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Going too far:

WORKCHOICES & THE EXPERIENCE OF 30 VICTORIAN
WORKERS IN MINIMUM WAGE SECTORS

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Acknowledgments

We would like to thank the 30 Victorian workers who agreed to take part in this Project. They all gave generously of their time in speaking to us about their experiences. We would also like to thank the community groups and agencies who distributed information about the project. In particular, we would like to thank the members of the small Project reference group for their advice and support in recruiting participants:

- Samiro Douglas, Women's Information Referral Exchange
- Julie Kun, Australian Services Union
- Vera Smiljanic, Job Watch Inc
- Caroline Lambert, YWCA Australia

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Executive Summary

The 'WorkChoices' legislation, introduced in March 2006, changed Australia's industrial relations regulatory regime significantly. The WorkChoices amendments are complex; not only in the extent and direction of the changes made, but also in the interactive effects of different parts of the legislation. Not surprisingly, evidence to date suggests that the effects of WorkChoices are uneven, impacting on workers differently depending on their location in particular occupations and sectors.

This report presents the experiences and views of 30 Victorian workers, 24 women and six men, whose employment has been affected by WorkChoices. It builds on an earlier quantitative stocktake of gender, work and employment conditions (Preston, Jefferson & Seymour 2006), which identified employees in five sectors - childcare, aged care, cleaning, retail and hospitality - as particularly vulnerable to the WorkChoices changes.

The focus of the report is on how WorkChoices has been operationalised by employers and experienced by the 30 employees, who are the subject of this study, in their individual workplaces. A number of these experiences may reflect misunderstanding or ignorance by employers rather than a strictly legal application of WorkChoices. However, the lack of practically available remedies for employees, together with the climate-shifting impact of WorkChoices, means that the changes have an effect beyond the limits of individual legislative provisions - most importantly in the application and experience of increased managerial prerogative.

1 The Research

The main aim of this study was to undertake a qualitative assessment of the impact of WorkChoices on Victorian workers in the childcare, aged care, cleaning, retail and hospitality sectors. In-depth interviews with 30 workers from these sectors were conducted to generate qualitative information on how the WorkChoices changes are impacting on these workers, their families and their workplaces. The research does not attempt an assessment of how many men and women working in childcare, aged care, cleaning, retail and hospitality have been affected by WorkChoices. Rather, the rationale for the research was to better understand the direct and indirect ways WorkChoices is affecting individual workers in these sectors, their workplaces, their families and the broader community.

Potential interviewees contacted the researchers after learning about the project through the media, through information provided by a wide range of community and other organisations or through being told about the research by other individuals who had contacted the researchers. The interviews with 24 women and six men took place between December 2006 and May 2007. Interviewees came from both metropolitan Melbourne and regional Victoria and ranged in age from 15 years to 60 years, although almost half were aged 45 years and over. They were mainly employed on a permanent basis with a majority working part-time, and, in the main, were employed in workplaces with 100 or fewer employees. All interviews were undertaken before the introduction of the 'Fairness Test' for Australian Workplace Agreements, lodged on, or after, 7 May 2007. This test allows the Workplace Authority to assess if employees have received fair compensation if their agreement removes or changes their protected conditions.

2 Changes at Work

The 30 interviewees reported a number of different effects of WorkChoices, both direct and indirect, on various aspects of their employment relationship.

The most profound impact of WorkChoices documented in this study was felt in dismissal without warning, which affected 12 of the interviewees, with another four being effectively constructively dismissed. The loss of unfair dismissal protection under the WorkChoices changes for workers who work in workplaces with 100 or fewer employees has far wider ramifications than just removing the right of people to question their dismissal and take action where they believe they have been unfairly terminated. The loss of unfair dismissal protection in particular not only removes employee rights to pursue reinstatement or compensation in cases of harsh, unjust and unreasonable termination, but also removes the effects of permanency for those workers who are not casual or fixed term (21 of the 30 interviewees). This in turn works to mute the

'voices' of workers in querying wage rates and entitlements and in speaking out about issues such as occupational health and safety. It affects HR practices and procedures for example in performance management, in managing disputes between workers, in the giving of first and second warnings, and even in the provision of reasons for termination.

This study also highlights the ways in which, since WorkChoices, hours of work can be increased or decreased without negotiation and rostering arrangements can be changed without notice, even for permanent workers. In a number of cases employers had introduced individual contracts with no negotiation with employees, which removed penalty rates with no compensation. In some of these cases, interviewees who tried to negotiate around new contractual arrangements were penalised or dismissed. The WorkChoices changes that restrict union entry, as experienced by two interviewees in particular, not only limit the effective access individual union members have to support and advice, but place limits on general information about entitlements as well as making active union members feel more vulnerable.

The WorkChoices changes have palpably changed the workplace climate for the workers whose experience is documented in this study and for many others in their workplaces. In particular, these changes have the effect of normalising poor employment practices, which both reflect and depend on a lack of respect for the dignity of employees and the dampening of employee voices. The change in climate is also reflected in changes that are not strictly legal under WorkChoices, such as being dismissed for querying wages and conditions or in unilateral rostering changes made when mutual agreement is prescribed in the award or in a collective agreement that covers the workers. In addition, disregard for the letter of the law is reflected in the failure to pass on minimum wage increases, removing award conditions without going to the trouble of making the employee sign an AWA, and the undercutting of conditions. This disregard for industrial law is also carried over to the rights of workers under anti-discrimination law, with several interviewees reporting they were either directly discriminated against on prohibited grounds or that their employer failed to reasonably accommodate those with family responsibilities or disabilities, as is arguably required under the law.

In almost all instances the workers interviewed had attempted to negotiate or protest the changes that had taken place. However, the reduction of any available remedies, such as through rights to take action in the case of unfair dismissal, the severely restricted access of unions to assist with disputes involving union members and the drastically reduced role of the Australian Industrial Relations Commission in resolving disputes mean there are few practically available checks and balances. In these ways the advent of WorkChoices has normalised breaches of employment regulation. Such conduct is underpinned by considerable confusion among employers and employees about existing rights to certain rates of pay and conditions.

3 The Effects of the Changes

This study highlights the profound impact of losing a job, especially for those who experienced difficulties in finding a new job. Many interviewees who lost their jobs through dismissal felt uncertain and fearful both about what had occurred and about what might happen in the future. Even where workers are able to find a new job, termination without warning has ripple effects on finances, on family relationships and on self-esteem. It also has an impact on the workplace for those who remain, the sudden termination acting as a warning to those who might speak out or query entitlements. In addition, there are costs for the welfare system, with several workers being forced on to Centrelink payments for various periods of time after they lost their jobs.

Many interviewees also reported a negative impact of the changes they had experienced on their self-esteem and on their job satisfaction. Most were extremely proud of the work they did, and so losing a job or having hours changed was extremely stressful. A number of workers described a classic grieving process of shock, anger and sadness after being dismissed. A recurring theme in the interviews was a strong sense of betrayal and disappointment about the changes their employers had made or the way the changes had been implemented following the introduction of WorkChoices. While most interviewees expressed anger and indignation about negative changes in their workplaces, others were not surprised by reductions in their conditions or by their employers' poor practice or bad behaviour and accepted that this was 'just the way things are'. For those who had experienced exploitation and poor employment practices in low-paid jobs, the negative changes they experienced under WorkChoices served to highlight their powerlessness in the employment relationship and their limited employment options.

The negative direct and indirect effects of the WorkChoices changes on health and wellbeing were reported by a number of interviewees. The different circumstances interviewees were in exacerbated the effects of these changes. Two interviewees spoke about the difficulty those in low paid work have with managing their compliance with social security requirements, which are simply not geared for people who are also in paid employment. All seven interviewees who lived and worked

in regional Victoria felt that their employment prospects and the opportunities they had to withstand the WorkChoices changes were limited by their location outside metropolitan Melbourne. Those with disabilities and with family responsibilities also felt more vulnerable because of the changes.

The WorkChoices changes experienced by the 30 interviewees had flow-on effects beyond those individual workers. They had effects on the workplace, on other vulnerable workers, on clients of the childcare and community services agencies where interviewees were employed, and on households and the broader community. The effects of the changes in the workplace and on colleagues were seen as uneven but nonetheless pervasive. For many of those working with children, the elderly or people with disabilities, the ripple effect of the WorkChoices changes on their clients was a major issue. The 30 individuals interviewed in this study all have family and community networks and many talked at length about the impact of their experiences on their families and their relationships.

4 A Missed Opportunity?

The federal government's stated position is that all workers have the individual capacity to initiate change, negotiating or bargaining for the terms and conditions that suit them. However, what this study shows is that the capacity to effectively bargain for many workers in minimum conditions sectors is in fact a myth. The recently introduced Fairness Test does nothing about reinstating rights against unfair dismissal and does nothing for those who before 7 May 2007 were forced onto Australian Workplace Agreements or sacked or otherwise disadvantaged for refusing to do so. The federal government claims that the WorkChoices changes will lead to increased productivity. An employment relationship that is skewed towards unilateral employer and managerial discretion is antithetical to increased productivity, which research has consistently demonstrated needs to be built on trust, commitment and a positive organisational climate in which employees feel valued and recognised. Thus, over the medium to long term, the sorts of changes that individual interviewees in this study experienced, and about which they feel hurt and let down, are also a problem for the business and their employer. The WorkChoices changes do nothing to encourage good people management or decent or quality work.

In summary, the experience of the 30 workers documented in this study suggests that the WorkChoices changes have done little to improve work conditions or the experience of work for workers in low paying minimum conditions sectors. Most importantly, as noted above, the prospects of improving the wages and conditions in these sectors under the current national regulatory framework are extremely limited. The WorkChoices changes take the 'low road' to employment participation and labour market efficiency. They reduce opportunities for worker-initiated flexibility, especially that required to balance work and family, and entrench gender inequality through the depression of wages in low wage feminised sectors. This is not what workers or their families want. Most of the interviewees in this study have strong views on the changes needed. They want fairer, more balanced treatment, they want to be able to raise issues in the workplace without fear for the consequences, to have access to better and accurate information, mechanisms to protect their rights, to be treated with dignity and respect and to be able as women, carers, people with disabilities, people who live in rural and regional areas to participate in work, family and community life.

