worker).

Workers are also witnessing a more arbitrary and divisive use of individual contracts. For instance, a luxury hotel worker commented:

...my big boss is always come and try to reduce your hours without pay and you are award wage ... full-time. ... they talking about that they have to reduce the penalty rates ... probably they will give us the individual contract like at least you have a contract for two years and then you renew again after that. ... They are starting the individual contracts at the moment [for new staff]. ... whenever [management] don't need them they send them home without pay. ... They're very upset because they give them three hours sometimes [and] only sending home. And how about if you live far away? It's very difficult. ... the work environment is a bit tense (Isabelle, 50s, luxury hotel worker).

AWAs are also having the effect of differentiating wages and conditions for workers doing the same job, undermining workplace morale in some instances.

Further, workers believe that their industrial position had been weakened by the erosion of trade union rights under *WorkChoices*. Some lamented the loss of collective strength and representation and anticipated it would negatively impact on wages. Susan summed up this view: 'I do feel that people have got more chance collectively to improve their wages and conditions than as an individual' (Susan, 50s, childcare worker). Jasmine agreed: 'It's sad, like union rights have been cut off' (30s, luxury hotel worker).

As discussed above, the wages of award-dependent employees in the federal system showed no movement since June 2005, and will not receive an increase until 1 December, when their pay will rise by about 5.6 per cent. Low paid workers have nonetheless experienced increasing living costs and observed rising standards of living amongst the more well off in their communities – standards that they cannot keep up with. Most employees interviewed in this study conveyed a deep sense of struggle and hardship within their families and households given their low wage rates and lack of pay increases. Cathy confided that:

[After rent] I've only got enough for petrol and milk and bread ... nothing left after that. ... my cupboard's very empty before I go shopping. ... I've been really stressed out... Kids couldn't even look at me ...I can't cope any more. (40s, cleaner).

Other workers are unable to afford services that are essential for finding and keeping employment. Fay, for example, does not have a regular telephone service: 'I only have incoming calls... my daughter's rent pays the groceries. No luxuries... I will live in a rented home for the rest of my life' (40s, cleaner).

Implications for Working Time and Leave

Many interviewees raised concerns about new 'flexibilities' around working time. The general picture is one of employers having gained greater power to control working hours, while employees have correspondingly less influence. The early data about the loss of penalties in AWAs makes these concerns well placed. Anxieties around working time centred on three key issues:

- penalty rates for unsocial hours

- predictability of hours
- access to holidays and leave loadings and
- casualisation.

Some workers are not in receipt of any penalty rates despite the fact that they regularly work extended hours or on weekends. For example, Susan, a private childcare worker in her 50s, receives \$12 per hour gross and often works 10 hour days and occasionally on Saturday nights. May, a luxury hotel worker in her 30s, sees the denial of penalty rates at her workplace as a disturbing sign of things to come:

I'm really insecure because of that law and because we haven't got penalty rates and sick leave. But, I don't know in the future. I'm really afraid (30s, luxury hotel worker).

For some workers, the loss of penalty rates means even longer hours at work and fewer hours for family and social engagement.

Others are likely to be less inclined to work unsocial hours without extra compensation following the loss of penalty rates. As Simone observed of her co-workers and the prospect of losing penalty rates:

People said they're not going to work weekends just to get the same money as they work Monday to Friday. Why give up time with your family if you're going to earn the same money as you work Monday to Friday and the pay rate is not real good? [At present] most people work weekends so they can get a little bit extra (Simone, 50s, luxury hotel worker).

Of course this decision will depend on the extent of job security underpinning it. Simone's observations illustrate a significant way in which *WorkChoices* is forcing workers to rethink how they juggle work and non-work commitments. A 24/7 approach to working hours, which does not differentiate unsocial working time, is premised on the willingness of employees to work around the clock; penalty rates have been a crucial mechanism of allowing this while rewarding workers and their families, and at the same time discouraging the over-use of extended or weekend hours.

While workers in industries experiencing labour shortages may well resist removing penalty rates or try to refuse working at unsocial times, this is not always possible. In the childcare industry, for example, workers routinely report performing substantial involuntary unpaid overtime. Vicky finds the long hours, paid and unpaid, exhausting:

On my day off, I'm often required to do things for work ... I find weekends I'm just so sort of stressed from working all week ... I try and maybe cook an extra meal to freeze to have for a night. I might have a staff meeting or be required to be at work longer... I make lunches for the next day and I basically crawl into bed then. So not much fun, pretty boring and tired (Vicky, 50s, childcare worker).

The sacrifice of employees' family time to the needs of industry has obvious ramifications for personal care commitments and family relationships.