You know, I just think fair in some middle of the road laws that are going to make everyone happy, you know, I mean you're never going to make everyone happy, but be fair to people. Yeah, that's what I would hope, I mean as I said I'm at the end of my working life, but I just hope for the future generations that, you know, that will happen. (Mary, Aged Care Worker)

1 Introduction

The main aim of this Project was to contribute to a qualitative assessment of the impact of the 'WorkChoices' amendments to the *Workplace Relations Act 1996* (Cth) (WRA). Of particular concern are specific groups of Victorian minimum wage workers, including women, young people, workers with disabilities and workers of non-English speaking background who work in five industries and occupations: childcare, aged care, cleaning, retail and hospitality. It is in these minimum conditions sectors where employees have been particularly reliant on awards for their pay and conditions and where the effect of WorkChoices is likely to be most evident and industrially and socially significant.

The WorkChoices legislative amendments are complex, not only in the extent and direction of the changes made but also in the interactive effects of different parts of the regulation. Not surprisingly, evidence to date suggests that the effects of WorkChoices will continue to be uneven (Peetz 2007; Pocock & Masterson-Smith 2007), affecting workers differently depending on their location in particular occupations and sectors. The extent to which WorkChoices is operationalised depends on the calculations and choices made by employers, which are shaped in an industry and labour market context. Employers seeking employee commitment through being regarded as an 'employer of choice' will avoid unnecessary, counter-productive changes (Sheldon & Junor 2006: 169), while others in small businesses, particularly in labour intensive sectors such as hospitality, cleaning and retail, are expected to engage in a 'race to the bottom' to reduce costs, 'once they realise that they can get away with nearly anything' (Sheldon & Junor 2006: 161).

The focus of the Project is on the real life experience of the effects of these changes to national employment regulation on workers in childcare, aged care, cleaning, retail and hospitality, rather than just on the specific provisions in the WorkChoices legislation. In-depth interviews with 30 workers from these sectors were conducted to generate qualitative information on how the WorkChoices changes are impacting on these workers, their families and their workplaces.

1.1 Background

In March 2006, what has been described as 'the greatest single change to Australian federal labour law since the introduction of compulsory conciliation and arbitration' (Fenwick 2006: 86) came into force. Known as 'WorkChoices', these amendments to the *Workplace Relations Act 1996* (Cth), alter the way in which minimum conditions of employment, including wages, are determined by removing 'fairness' and living standards from wage setting criteria. They remove the 'no disadvantage' test for new Australian Workplace Agreements (AWAs), which are required to provide only five minimum conditions under the new Australian Fair Pay and Conditions Standard, and weaken unfair dismissal provisions through limiting such protection to employees who work in workplaces with more than 100 employees. The changes also remove the power of the Australian Industrial Relations Commission to set new minimum standards through the test case mechanism (for example in relation to work and family).

The stated goal for the new industrial relations changes is to create a more flexible, simpler and fairer system of workplace relations for Australia and to improve productivity, increase wages, balance work and family life, and reduce unemployment (Australian Government 2005). However concern has been expressed about the differential impact of the changes on different groups of workers by human rights bodies (see for example Cooke 2007; VEOHRC 2007). Studies reviewing the potential impact of WorkChoices changes have also identified potentially negative effects on women, those most reliant on minimum wages, young people, working carers, casuals, those employed in smaller workplaces, and those with relatively little workplace bargaining power or 'voice' (Edgar 2005; Pocock 2006; Statement of 151 Australian Industrial Relations, Labour Market and Legal Academics 2005). Reports about individual contracts or Australian Workplace Agreements registered since March 2006 would appear to confirm these fears, with many stripping away award entitlements to penalty rates, leave and shift loadings (Norington 2006; Davies 2007; Peetz 2007: 16). There is also increasing evidence about the 'climate shifting' impact of WorkChoices (Pocock & Masterson Smith 2007; Knox 2007; Sheldon & Junor 2006).

Concern by key women's organisations, academics and the Human Rights and Equal Opportunity Commission (HREOC) about the impact of WorkChoices on women led to the development of the 'Women's pay and conditions in an era of changing workplace regulation' research project in 2006. Undertaken by the Women in Social and Economic Research

(WiSER) at Curtin University and funded by HREOC, the National Foundation of Australian Women (NFAW) and the Women's Electoral Lobby (WEL), this project examined the capacity of existing data collections to allow for the on-going monitoring of women's wages and other employment related conditions under the new regulatory framework. The project report, 'Towards a "Women's Employment Status Key Indicators" (WESKI) database', provides both a 'stock-take' of available current data and indicators of women's employment status and documents the inconsistencies and gaps in and between existing data collections. That report contributes to the development of a comprehensive understanding of women's labour market experience (Preston, Jefferson & Seymour 2006: vi). The key focus of the data analysis is the labour market status of women working for minimum conditions and in particular women working in five feminised occupational 'minimum conditions' sectors: childcare; aged care; hospitality; retail; and cleaning. The findings indicate that in these sectors where women's rates of pay and conditions of employment reflect a relative lack of labour market bargaining power (Preston et al 2006: 12), awards have effectively provided standard employment conditions. This makes those who work in those sectors particularly vulnerable to WorkChoices as any reduction in minimum conditions of employment may result in large scale changes to standard employment conditions for specific sectors of the labour market that have limited bargaining power (Preston et al 2006: 15).

Following the launch of the WESKI report, a multi-university team of academics in collaboration with women's organisations developed a qualitative research project that was designed to build on the data stocktake and analysis. This second project was planned as a national qualitative assessment of the effects of changes in work regulation brought about by WorkChoices on vulnerable workers, including the low paid, women, young people, workers with disabilities, and workers of non-English speaking background working in the childcare, aged care, retail, hospitality and cleaning sectors.

The national project is jointly funded by the state governments of Victoria, New South Wales, Queensland, Western Australia and South Australia and the ACT government in collaboration with non-government organisations including the National Foundation for Australian Women, the Women's Electoral Lobby, the Don Chipp Foundation, the YWCA Australia, Women with Disabilities Australia and Victorian Women Lawyers. The project is also supported by the in-kind contributions of the national research consortium and the institutions listed below.

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This Victorian report is part of this larger national study and is funded by Industrial Relations Victoria, Department of Industry, Innovation and Regional Development. The Victorian project broadened the scope of the national study to include men working in the five designated sectors. It aims to inform public debate in Victoria on the effects of WorkChoices and to assist the State Government to understand the implications for vulnerable groups of Victorian workers.

1.2 Methodology

Ethics clearance for the Victorian Project was given by the RMIT Design and Social Context Portfolio Human Ethics Research Committee. As part of meeting the requirements of this ethics approval, pseudonyms are used for the names of the 30 workers interviewed and any data that may identify them has been removed from this report. All participants gave their informed consent in writing.

1.2.1 Recruitment

Potential participants were recruited via three main mechanisms:

- **Media:** responses to an RMIT University press release in November 2006 and a notice on the research pages of RMIT University's website, stories in the MX daily paper and a number of regional newspapers in November 2006, interviews with the researchers, local regional radio in Geelong and La Trobe Valley in December 2006 and a newspaper advertisement in the Brimbank Leader, one of the main local newspapers in the Western suburbs of Melbourne.
- **Community and Other Organisations:** A wide range of community and other organisations were asked to publicise the research and encourage those in the designated industries/occupations who had experienced change in their working conditions as a result of the industrial relations changes to contact the researchers to discuss a possible interview. These organisations included the Aborigines Advancement League (Vic), Australian Federation of Disability Organisations, Australian Services Union, Community Child Care, Council on the Ageing (COTA) Victoria, Ecumenical Migration Centre, Ethnic Communities' Council of Victoria, Fitted for Work, Disability Employment Action Centre, Islamic Women's Welfare Council of Victoria, Job Watch, Multicultural Centre for Women's Health, Rumbalara Aboriginal Cooperative, Victorian Council of Social Services, Victorian Student Employment Officers' Network, Victorian Women with Disabilities Network, Women's Information Referral Exchange, Worker's Hotline-ACTU, YWCA Melbourne, and a number of TAFE institutes in metropolitan Melbourne and regional areas.
- **Snowballing:** A number of those who contacted the researchers suggested others who might be interested in participating in the study who then in turn contacted the researchers.

The interviews took place between December 2006 and May 2007. The interviews were designed to focus upon changes in working conditions after the introduction of WorkChoices in the occupations and industries in which minimum wage workers, particularly women, are concentrated. The research participants were not selected to be representative of the population. The aim of the interviews was to document how WorkChoices had directly and indirectly affected a range of Victorian men and women working in childcare, aged care, cleaning, retail and hospitality.

The main selection criteria for interview were:

- that interviewees came from the designated or similar industries and occupations; and
- that they had experienced change in their employment or workplace related to the introduction of WorkChoices in March 2006.

The researchers were contacted by approximately 100 people who were interested in finding out about the Project. In a number of instances, while their employment conditions had been affected by WorkChoices the workers did not fit into the study's designated industry/occupations. In other instances, the workplace difficulties workers were experiencing were not in fact related to WorkChoices. For example, a number of people contacted the researchers about longstanding workers' compensation issues, the non-payment of commission payments or about issues such as café and restaurant owners refusing to distribute tips to staff members.

Interviewees were given a double movie pass or a \$25 Coles Myer voucher (for those in regional areas) to thank them for their time in taking part in the research.

1.2.2 Data Collection

The interviews were designed to capture a wide range of influences on women's and men's pay and conditions including organisational influences, industrial instruments, type of workplace, jurisdiction, discrimination, health and welfare outcomes, and factors typically not collected in published data sources. Interviewees were mainly drawn from areas where lower paid employment is concentrated: childcare, cleaning, retail trade, cafes and restaurants, and aged care.

Basic socio-demographic and employment related data was collected from each interviewee typically at the beginning of the interview (see Appendix 1). A semi-structured interview format was used that was common for all interviews (see Appendices 2 and 3). Open-ended questions were also asked so respondents could explain their particular experiences, perceptions and expectations in the workplace. These questions provided scope for respondents to raise issues of concern in their particular occupational and industry context. This approach enabled the study to explore, in depth, issues that the interviewees saw as important to them.

Interviews took between 45 minutes to an hour to complete and were undertaken either face to face – in interviewees' homes, at RMIT University or in another preferred place – or via telephone. In one instance where a person with a hearing disability was interviewed, the National Relay Service was used. Interviews were audio-recorded with the permission of the interviewee and were later transcribed. Each transcribed interview was then analysed and key themes identified. This analysis forms the basis of this report.

2 The 30 Victorian Workers

2.1 Who Were They?

Interviews undertaken with 24 women and six men are the basis of this report. While attempts were made to recruit 10 men, this proved difficult. In any event the gender composition of the interviewees group reflects the female-dominated gender composition of the industry sectors that are the focus of the study. A table identifying each interviewee by name, age and industry sector and the main event or change the interviewee reported is set out in Appendix 4.

The 30 individual workers interviewed have diverse characteristics, come from diverse backgrounds and work in diverse workplaces. The industry sector and sex of those interviewed is set out in Table 1.

Table 1: Interviewees: – Industry Sector by Sex

| INDUSTRY | WOMEN ¹ | MEN | TOTAL |
|---|--------------------|-----|-------|
| Retail | 9 | 1 | 10 |
| Hospitality | 4 | 2 | 6 |
| Cleaning | 1 | 2 | 3 |
| Childcare | 2 | 0 | 2 |
| Aged care & community services ² | 8 | 1 | 9 |
| Total interviewees | 24 | 6 | 30 |

The majority of interviewees came from the retail sector and from aged care and community service agencies. The retail industry workplaces included department stores, clothing and food retail businesses, pharmacies and a petrol station. Aged care and community service workplaces ranged from aged care facilities to mental health and disability services, both residential and outreach.

Two interviewees had more than one job. One woman held two jobs in the retail and cleaning industries, while one man was employed as a cleaner by three separate companies.

Table 2 sets out the age cohorts of interviewees. While interviewees fell into a range of age groups, almost half were aged over 45 years. The age distribution of interviewees was typical for the industry sector in which they worked, with the younger interviewees working in retail and hospitality and the older interviewees in the aged care and community services sectors.

Only one interviewee identified as an Indigenous Australian. Six interviewees were from a non-English speaking background.

Seven interviewees stated that they had a disability or impairment. These included disabilities such as deafness and mental illness and a number of impairments, including some arising from work related injuries.

Seven interviewees, almost a quarter of all the interviewees, stated they lived and worked in regional Victoria.

1 One interviewee had jobs in two industries; one in retail and one in cleaning. Her industry is coded as 'retail' in the subsequent tables as this was the main job she had had when she first contacted the researchers.

2 This group of workers includes one health services worker.

Table 2: Interviewees – Age Group by Industry Sector

| AGE GROUP | INDUSTRY | | | | | TOTAL | |
|--------------------|--------------------------------|------------|--------|----------|-------------|-------|------|
| | Aged care & community services | Child care | Retail | Cleaning | Hospitality | No | % |
| Less than 18 years | | 0 | 1 | 0 | 0 | 1 | 3% |
| 18-24 years | | 0 | 1 | 0 | 2 | 3 | 10% |
| 25-34 years | 1 | 1 | 1 | 0 | 3 | 6 | 20% |
| 35-44 years | 3 | 0 | 2 | 1 | 0 | 6 | 20% |
| 45- 4 years | 2 | 1 | 3 | 0 | 1 | 7 | 23% |
| 55+ years | 3 | 0 | 2 | 2 | 0 | 7 | 23% |
| Total | 9 | 2 | 10 | 3 | 6 | 30 | 100% |

As shown in Table 3, the main household type of interviewees was couple family households. Seven of the thirteen interviewees in such households cared for one or more dependent children. Another four interviewees were lone parents with one or more dependent children. Six interviewees lived alone while another six interviewees lived in other family households, such as where a parent lived with an adult child or other relative.

A total of 12 interviewees cared for dependent children while six interviewees also had responsibility for adult dependents other than children.

Table 3: Interviewees – Household Composition by Industry Sector

| HOUSEHOLD | INDUSTRY | | | | | TOTAL | |
|--------------|--------------------------------|------------|--------|----------|-------------|-------|------|
| | Aged care & community services | Child care | Retail | Cleaning | Hospitality | No | % |
| Couple | 4 | 1 | 5 | 2 | 1 | 13 | 43% |
| Lone parent | 1 | 0 | 1 | 1 | 1 | 4 | 13% |
| Lone person | 2 | 1 | 3 | 0 | 0 | 6 | 20% |
| Group | 0 | 0 | 0 | 0 | 1 | 1 | 3% |
| Other family | 2 | 0 | 1 | 0 | 3 | 6 | 20% |
| Total | 9 | 2 | 10 | 3 | 6 | 30 | 100% |

Table 4 sets out the industrial coverage of interviewees. Over half of the interviewees said they were covered by either an award or a collective agreement. However, it should be noted that for award covered employees this did not always mean that their pay and conditions followed that prescribed in the award. A number of interviewees were clearly paid less than the award rates and did not receive other award entitlements such as penalty rates or loadings (see section 3).

Six interviewees were not able to identify what industrial instrument provided the basis for their pay and conditions.

Table 4: Interviewees – Industrial Coverage by Industry Sector

| INDUSTRIAL COVERAGE | INDUSTRY | | | | | TOTAL | |
|---------------------------|--------------------------------|------------|--------|----------|-------------|-------|------|
| | Aged care & community services | Child care | Retail | Cleaning | Hospitality | No | % |
| Award | 5 | 0 | 4 | 2 | 1 | 12 | 40% |
| Collective agreement | 1 | 1 | 0 | 1 | 1 | 4 | 13% |
| AWA | 1 | 0 | 0 | 0 | 1 | 2 | 7% |
| Other individual contract | 2 | 1 | 2 | 0 | 1 | 6 | 20% |
| Don't know | 0 | 4 | 0 | 2 | 6 | 20% | |
| Total | 9 | 2 | 10 | 3 | 6 | 30 | 100% |

Table 5 sets out the employment status of interviewees. The overwhelming majority of interviewees were employed on permanent contracts. Five of the eight casual employees were employed in retail.

A total of 11 interviewees worked fulltime while 19 worked on a part-time basis. Of those on permanent contracts, 10 worked part-time and 11 worked fulltime. All those on casual contracts worked part-time hours

Table 5: Interviewees – Employment Status by Industry Sector

| EMPLOYMENT STATUS | INDUSTRY | | | | | TOTAL | |
|-------------------|--------------------------------|------------|--------|----------|-------------|-------|------|
| | Aged care & community services | Child care | Retail | Cleaning | Hospitality | No | % |
| Permanent | 8 | 2 | 5 | 2 | 4 | 21 | 70% |
| Casual | | | 5 | 1 | 2 | 8 | 27% |
| Fixed term | 1 | | | | | 1 | 3% |
| Total | 9 | 2 | 10 | 3 | 6 | 30 | 100% |

Table 6 sets out the length of time interviewees had been in their current job. While the majority of interviewees had worked three years or less in their job, a quarter of interviewees had worked for their employer six years or more.

Table 6: Interviewees – Job Tenure by Industry Sector

| JOB TENURE | INDUSTRY | | | | | TOTAL | | |
|------------------|--------------------------------|------------|--------|----------|-------------|-------|------|-----|
| | Aged care & community services | Child care | Retail | Cleaning | Hospitality | No | % | |
| Less than 1 year | 1 | | 4 | | | 3 | 8 | 27% |
| 1-3 years | 6 | 1 | 2 | 2 | 3 | 14 | 47% | |
| 4-5 years | | | 1 | | | | 1 | 3% |
| 6-9 years | 2 | | 2 | 1 | | | 5 | 17% |
| 15+ years | | 1 | 1 | | | | 2 | 7% |
| Total | 9 | 2 | 10 | 3 | 6 | 30 | 100% | |

Interviewees were asked the number of employees in the businesses in which they worked. Twenty five (83 percent) of the interviewees worked in businesses/workplaces with 100 or fewer employees. Of these, 21 worked in organisations of between 20 and 99 employees. Of the remaining five interviewees, two worked in organisations of between 100 and 199 employees, while three worked in organisations of 200 or more employees.

Interviewees came from a wide range of backgrounds. For example, in regard to formal educational qualifications, two interviewees had post-graduate qualifications and 15 had left secondary school prior to completing year 12. However, some of these workers had since gained certificate or other qualifications. Interviewees' knowledge and views on industrial relations regulation varied enormously. Some interviewees expressed quite conservative views, two spoke of the importance of industrial relations laws that supported small business, and one woman suggested that perhaps unions had had 'too much power' in the past. Seven of the 30 interviewees were or had been union members, with one describing herself as always having been a 'strong union person'. Two other union members expressed dissatisfaction with their unions, which they felt had not been able to protect them adequately from the WorkChoices changes.

2.2 Why They Called Us

Those interviewed agreed to participate in the research for a wide range of reasons. The most frequently mentioned motivation was that the interviewees wanted someone to listen to their story anonymously. The interview process provided an opportunity to talk in some detail about the effects of these experiences as well as the broader ripple effects of those experiences.

Personally, (I'm) still a bit angry...that there are people who could manipulate the system to potentially ruin people's lives, not ruin people's lives, but impact on people's lives in such a negative way...as I said I've just been blessed, I've always worked for really good employers, I have worked hard for them too but it makes you question, it makes you feel blessed to work for organisations like that but... I am a little bit more worldly now... you read about things, you hear about things, about people not treating people well or whatever but I guess when it actually happens to you...(Deanna, Health Services Worker)

A second motivation for taking part in the research was concern for others. While many interviewees had approached advice services or complaint agencies about their particular issue, they also expressed concern that 'something' should be done to prevent the sort of experiences they had had from occurring to others. Several interviewees expressed great interest that a formal report of their experiences would be in the public domain:

*So the study that you are actually doing is really going to get to the bones of what's going on.
(Annie, Retail Worker)*

A third motivation for contacting the researchers was that some interviewees were grateful for help from the advice agency that had notified them about the research and wanted to 'give something back'.

However, all but one were anxious to remain anonymous; those who were still employed were concerned that their employer not become aware of the interview, while others were worried that any publicity might affect future employment prospects.

3 Changes Reported & Action Taken

This section reports on the main areas of change raised by the 30 interviewees following the introduction of WorkChoices and action, if any, that they took or attempted to take as a result.

As outlined in section 1.1, the WorkChoices amendments to the *Workplace Relations Act 1996* (Cth) represent a significant shift in national employment regulation. The actual legislative amendments are extremely complex and comprise, together with the accompanying regulations, some 1400 pages of regulation (NSW Standing Committee on Social Issues 2006: 11). While some of the legislative changes are clear, such as the restriction of unfair dismissal protection to those working for employers with more than 100 employees and the restriction of unions' right of entry to workplaces, other changes are less so. Indeed, the extent to which the application of specific changes within certain workplaces is legal or illegal under WorkChoices has been a matter of on-going political debate and some considerable confusion.