There appears to be an increasingly cavalier approach to working hours by employers in sectors with large pools of low paid and lower skilled workers available to them. This may partly explain

the high levels of industrial complaints from such workers especially unskilled and prime age workers (Gahan 2006). Changes in dismissal regulation also change the climate for negotiation around working time. This is a critical effect of *WorkChoices* as these interviews reveal. For example, Vicky noted that the allocation of hours is used to discipline employees:

... if work rings up and wants you to work and you refuse... you'll find you're penalised when the next roster comes out ... you've got less hours ... anyone who sort of doesn't toe the line, like it will be frowned on, me doing this interview, and the consequences would be a sudden cut back [in hours] (50s, childcare worker)

Echoing Isabelle's earlier comments, Simone illustrates the precariousness of working time for casual employees in the luxury hotel business:

Casual[s], they treat them terribly. ... people travel long distances in [a major capital city] to get in to work from [the outer suburbs]... They work them for 3 hours or 2 hours... and then send them home. It doesn't even pay for their transport half the time. I'm in a little bit better position because I'm what they call a regular, full-time employment, but I was asked by the hotel manager not long ago, would I like to work four days a week. Well I went 'are you going to pay me for five?' And she just looked at me and walked away. ... they seem to be employing a lot more people on a casual basis (50s, childcare worker).

This unreliable and somewhat capricious organisation of working time has many repercussions for Australian workers and their families in an environment of weak redress against unfair dismissal and more individualised contracts. Erratic shifts and rosters, with sudden changes in working time or very short shifts, are affecting many interviewees.

This also jeopardises the capacity of workers on low wages to supplement their incomes through a second job. Teresa explained:

All my friends, they have children going to school and they really have two jobs. Like, after they finish from our hotel they have to go to another hotel to work the night time for their children's education (50s, luxury hotel worker).

This fragmentation of working time frustrates workers efforts to pull themselves and their families out of financial difficulty and to care for their families. As Susan states, from her point of view: 'It's not a very flexible job ... I've got an elderly mother who needs to go to the doctors nearly every other Wednesday but I can't do that anymore' (Susan, 50s, childcare worker) .

Implications for a Family Friendly Working Life

The evidence from these interviews, in the context of other data, suggests that while many working families are only beginning to feel the impact of *WorkChoices* on their lives, many of these impacts are significant and negative. The majority of our low paid interviewees were apprehensive about what current and prospective changes would mean for them and their families. Workers particularly worried about two issues: first, the implications for their pay and financial circumstances and, second, their control over time. Both of these issues were seen as having significant negative consequences for their households especially where they had dependents.

The prospect that *WorkChoices* could exacerbate working poverty was a prime concern. It was anticipated that families and children would suffer a decline in their quality of life as a consequence. For example, Jenny states:

... poverty's going to be rife and the family can't afford to take their kids to the show or go out for dinner ... It's just going to cut everything right back. And that's the sad part. Family life has gone out the window (40s, cleaner).

The notion that workers' children might inherit worse workplace conditions, less life opportunities and a reduced standard of living also generated some distress amongst participants. One worker commented:

I worry about my children ... I don't understand how these people are going to be able to get houses for their families ... when they just want people with permanent full-time jobs to give loans to. ... that's a bit of worry as far as when you're looking into the future for them (Charmaine, 40s, cleaner)

There was a sense of disbelief and injustice amongst some workers that their government and employers could have such disregard not only for adult workers, but for their families and communities. According to Henry and other hotel workers, *WorkChoices* 'takes away the flexibility' working families need to juggle their work and care commitments (20s, luxury hotel worker). For example, changed regulations around annualised average hours of work mean that some employers are forcing workers to take annual leave at times that do not suit their families:

They seem to think if regular hours are too high you've got to take annual leave. ...It's terrible ... they seem to think that the new laws ...[mean] they can force people to take annual leave when they don't want it – if the hotel is quiet. All they seem to be worrying about is their budget... (Simone, 50s, luxury hotel worker).

Many of the employees interviewed felt their responsibilities as working parents and carers were of no concern to management and that they were casualties of business schedules and the push to widen working hours. Some workers also felt common family time was being lost:

...just managing time and having a work life balance... it's especially hard now because my husbands got a full-time job, 9 to 5 Monday to Friday, whereas mine is ... all over the place. Sometimes I'll be working weekends and it's very hard for us to actually have a day together. (Dawn, 30s, luxury hotel worker).

Such comments illustrate the importance of predictable working time and more worker say over working time and its organisation. Unfortunately, *WorkChoices* removes the award right to more say (for example to request to work part-time or take extended parental leave). Instead, the changes in unfair dismissal arrangements create a new environment in the workplace, one where many workers hesitate to express a working time preference to their employer.

Some of the most indignant interview responses emerged around the rights and needs of working carers. For example, resentment at the unfairness of being penalised or threatened for caring for dependents was expressed by Penny:

...people getting the sack or their families not being given priority, if the child is sick you get the sack... I think that's pretty crap. You work to

have a family and a life you don't live to work (Penny, 20s, luxury hotel worker).

Diana was similarly outraged at what she saw as the grossly unjust treatment of her daughter after years of loyalty to her employer:

...one of my daughters, ... she's in retail ... and worked there for four years. She's got two kids. She juggled them to suit the job... In that four years she only took two days off. She was brought up to the management and they told her ...unless you go down to [the other side of the city] you have to hand in your resignation ... And if she didn't take [it], well it was bad luck, you're out of job, and now she's out of job (Diana, 50s, cleaner).

These interviewees are concerned about the effective loss of power they perceive in workplaces, as control over when and how they work increasingly lies with employers, and their scope to act in the interests of their families shrink. The implications for households are significant. Unfortunately, the evidence from this set of interviews suggests that the twin effects of weak dismissal protections and growing job insecurity along with less scope to influence working time are exerting a double negative effect on work/family balance for many workers.

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