The focus in this study is on the *effects* of WorkChoices experienced by a group of workers drawn from childcare, aged care, cleaning, retail and hospitality in the first 12 months of WorkChoices.³ The focus is not so much on the legislative provisions themselves, but on how WorkChoices has been *operationalised* by employers and *experienced* by the 30 employees, who are the subject of this study, in their individual workplaces. A number of these experiences may reflect misunderstanding or ignorance by employers rather than a strictly legal application of WorkChoices. However, the lack of practically available remedies for employees together with the climate shifting impact of WorkChoices (see section 3.1.5 below) means that the changes have an effect beyond the limits of individual legislative provisions; most importantly in both the application and experience of increased managerial prerogative.

3.1 Changes

The interview material on the impact of WorkChoices is organised under key elements of the employment relationship to highlight the different effects, both direct and indirect, of WorkChoices on this relationship. A brief description of the main changes experienced by the 30 interviewees is provided in Appendix 4.

3.1.1 Changes in Job Security

Job security is a central pivot of the employment relationship. This is encapsulated in the notion of permanency whereby a worker is protected against the loss of his or her job, except in the case of misconduct or business failure (Chalmers et al 2005: 58). As well as security of contract typically expressed in permanent status, a fundamental aspect of job security is protection against unfair dismissal. Indeed it is the precondition for many of the other aspects of the employment relationship and provides an important platform for securing minimum working conditions.

Protection against unfair dismissal has existed in Australia in one form or another for around 30 years (Chapman 2006), and formally in federal industrial relations law since 1994, following the Australian government ratification of the ILO *Termination of Employment Convention* (ILO 158). WorkChoices dramatically alters the Australian system of unfair dismissal law by limiting protection to employees in workplaces with more than 100 employees. By excluding the majority of Australians from being able to seek a review of their dismissal on the basis that it was 'harsh, unjust or unreasonable', protection against unfair dismissal has become a privilege for the few and is no longer a minimum employment standard (Chapman 2006: 237).

Loss of job:

Eighteen of the 30 interviewees lost their jobs as a result of workplace changes linked to WorkChoices. Sixteen of them lost their jobs through dismissal or forced resignation, one worker resigned after witnessing the workplace aftermath of the dismissal of another worker and one was forced to resign because of changed work arrangements.

Much of the recent media debate around the impact of changes to national employment regulation has focused on Australian Workplace Agreements (AWAs). In this study, however, one of the main reported effects of WorkChoices has been to remove unfair dismissal protection from employees who work for employers with 100 or fewer employees. Of the 30 workers we interviewed, 12 individuals, 10 women and two men, reported being dismissed without warning and four,

3 The interviews were conducted before the introduction of the 'Fairness Test', a test that applies to Australian Workplace Agreements, lodged on or after May 2007

(three women and one man), reported being forced to resign from employment. They had worked for their employer for periods of between four months and 16 years. While all 16 workers regarded their dismissal or forced resignation as unfair, they were unable to pursue a claim for unfair termination as a result of WorkChoices, because each of them had worked for an employer with 100 or fewer employees. Each of them would have been protected by the unfair dismissal provisions that existed prior to WorkChoices as all had worked for more than three months as permanent or on-going casual employees. The impact of this change only becomes real when people are dismissed or know someone who has been. As Stephanie notes:

...but I still have friends saying to me, 'But Stephanie, surely you can do something,' and I just want to say to them, 'What part of the new laws do you not understand?' You can't and there are many people like me. It's just that until you come across them you don't really believe it I guess, until it affects you.
(Stephanie, community services worker)

What were the reasons that 12 of the workers interviewed were dismissed by their employers without warning? In three cases, workers reported being dismissed for trying to renegotiate or raise issues about their pay and conditions.

Simon's employer dismissed him because he would not agree to work longer hours for the same pay. Simon, a hospitality worker, was paid to work 45 hours a week and he often worked at least 55 hours with no overtime pay. Simon told his employer he couldn't really see the point of working any additional hours as the restaurant was not that busy and he would be standing around doing nothing. He was then dismissed.

ANNIE'S EXPERIENCE

Annie is 36 years old and had worked at a suburban retail nursery on a fulltime basis. She worked five days one week including Saturday and six days the next week including Saturday and Sunday. She had accepted her initial flat rate of pay of \$15.50 per hour offered by her employer for hours worked, stating that, 'There was no collective agreement. There was just a conversation that had taken place in terms of the hourly rate.' After a year she wanted to negotiate a higher wage and set about finding out what the industry standard was. Much to her surprise she discovered she was being underpaid both in terms of her hourly rate and the fact she did not receive penalty rates as set out in the relevant industry award.

'...I wanted to be in a position where I felt comfortable to actually discuss this with my boss at the time at that point because having found out that information and also other people, I shouldn't have been concerned for them, but other people were in a similar situation...I left it up until it was required for me to find out more. Which happened to be [when] I was going to go on holidays and I wanted to enquire about annual leave loading so I spoke to the payroll officer...I'd informed the payroll officer that I was taking holidays, which at that time she didn't know, and I just wanted to find out from her whether or not we were entitled to annual leave loading, which she said no we weren't. So I was again a bit, well...So anyway, look, she provided me with a copy of the award they were trading under which was the Retail Industry State Award, which I took a copy of and later discovered that it was actually an expired State Award that they were operating under. I then got a phone call from my boss fairly shortly afterwards demanding to know what this conversation was about. So the conversation went a bit strange. The following couple of days I was required to actually, they said that I needed to put together documentation supporting what I was asking about because I said, "Look, I've just been given conflicting information and I want to find out what's correct. I understand if you're operating under this Award and that's the correct Award then so be it."

'I was asked not to come back into work until a particular date...I went in to have a meeting with the manager and the payroll officer. I'd put together a brief format of the information that I had been given... And within two days of that meeting a letter came through saying that they had been in fact in contact again with Wagenet and WorkChoices, they felt that the information that they had provided me with was still correct and that I was being terminated due to "irreconcilable differences".'

Helen, who had worked for two years for a large private childcare provider, was also terminated without warning after attempting to renegotiate her terms of employment. Helen had been employed on an individual contract which had expired and she wanted her new contract to reflect the additional administrative and supervisory tasks she had taken on. After various negotiations, she thought it had been agreed that her position would be a 60 percent contact and 40 percent non-contact one, but then found out that her pay was to be cut as a result.

So I sort of looked at that straight away and thought, oh goodness me. And I think my time is a bit out because you know, so much has happened, but I think it was then that I decided to seek legal advice... so I took all the paper work to a lawyer and he said, 'Look, this isn't working and look what they have offered you these things and you have accepted them and they can't keep changing it on you,' because that is what they had been doing. They kept changing and changing and changing it and then, so after that contract came, I took the next week and a half off sick leave and you know, tried to sort a few things out, speak to the lawyer and he said it was best for me, you know to go back and go do my job and continue with the contract negotiations and see what could happen...I returned on Monday and the owner was there and she sort of said, well not sort of, she said, asked me why I was there and I said, 'Well I am here to do my job,' and she said, 'Look, there is no job here for you, you need to go home...' I said, 'No, I am here to do my job, you need to ring the lawyer.' And she said, 'No, you need to go, I will walk you out.' So she walked me out. (Helen, Childcare Worker)

A fourth worker, Jan, was dismissed for complaining that the shop she worked in didn't have the stock she needed to be able to meet her sales targets:

Yeah, I have been working in the (store) for about six months and conditions weren't all that wonderful and I was expected to achieve financial targets, but the (management) weren't getting stock in for me to achieve those targets. So I voiced my opinion, to several different members of management, quite loudly, because ultimately I was getting into trouble for not making the targets. But I couldn't get a target if I didn't have the stock. So, then just one day, human resources people came in and said, 'Can we see you?' and took me into a room and said, 'We are going ask you to leave, as of now.' And I said, 'Well, why?' And they say, 'Well, because you have been voicing your opinion around the place about us not providing stock,' and they did say 'You have been saying it to customers,' and I said, 'That is an absolute untruth,' because I am very professional there. I said I might have grizzled to other staff members but never, ever to the customers. Because ultimately, that is against me, so I wouldn't do that sort of thing. And I said, 'You know, don't I get a warning? I am a single mum, you know, I just, you should give someone some warning, you know, just a warning.' 'No, sorry, just get your things and go.' (Jan, Retail Worker)

Three other workers reported being dismissed after making a mistake, for which they might have expected to have been reprimanded but not dismissed without warning. While they may well have been dismissed under similar circumstances prior to WorkChoices, the existence of unfair dismissal protection had the effect of encouraging employers to follow a procedurally fair process with respect to termination. Such a process typically involved a system of written warnings and providing the reason for dismissal. Both Melanie and Cheng were dismissed without warning and without being given any opportunity at all to speak in their own defence. Cheng was dismissed after four years in his cleaning job for taking a very small amount of tip money he believed was rightfully his. Melanie was dismissed for a mistake made in a take-away fast food order. She says the mistake was not hers but that she was not given a chance to tell her manager this.

**KATE'S
EXPERIENCE**

Kate is a 26-year-old single mother. She returned to paid employment when her daughter went to school and had been working for more than two years on a regular casual basis as a waitress for a suburban restaurant. One night at the end of a shift she made up a mock cocktail with some left over champagne a customer had left behind and sent it out to the kitchen. After she had finished her next shift:

'... [The owners] pulled me downstairs and said, "We need to confront you about something." They wanted to ask me about this cocktail I made and [had] taken into the kitchen, and I said, "Well, Bill, you know, the mixer was broken, I left a note there," and I told him what happened, and he started going off his head... [I said] "I've told you what happened with the mixer," and I had all my, the waiters there and everyone who were agreeing with me and trying to tell him that had happened...And yeah, so I tried to explain that, and then I left and Judy came up, and said, "Please come back downstairs and talk about it." And Bill's still yelling, and I thought, well, I'm not going back down there, no way, I'm upset. And then Bill's virtually said, "Well, that's it, it's your job, that's it," and started going off, and so then I didn't hear anything and two days later and I rang them and said to Judy, you know, "What's going on?" And she said, "Well, you have to come in and get your pay and your paperwork and all this stuff," and that was it. That was it. It was over, and I thought that can't be over...Where[as] if you had a warning notice, you'd know that they were unhappy with you...And you'd go, "Oh, well, something's not right here, I have to pull my socks up or do something," you know. '

In some cases, those who had been dismissed were not given any reason for their termination, leaving them to draw their own conclusions. Stephanie had worked for 16 years as a support worker for people with mental illness, when she was dismissed without warning.

Stephanie: *I was asked to go into our executive officer's office, which was very unusual; it never happened in 16 years. He is a person that works from home mostly and so we'd see very little of him and have very little contact with him and he asked me if I had a minute and I said yes and he sat me down and handed me a load of paperwork, one of which was a letter saying we're terminating your services and he verbally said that to me.*

Interviewer: You presumably asked him why?

Stephanie: *I did and his comment was 'I am not required to discuss that, I have no need to discuss that, I am not discussing that.'...I was totally in shock and I just said, 'Why?' obviously and couldn't get any satisfactory answer and then I actually was, I said, 'What about my clients?' I was really concerned because some of the people I had been working eight years with...I was told don't worry...and that they would be taken care of and I was to go and get my handbag and remove myself from the premises immediately.*

Stephanie believed the reason she had been dismissed was because her manager was new to the agency and felt threatened by Stephanie's extensive experience not only in the field but with the agency.

There were four interviewees who felt they had been forced to resign from their jobs. Like others who were dismissed, they are no longer able to access unfair dismissal provisions because their workplaces have 100 or fewer employees. Prior to the introduction of WorkChoices, Maryanne, Lynette, Justin and Adriana could have pursued remedies for forced terminations or 'constructive' dismissals.

Maryanne left her employment as a console operator at a service station after abuse and bullying by her boss. She was filling her own car with petrol when a new worker was having difficulty on the console. It was an issue that Maryanne couldn't sort out so she phoned the boss for assistance and he called her a 'stupid, f-ing bitch'. She was extremely distressed and went home crying. However, before she finished the phone call with her boss, she told him that he couldn't speak to her like that. He told her that she didn't need to work for him. She phoned the next morning hoping to speak to him, but spoke to his wife instead who told her that her boss wouldn't have her back because of her attitude.

Lynette was employed selling magazines for a retail outlet for two hours a day. She resigned after her employer told her he no longer needed her to work on Saturdays and she discovered she had been replaced by a new employee who was paid a lower rate.

Justin resigned in April 2006 after his manager suggested to him that his dismissal was a possibility under the new industrial relations regulations. There were a number of problems at Justin's workplace, including an occupational health and safety issue, which Justin had sought union assistance to have addressed. Justin believed he had become something of a scapegoat for his manager and was about to be dismissed, so he resigned.

Basically my boss said, 'Look, keep on making silly mistakes like that, I'm forced into a position where I just have to let you go and I can do that under the new changes.' (Justin, Community Services Worker)

In three cases interviewees who lost their jobs appear to have experienced unlawful discrimination by their employers. In Adriana's case her employer told her she had no choice but to accept a change from full to part-time status under the 'new laws'. It did not occur to her that this might be related to her pregnancy until several months later when she discovered she had been replaced by a new fulltime employee. Deanna was dismissed without reason, but suspects it was because she refused to work extra days when she was not rostered to work under the part-time arrangement she had with her employer to enable her to care for her young children.

EMILY'S EXPERIENCE

Emily is a 21-year-old who had worked as a cashier/waitress in a suburban restaurant for six months. She was given several contradictory reasons for her dismissal without warning. Emily is sure that her sexuality was the real reason she was dismissed.

'The job was sweet, the people were sweet and then one day she just rang me up, the manager rang me up and said, pretty much told me that I was fired and when I asked why and if I could speak with the owners, she refused that right. She gave me three or four different reasons which contradicted the next thing she said. She said that there'd been a customer complaint. I was apparently rude to somebody. But, I'd never actually been rude to anyone and apparently it was a few weeks earlier as well and she didn't say anything to me about it at the time or during those few weeks...She then said that there wasn't enough work and I thought well, they're two very different things. And then she said, "Oh it's just simply not working out." Which means that there was enough work and there wasn't a complaint and yeah, they all contradicted each other and when I asked to speak with the owner that was refused to me. Thinking about it later on that day, I actually remembered that the day before, something had happened. This manager had only been managing for about a month or so at the time and didn't know that I was gay and my partner dropped me off at work and then came running in about two minutes after I started my shift...and said, "You need to see if my wallet's in your bag, you know I can't find it and it was definitely there," and she's gone, "What, her?" pointing at Nicole, and I go, "Yeah," and just kept going. And her wallet wasn't in my bag and I ran back and told her that and then suddenly the next day this...'

In theory, Adriana, Deanna and Emily could each pursue a case of unlawful dismissal under the federal *Workplace Relations Act 1996* or pursue a discrimination claim under the Victorian *Equal Opportunity Act 1996* or the federal *Sex Discrimination Act 1984*. However, in practice, the former process is a lengthy and costly AIRC/Federal Court action while remedies for an anti-discrimination claim with respect to termination are slow and relatively ineffective (Chapman 2006: 257). Prior to WorkChoices the AIRC conciliated many claims of unlawful dismissal as part of an unfair dismissal matter, a course of action no longer open after WorkChoices.

Workers' loss of unfair dismissal protection under the WorkChoices changes in workplaces with fewer than 101 employees has far wider ramifications than just removing the right of people to question their dismissal and take action where they believe they have been unfairly or unlawfully terminated. The removal of legal requirements to ensure that termination of employment is procedurally fair can shape HR practices and procedures. Refusing to provide reasons for dismissal, as in Stephanie's case, or doing away with any performance management policies and practices such as a first and second warning system, means workers are often not told their performance has been lacking, nor about how they might be required to improve to keep their jobs.

Yeah, because those warnings, I didn't realise in the past work experience that I've had, how valuable those warnings were because it prepared you. You know, losing a job just suddenly in one night is like a death. (Kate, Hospitality Worker)

Amanda believed the lack of unfair dismissal rights for employees in her workplace had led to her employer simply abandoning existing HR policies and procedures to dismiss her colleague without warning or notice. Similarly, Justin thought his manager had decided it was easier to threaten him with dismissal than deal with workplace problems:

Amanda: *Under these new changes, I think that the scope to become even more ad hoc in management practices is there.*

Interviewer: What do you mean by ad hoc in management practices?

Amanda: *When you've got laws that, in my opinion...are swung unfairly to favour one side and not the other, therefore, the pendulum swings. The side that feels that they're more empowered by the changes feels that it's irrelevant,...it's time consuming and it's not very cost effective to try and work through difficult issues...properly to give due process. (Justin, Community Services Worker)*

The lack of any need to comply with procedural fairness in the termination of employment in these workplaces can also lead to employers failing to take responsibility for effectively managing their staff. For example, Melanie was dismissed after being blamed by another worker for a mistake made with a fast food order. She felt her employer had dismissed her as a means of resolving the problems between the two workers:

I think it would be a much better workplace if there's, the communication between employees and employers is important. That's how I feel and that's why I reckon it should be addressed like in the actual laws itself as well.
(Melanie, Hospitality Worker)

The loss of protection against unfair dismissal means some employers may choose to dismiss employees who raise concerns or question employer or manager actions rather than attempting to resolve workplace problems, such as occurred in Jan's case above. This affects people's confidence in raising issues in the workplace and negates any sense of job security for even permanent workers. For example, Lilly, a 50+-year-old woman from a non-English speaking background worked as a permanent part-time catering attendant in an aged care facility. Lilly was concerned she was being asked to lift weights that breached the agency's occupational health and safety guidelines. When she queried this she was told if she didn't like it she could leave. However, this was not a realistic option for Lilly. The prospect of losing her job meant she was not prepared to raise her concerns about the guidelines again.

I really need my job. My husband's income is not enough and it would be too hard for someone like me to find a new job. (Lilly, Aged Care Worker)

Change in nature of contract:

A number of interviewees reported a change in the nature of their employment contract following the introduction of WorkChoices. In the view of these interviewees the changes were directly linked with the increase in the extent of managerial prerogative provided under WorkChoices.

In a number of instances interviewees had the nature of their employment contract changed unilaterally. As outlined above, Simon was dismissed after refusing to sign a new individual contract that provided for extra hours for no additional pay. Kath had been delivering newspapers for a retail outlet for about 10 years on an ongoing casual basis when her employer presented her with a contract that made her a sub-contractor. Kath believed she had no choice but to sign the contract as her employer told her it was acceptable under the 'new changes'.

JODIE'S EXPERIENCE

Jodie is a 22-year-old university graduate. She had worked as a regular casual for a national retail chain both while she was studying and after she graduated for a total period of six years. She was paid according to the relevant industry award, which included penalty rates for Saturday and Sunday work. After the introduction of WorkChoices, new employees were put on to AWAs and then late in 2006, the company sought to put all employees onto AWAs:

'Basically at the end of last year they started implementing these new AWAs for the new casuals that joined the company so basically everyone that was new from...September last year, were put on to new AWAs [that] basically just gave them a base rate of pay and no entitlements, like no penalty rates or anything like that, which I guess you know, they could do that. I mean these people were new to the company and they didn't know any better, but then in February this year they implemented it for all the existing casual staff within the company...they just basically sent out these AWAs, didn't tell anybody about them, like the store managers knew about them because they'd been briefed about them at the end of last year and said that basically this is what's happening...They got them sent in the mail...I was finishing my shift or just starting my shift...and my manager said, "By the way, here's your AWA.. You've got seven days," and I just went, "oh okay, I didn't know that we were getting them now"...and she goes, "Yeah, they just came in the mail," and...I read through it briefly and there were a few things that didn't make sense that weren't worded properly and stuff like that so I questioned her, like I just basically said, "Well...from your point of view, what is this AWA saying to us?"...She said, "All I can see...it's taking away all your penalty rates," and I was like, "Okay"...What they'd done was..., when you looked at the piece of paper, it looked like you'd had an increase but it was because there was a national industry increase that came through...So they wrote out these AWAs to make it look like that you got an increase of a dollar or whatever an hour when in actual fact we should have been paid that since December.'

James is not sure if the employee workplace agreement (a non-union collective agreement) was in place before he commenced employment in the middle of 2006 or if it was negotiated without his knowledge some time after that. It was not until several months after he had been working in his part-time job in a coffee shop that was one in a small chain of cafés that James discovered his conditions and pay were not in accordance with the relevant award. He called the company's head office to ask why he had not received annual leave loading and tried to obtain a copy of the workplace agreement:

Yeah, [they] let me assume I was covered by the award and actually when I first inquired about... the leave loading, the first inquiry about money or conditions or whatever and I said... "I'm quite sure you get leave loading in the award," and they said, "Oh, it's in the agreement," and that's when I said, "Well, I haven't signed a workplace agreement and so it can't apply to me," because I didn't know about collective agreements. And they said, "Oh, you didn't have to, it's just an agreement and it was voted on by some of the employees and it was a majority vote and from that point, that's what stands," and I asked to have a look at it and they tried to find one a couple of times...and there wasn't one on site. There was supposed to be one on site at all times and I asked for one and didn't get one until further inquiries, pretty much at the end, which is when they sent me just one page out of this collective agreement. (James, Hospitality Worker)

Change in the form of employment:

Some interviewees experienced changes in their form of employment. While such unilateral changes in employment status could have occurred prior to WorkChoices, the loss of protection from unfair dismissal for these workers and the shifts in workplace climate outlined below (see 3.1.5) that have occurred as a result of WorkChoices mean that some employers believe the changes give them almost unlimited managerial discretion and that many employees feel they have no practical rights of redress. For example, Adriana's employer told her she had to change from fulltime to part-time employment. Adriana was employed in a clothing store and at the end of her probation period her employer told her that there was only enough work for her to be employed on a part-time basis. Adriana protested when her employer refused to keep her on fulltime but his response was that there was nothing she could do about it and 'that was the law'. She resigned and sought advice from a telephone advisory service, although she is not sure which one. On the basis of that advice, she understood that she could not seek a remedy for unfair dismissal because her employer did not have over 100 employees. Several months later she found out that her former employer had immediately replaced her with another fulltime employee and she began to suspect her employer had wanted to change her hours because she was pregnant. She sought advice again but has not pursued a claim for unlawful termination.

In some instances changes in the form of employment were not recognised in different pay rates. In Maryanne's case, after she lost her job at the petrol station she returned to a cleaning contractor she had previously worked for on a permanent part-time basis with regular hours. When she recommenced with this employer she worked on call with her 'hours all over the place'. However, she was still paid on a permanent part-time basis:

I have to wait every morning to see if I'm called because I'm just a relief worker. I'm paid \$15.92 an hour flat rate while [a co-worker] who works alongside me is paid at a casual rate of \$19.78. However, I do get various penalties for working after five etc. and my pay rate goes up if I'm required to work after those hours to around \$17.56 an hour. (Maryanne, Cleaning Worker)

3.1.2 Changes in Standards

Industrial instruments (awards, employer or union enterprise agreements, and individual agreements) provide the minimum standards that adhere to a particular employment relationship. In this section, we examine the changes reported by interviewees in relation to pay, working time and leave arrangements, and in the accommodation of workers with family responsibilities and workers with disabilities. While many of these reported changes are not legal under WorkChoices, interviewees' employers appeared to be both ignorant and confused as to what changes they were able to make to minimum standards of employment. This was compounded by some interviewees also being confused and, importantly, having few if any practical rights of redress.

Income:

The income interviewees received varied considerably, both according to industry differences but also according to whether they were in receipt of penalty rates. In some instances interviewees were not paid the legal minimum wage. What was

striking was that none of those interviewed had had any increase in pay since the WorkChoices changes were introduced above that of the minimum wage increase awarded by the Australian Fair Pay Commission (AFPC) in October 2006. In some cases interviewees did not even receive this increase.

Some interviewees experienced changes in their income as a result of unilateral changes to their working arrangements after WorkChoices. For example, Mary had her employment reduced by 20 hours a fortnight as part of a restructure. Other changes in income occurred or were proposed as reductions in hourly rates or loss of penalties and loadings although not all these changes were legitimate. Under a WorkChoices employee collective agreement James was treated as a casual worker and lost the regular income he had anticipated as his shifts were dropped with no notice. His rate of pay was the award rate for a part-time worker and he no longer received annual leave loading.

Some employers appear to have used the introduction of WorkChoices to attempt to make illegal cuts to their employees' pay. For example, Malcolm's employer told him he was no longer paying penalty rates for evening work. When Malcolm complained about this, his working hours were changed to day-time hours when the award penalty rates would not apply. Malcolm believed he was still covered by the award and his employer was aware the proposed cuts were not legitimate. In contrast, Christine thought her employer, an aged care service provider, really wasn't sure what was allowed and what was not and had proposed to cut the annual leave loading in ignorance of the fact that they could not legally do this.

A number of those interviewed were not on any individual agreement, but were clearly being underpaid, either in respect of their hourly wage or by not receiving penalties such as Annie who was paid on the basis of an outdated Victorian state award as outlined above. Also identified were a number of instances where the increased minimum wage awarded by the Australian Fair Pay Commission in October 2006 was not passed on immediately such as in Jodie's case where her employer included the increase in the base rate only when they introduced AWAs for staff in February 2007. In Liz's case, she was given the increase only after she raised the issue with her employer:

This is the only thing they've ever really said about, you know, the changes, when I said that there's been another pay increase, did you know that? And the boss said, 'No, but [I] can be assured that you would be telling me.' And I said, 'Yes that's right and it came in on such and such a date.' And she said, 'Oh well, isn't everybody meant to be on work place agreements now?' And I just said, 'Yes, well that's something you need to consider, as do I.' And that's the only thing she's actually ever said about it. (Liz, Retail Worker)

Whether or not Liz's employer fully understood the AWA process, her comment as reported by Liz is revealing. She appears to assume that since WorkChoices, employees are automatically on workplace agreements that are then precluded from the minimum wage increase. As Liz discovers this is incorrect:

...oh I wanted to ring up and check what was covered under those workplace agreements and I actually found [out] that the minimum wage is still protected. There's five things still protected and that's one of them, like she can't take it off me even if you do go on a workplace agreement. (Liz, Retail Worker)

However Liz's employer should have been fully apprised by the employer group to which she belongs about the minimum wage increase.

They are members of the Retail Traders Association, and I've found advice from them concerning wage rises just screwed up in their waste paper basket. (Liz, Retail Worker)

In some instances the minimum wage increase was not passed on at all, as in Annie's case. There were also instances where the minimum wage increase was effectively absorbed by a reduction in paid hours. Maryanne, who now works for a contract cleaner, was so upset by her experience she phoned us to let us know:

Maryanne: *Well to counteract the pay rise they dropped us all down five minutes a day on our round times. Like yeah, we have a round time each day to do a job in and so they cut us down by five minutes, which counteracts our pay rise. So we now work harder in a small amount of time and yeah.*

Interviewer: *And so you're expected to do the same work?*

Maryanne: *Work, yep. It happened to all the girls that work at [Company]. Yeah, we just have to do the same job in a shorter time now to counteract the pay rise.*

Interviewer: So that five minutes literally takes away the effect of the pay rise?

Maryanne: Absolutely. Just gobbled it up.

Liz had a similar experience:

Liz: *But when I bought up my last pay increase, she suddenly said she's paying me the right amount but I'm meant to be having an hour for lunch and whoever told me that I was ever having 45 minutes? Well, they obviously did because I would never have had forty-five minutes otherwise...Like say I work from nine until 5.30 and I had 45 minutes for lunch so that would be eight and a half, seven and three quarter hours a day, which I would get paid for, but then she said, no I'm meant to be having an hour so I would only get paid for seven and a half hours...which you know...it's not a money thing it's the principle, because it was really probably only \$6 or something, \$6.30 a week, but she said that I was meant to be having an hour instead of forty-five minutes.*

Interviewer: For interest's sake, does that \$6.30 cancel out the effect of the wage increase?

Liz: Well yes it did.

In a number of cases where interviewees were covered by an award, penalties provided for in the award were not paid. While those interviewees working in childcare and in aged care/community services were paid the appropriate penalties, this was not the case for many interviewees working in retail and hospitality. In some cases this may be out of ignorance by the employer, such as Annie's employer claimed, or may in fact be a calculated choice, as appears to be the case with Malcolm's employer. Award breaches are not a new phenomenon in either the retail or hospitality industries, which have been described as 'non-compliance hot spots' (NSW Department of Commerce 2006) However, it would appear as discussed further below (see 3.2) that the pursuit of award breaches is made much more difficult in practical terms, with the loss of unfair dismissal rights, and the removal of the Australian Industrial Relations Commission's capacity to resolve disputes, and the increase in the exercise of employer prerogative sanctioned by WorkChoices.

Hours:

The quantum and scheduling of hours is a crucial aspect of working time conditions, with sufficient hours (not too few, not too many) with predictable patterns being a mark of job quality (Chalmers et al 2006). A number of the interviewees, however, experienced changes in the quantum and scheduling of their hours following WorkChoices.

Mary's part-time hours were reduced by half and her job title and duties changed as a result of a restructure in part of the aged care institution where she works. While her employment is under an enterprise agreement that specifies she should have been consulted and is eligible for a redundancy payment in these circumstances, Mary's employers have not responded to any of her verbal and written requests to discuss her concerns or rights. Mary thinks her employers are preparing for further changes when the enterprise agreement expires in the near future:

I think that they [are] preparing to say, well, you know, this is the beginning of what we're going to be able to do when the EBA finishes because no one thinks that they'll have a new one and we all are very strongly in agreeance that when our EBA finishes, the first thing that they will do will be cutting our penalty rates you know for weekends and public holidays...(Mary, Aged Care Worker)

Travis had worked on a fulltime basis for 15 years in a major department store.

New management came in September/October last year, one of the first things they did was tell the staff on the floor where I worked that there would be new hours and new shifts...My original shift was fairly cruisey; I had no late nights and worked basically Monday to Friday, 9.00-5.30 and two Saturdays a month. The new roster expected me to work between 9.00-6.00 and 9.00-7.00 as well as on Friday pm up to 8.30. (Travis, Retail Worker)

The new roster made life very difficult for Travis. After 15 years working on the floor in a customer service position in retail he said his legs 'were very sore and I find it difficult to walk for any distance'. Previously his roster had suited him because

after he got a train from work he was able to connect with a bus that went fairly near his home. However, the new roster with later finishing times meant that there was no connecting bus and that 'I would have to walk four kilometres to my home and this simply wasn't possible.' While he wasn't a union member he knew his conditions were covered by an enterprise agreement that provided that any roster or shift changes had to be negotiated and mutually agreed by the employer and employee.

When I initially refused the rostered hours the merchandise manager said to me, 'This is not about you but about the business,' and she presented no alternative to me. I was called into the office and they tried to force me to sign the agreement. The manager said to me, 'If you don't sign it, it will happen anyway and if you don't sign it you'll be terminated.' (Travis, Retail Worker)

MARIA'S EXPERIENCE

Maria is a 45+-year-old woman who was born in South America. She is a childcare worker who has worked in the same local government childcare centre for 15 years. Three years ago she had a work-related overuse injury and after she recovered she eventually negotiated a reduction in her hours to part-time. She had been working for the last year on a regular part-time basis 28 hours a week, when she was advised by the centre coordinator that her hours were going to be rescheduled. The change in hours would mean that Maria had to start work earlier four days a week and would lose a 20 minute paid break. This is especially upsetting for Maria as it took her a long time to negotiate a reduction in her hours after her injury to allow her to undertake physiotherapy and exercise four mornings a week.

'...just like three weeks ago, they told me that they want to change my hours and...I can't believe it, that they change my hours...I find that really not fair what they wanted to do...because...to overcome this injury that I have, I have to start to do a lot of physical exercises with weights and like gradually started with a little bit of weight and then to actually build my upper body and sort of be strong and so in order to do that I had to just do this [exercise]. ...to be in this field I actually need to be fit, you really need to be fit otherwise you do your back, your shoulders...It's [a] very, very active job that you have to do...Now they want me to change the hours.'

Under the union enterprise agreement that covers Maria's workplace, any change in rostering needs to be mutually agreed. However, Maria feels under considerable pressure from her coordinator. While she is a union member, the lack of access the relevant union has to the work site and the change in climate under the WorkChoices changes makes it practically difficult for Maria to hold out against the rostering changes.

Some employees like Simon, who was already working 55 hours a week when he was dismissed for refusing to sign a contract for a longer working week, had too many hours. However, a more common problem for interviewees was too few hours. Lynette and Adriana faced the loss of hours in their jobs as did Maryanne and Malcolm. When Maryanne first returned to the contract cleaning job where she worked on call, she only got a maximum of 15 hours a week. Her income was not possible to live on so she applied for a part payment of Newstart Allowance. In addition, the scheduling of these hours over five days meant that she incurred additional time and petrol expenses making the 90 kilometre round trip to her cleaning job.

In his late 50s, Malcolm lives in a regional city and works in three part-time cleaning jobs for three different contract cleaning companies. Each job is for two hours a day, two of them five days a week and the other seven days a week. Malcolm had to leave one of his jobs because of changes to his work arrangements, which made it impossible for him to continue his employment. Malcolm's employer appears to have used the introduction of WorkChoices as an excuse to make illegal changes to pay rates, telling Malcolm that he was no longer paying penalty rates for the night-time cleaning job. Malcolm thought he was covered by the award so he questioned his employer about this. His employer responded by telling Malcolm he would have to undertake the work earlier in the day, at a time when penalty rates would not have applied anyway. Malcolm has had to resign from this job because he is unable to do it earlier in the day as it clashes with his other employment.

Leave provisions & arrangements:

As with working time arrangements the basis, amount and flexibility in leave arrangements are central to the organisation and remuneration of paid work. In Liz's case her employer simply stopped paying the holiday loading to which she was entitled under the award under which she was paid. It would appear that her employer had erroneously assumed that the leave loading was no longer payable after WorkChoices.

Liz discovered after her annual leave in early 2007 that she was not paid the 17¹/₂ percent holiday pay loading that she had been previously paid:

I just had a couple of weeks and then discovered I didn't get my 17¹/₂ percent loading and I didn't realise that they could just stop paying it without going on an agreement... (Liz, Retail Worker)

Liz sought advice from what she described as the 'government WorkChoices line' and established that she was still entitled to the annual leave loading. However, because of her employer's reaction after raising the minimum wage increase and her need to keep her job, she felt could not pursue this issue of the leave loading with her employer :

[But] Basically I should be able to say 'you didn't pay it'. [But] I just don't think I've got the energy to be fighting, well not fighting, but bringing it up with her, it's like just so unpleasant...I talked to my husband about it, [but] I really do enjoy [my job]...I like the other guy that I work with a lot, I don't mind the work, it's quite easy and I love the hours. I love the Thursday, Friday, Saturday, Sunday off for the quality of life. And I sort of just decided you know I would put up with it and because of that...I have to resign myself to the fact that you know I won't bring up every little thing...I do feel it goes against my grain but...I would never be a shit stirrer or anything like that. You know I'm just not that sort of person but...I hate to see people not treated right and you know sometimes I feel a bit hurt because I don't know whether she is doing it just to me out of spite... (Liz, Retail Worker)

Other conditions:

In Christine's workplace, that of a church-based aged care provider, new employees are in the process of being placed on common law contracts. Christine's employer has said that conditions that were included in the now-expired enterprise agreement will eventually be included in workplace policies. Christine is doubtful about this as her employer has also indicated they would like to drop some conditions. For example employees have been advised they will no longer be paid an annual leave loading, although this has now been reinstated after workers sought legal advice, and new employees are being placed on six-month probationary periods instead of the three months used previously.

Several interviewees spoke of their workplace climate after WorkChoices being such that workers were fearful of asking for things they may have been entitled to. Maria reported that in her workplace people were too scared to take sick leave, particularly after the centre coordinator had told the staff that the centre was losing money because of competition from a large private childcare provider:

...so everyone got the message like when she was talking about that, that in the future maybe, you might not have a job... (Maria, Childcare Worker)

Accommodation of needs of particular groups:

Seven interviewees indicated that they had a disability or some sort of impairment. Twelve interviewees had dependent children while six had caring responsibilities for older dependents. Not all had raised their issues in the workplace or felt that they impacted in any way on the work they did.

While the WorkChoices changes do not directly address the need to accommodate workers with a disability/impairment or those with family responsibilities, the flow-on effect of the lack of protection against unfair dismissal and lack of access to remedies effectively sanctioned by WorkChoices can fall heavily on these groups of workers. For example, as outlined above, the unilateral rostering changes that both Travis and Maria faced failed to accommodate their work-related impairments; in Maria's case her overuse injury and in Travis's case his limits on walking after 15 years standing in a retail position.

One of the interviewees, Tess, who has a hearing impairment, works as a community support worker. She says that some attempts were made to accommodate her disability by the agency that employs her when she started her job over two years ago. She was given additional time to undertake visits to the families she supports and efforts were made to secure Auslan interpreter services for key staff meetings. However in her view, this has changed since the introduction of WorkChoices.

I have had less access to services to support me do my work because of the costs, they are much more focused on the outgoings and very much focusing on the bottom line. Those changes were supposed to improve productivity. But my experience is that the changes have disadvantaged me and that my employer is less likely to provide support. I am still having to argue my case on a daily basis to have access to things that others have in order to be able to make my job possible. (Tess, Community Services Worker)

Tess feels that WorkChoices has given management more power to pick and choose how to resource staff. Tess says, 'It weighs me down.' She either needs more time with each family or she needs access to an interpreter. Her employer is prepared to provide her with neither.

After returning from maternity leave Deanna had an agreement with her employer to work part-time so she had some time to care for her two young children. However, she was continually asked to come in on days when she not scheduled to work. Deanna thinks the fact that she would not come to work on her non-work days may have led to her being dismissed although she was given no reason.

SIMON'S EXPERIENCE

Simon and his wife Chloe have two young children, including a very young baby. Up until Christmas the restaurant that employed Simon was very busy and he was working very long hours, leaving home between 7.00 and 7.30 in the morning and not returning until after midnight five days a week. Since Christmas Simon had been able to reduce his hours back to about 55 hours a week.

When his employer asked him to sign a new contract that required him to work more hours for the same weekly pay, Simon said he couldn't see the point of working longer hours when there was no demand and he said he was concerned about having no time to see his family during the week. His employer told him he didn't care about Simon's family and Simon was subsequently dismissed. Simon's wife Chloe said the experience had been very stressful for both of them. She believed Simon had been 'disposed of because he had a family and was not prepared to work ridiculous hours for no gain'. Chloe also said:

'I just feel like we have been pushed aside as a whole family, you know, it's not just Simon, there is a network of people behind Simon that support him and love him and our little family unit, you know helps push him through and gave him the support that was needed when he was doing huge hours at the restaurant and none of that is just taken into consideration at all, we are a disposable resource and that's exactly how I feel. That you know, there's always someone there that will slide right in there and fit in and do...you know, it's almost as if your job is now out for tender, whoever will do the most amount of work for the least amount of pay.'

3.1.3 Work Processes

The intensification of work and changes in supervision arrangements were identified by a number of interviewees as occurring as a direct consequence of changes experienced under WorkChoices.

Work intensification:

In several workplaces work intensification occurred as a result of short staffing and in others as the result of reduced hours. While such issues have been becoming increasingly common in Australian workplaces over the last decade, in the case of several interviewees they were linked with WorkChoices. In Christine's workplace employees' dissatisfaction with their treatment over contract negotiations following their employer's reversal of a commitment to negotiate a union-based collective agreement when their enterprise agreement expired was contributing to a high turnover. This meant the remaining workers were carrying additional client caseloads.

Mary experienced significant work intensification in her aged care work as a result of having her working hours halved:

Interviewer: Does it change your workload? If you're working...

Mary: *Oh definitely, oh my goodness.*

Interviewer: How is it changed?

Mary: *Well you're still almost expected to do the same amount of work in, you know, more than, less than half the time, yes so, yes you do go home quite exhausted.*

Interviewer: Can you keep doing that?

Mary: *Oh, probably not, no. I mean I thought, you know as my daughter said to me when it first happened. She said, 'Oh well mum, if you can get boosted up with the pension,' she said, 'it's about time you were working less,' you know three hours a day and when I sort of thought about it, and found out that I could get boosted up, oh yes, I feel like a bit of a lady of leisure...the workload...you are running the whole time and of course in three hours you know it's not that you expect it but you don't stop for five minutes... you're lucky if you can have a cup of coffee while you're working...the workload is, yeah quite a lot heavier.*
(Mary, Aged Care Worker)

Nature of supervision:

A number of interviewees raised the impact of WorkChoices, particularly the lack of unfair dismissal protection in workplaces with fewer than 101 employees, on supervision and line management. In Lilly's case, she was frustrated that her supervisor would not intervene to defuse an ongoing dispute she had with another staff member, who she feels is not pulling her weight but who complains about Lilly. Lilly feels that because there are no longer any unfair dismissal provisions for 'small workers' like her, managers can do what they please. Lilly feels that her supervisor is just waiting for her to resign. When she spoke recently to the manager about what was happening, she was told if she didn't like it she could leave.

...because we don't have a say the manager says 'well, if you are not happy, the door is open to you' and that's it. The others don't like to say anything, they are not like me, they are scared to say anything...
(Lilly, Aged Care Worker)

Maggie felt she was being intimidated and even bullied by another worker and she asked her manager several times to address the problem. He promised he would 'sort it out' but did nothing until eventually he responded to Maggie's requests by telling her she would have to leave her job. He told Maggie she could stay until she found other work. But a week later he dismissed her on the spot for telling one of her colleagues about what had happened.

3.1.4 Access to Unions

The rights of unions to enter workplaces are significantly narrowed under WorkChoices. There are more stringent requirements for officials who wish to get permission to enter the workplace, while the procedures they must follow when entering workplaces have also been tightened up (Stewart 2006). In workplaces where there are union members with issues such as Grazia and Maria, union officials do have some limited rights of entry. However, what their experience suggests is that in practice union officials cannot come onto the worksite without written permission. This not only limits the effective access individual union members have to union representation, but also limits the information flow about employment rights and entitlements and the capacity of unions and union members to bargain collectively.

Seven of our interviewees are or have been union members, while others reported there was a union presence in their workplace. As set out below, Grazia believes that WorkChoices restrictions on union right of entry in her workplace led to delays in both reaching agreement about the restrictions on her duties following a workplace injury and in her ultimate recovery.

**GRAZIA'S
EXPERIENCE**

Grazia, who is in her late 40s, was born in South America. She works as a technical cleaner in a hospital on a fulltime basis. Her job is to clean the instruments and instrumentation that are used in clinics and operating suites. She feels that little attempt was made to accommodate the limits placed on her work after a workplace accident, which in turn led to a delay in her recovery. Grazia was constantly pressed to take on duties and a workload, both of which were inconsistent with the restrictions placed on her work by her doctor. In Grazia's view the hospital's management of her workplace injury was due to the WorkChoices changes and specifically to the limits placed on the Union in trying to help her with a lengthy dispute with her manager about the restrictions on her duties.

'After my injury I call the union, I actually went down with the paper in October. Well I tried but they say, "Yes, yes, we call the union," but it never happened. The meeting that I want, yeah, yeah, I want union representation. But the meeting never happened.

I don't think if this law was [not] in place they will be [able to] get away with this. The hospital didn't do anything, like sit back and say, "Okay, apology," and that's it. Even the union, they not allowed to go, they don't have like permission to go. They have to have permission to go [in]. If I needed the union anytime I need to have permission...They have to have permission to come. Before they used to, we had a problem, we're in the union and they will be there, but not now, that has changed.'

Interviewer: And so if the union had been able to be there straight away, how do you think that would have helped?

'Well one thing is because they know the law. If I have any [problems], if [the hospital] is going to try to intimidate me or something...'

For Maria, the WorkChoices changes that restrict union entry led to a loss of any union presence in the childcare centre where she worked. This placed limits both on available information and support, as well as raising concerns among staff about being active members of a union:

...staff [were] aware of all those things and yeah, it has changed. You feel like you're more vulnerable like you don't have...that support that we used to feel that we had with the union...I went to the rally, you know the rally that happened last year, they wouldn't allow anyone to go...prior to that, the first one, everyone went but [then] everyone got scared...you had to apply for and they can say no. I went because it wasn't my hours like you know, in the morning so I was able to go with this, another person...she applied for annual leave, and then we sort of represented the centre but everyone was, 'Oh, you know no we can't.' I try and they say no...the second in charge now...she used to be sort of involved...and I said are you coming now, and she go, 'No, no,' that, I would be in trouble, that would be a clash of interest or something like that.

But [the union organiser] used to come...[but] she hasn't been here for, in our centre for a while... Before that she was able to ring us and but since like oh my God everyone is no, scared like, you're not allowed have like sort of contact...(Maria, Childcare Worker)

3.1.5 Shift in Workplace Climate

Many of the interviewees experienced an increased sense of job insecurity associated with the implementation of WorkChoices as outlined above. This experience both reflected and contributed to shifts in the workplace climate.

In this section, we illustrate several examples of this change in climate, with the increased capacity of employers to unilaterally change the conditions of employment under WorkChoices and the increased exercise of employer or managerial discretion and, in some instances, an increase in the abuse and poor treatment of employees. These changes have significant ripple effects in the workplace and beyond as outlined in section 4.2.

Increased exercise of managerial prerogative:

It is clear from the analysis so far that WorkChoices gives employers unprecedented power to change employment conditions. Given the lack of protection against unfair dismissal, the extent to which employers make use of this power depends on the calculations and choices they make. In some cases, WorkChoices appears to legitimate poorer treatment

of employees and can leave individual employees feeling more vulnerable and less secure, even those who are union members such as Grazia.

Grazia: *Another thing that I find, yeah, the lack of respect, that's a big thing.*

Interviewer: *And do you think that that's changed or do you think that that's just part of the workforce changing? The lack of respect. Do you think it's due to WorkChoices?*

Grazia: *Yes, because we never used to have this before...When I started...yeah it was more consultation, more communication, you have a say. Things were calm, if there is any changes we can have a meeting. Now we have a meeting but [are told] this is the way it's going to be...not much discussion, this is how it's going to be. So not many people, like I said, will say anything. They scared, I think there is some intimidation tactics, saying, well if things are not done correctly there will be some verbal warnings. Things like that. Intimidation. So some people too scared to say anything...they want to pay the mortgage so they very scared to say anything. Yeah, I really think things have changed. And our agreement is until 2009. So after that we don't know what's going to happen. (Grazia, Cleaner)*

While the changes do not sanction intimidation, they create a climate in which some employers feel empowered to pressure staff and change working considerations unilaterally, even where, such as in the cases of Travis and Maria outlined above, these changes are in breach of the relevant industrial instrument. In Liz's case, while her employer could have used an AWA to remove the 17¹/₂ percent annual leave loading Liz was entitled to under the award; her employer didn't feel she needed to bother, reflecting a total disregard even for the current meagre regulatory minima. As outlined earlier, Liz reported that she was too scared to raise the fact that her employer had just stopped paying the 17¹/₂ percent holiday loading she was entitled to under the award because she felt sure she would be sacked. She based this fear on her employer's reaction when she had asked if she was entitled to the minimum wage increase the previous year and the fact that she had few alternative job options in the small country town where she lived. In this way the advent of WorkChoices, underpinned by substantial confusion and ignorance on the part of employers about existing rights to certain rates of pay and conditions, as well as confusion and fear on the part of employees, has normalised breaches of employment regulation.

The sense of insecurity experience by Liz was also very real for Annette, a 55-year-old aged care worker who raised concerns she had about the operation of new smoking regulations and about the nursing home's future in a staff meeting:

I had an occasion at work after a staff meeting where I [had] raised issues about the company's smoking policy and other issues were raised in the meeting and comments I made and I got to work and there was a letter in my pigeon hole telling me to attend a meeting, that it was a first warning and I was out, on the issues that were raised at the meeting. Which I was very surprised at and the method that it was done and not being handed to me personally but in my pigeon hole. And so I then was told at the meeting that I had to present a case as to why I shouldn't be dismissed and I wasn't allowed to speak to any staff members. If I did then I would be sacked immediately. (Annette, Aged Care Worker)

Some changes experienced by interviewees applied to all or most of the workers in a particular workplace, such as the rostering changes outlined previously by Travis and the AWAs introduced by Jodie's employer. In many cases however employers dealt with interviewees on an individual basis which had the effect of disempowering them and sometimes of creating disharmony between co-workers. For example, Christine described the process of consultation and negotiation on new contracts in her workplace as one of 'divide and conquer'.

Abuse and poor treatment:

A number of interviewees raised what they saw as increased abuse and intimidation by their employers, following the introduction of WorkChoices. Maryanne described a meeting where her employer had called all the petrol station employees together to a meeting after the WorkChoices changes came in at the end of March 2006.

The boss was relatively abusive, but when the legislation came in he got more so. In fact in March when the changes were announced he called us [the service station employees] together and held a meeting to tell us about the changes. And, thinking he was very funny, he told us he could sack us for farting. We didn't laugh...Since I left some of the others have also left because they're getting abused and yelled at. I find it interesting that they're all older women in their forties. (Maryanne, former Retail Worker)

3.2 Action Taken in Response to Change

In this section we describe briefly the action taken by interviewees in response to the changes that had occurred. What is clear from these experiences is that taking action in response to changes in employment rests almost entirely with the individual.

3.2.1 Attempts to Negotiate

In almost all instances the workers interviewed had attempted to negotiate or protest the changes that had taken place. The majority had done this alone or with help from a family member or a friend. While seven interviewees were union members, others had used advocacy or complaint handling agencies for advice and support. The extent to which they were successful or not varied widely.

In a number of cases, interviewees were able to take strategic action to avoid the direct impact of WorkChoices changes.

Annette, a 55-year-old aged care industry worker who was threatened with dismissal after raising concerns in a staff meeting got advice from Job Watch. She was advised to take a friend to a meeting with senior management and to avoid confusing the way she felt with the issues in dispute. She reported that following this advice she remained calm in the meeting and pointed out to management that there was no evidence at all that she had discussed her concerns with clients as it was asserted she had. In the end Annette managed to keep her job.

After AWAs were introduced into Jodie's workplace with no negotiation, Jodie contacted Job Watch and also contacted the relevant union. After national publicity, the company decided not to pursue the introduction of the AWAs. However, Jodie was penalised with a cut in her hours and has had to seek other work to compensate for her reduced income:

I wanted to leave but you know what, for me it's the principle as well, it's sort of like I've been there for six years and basically it's up to me when I want to leave, not when they tell me to leave which is why I fought it even more. I mean I had to go out and get another job, but I'm still hanging in there. (Jodie, Retail Worker)

TRAVIS'S EXPERIENCE

Travis is a retail worker in his mid-40s. As a result of long periods standing in his position on the shop floor, Travis had developed problems with his legs that limited walking for any distance. A new roster, which was unilaterally introduced into his workplace, meant he would miss the connection with his bus on the trip home. After he had unsuccessfully attempted to negotiate the introduction of the roster changes with both his area manager and the company's human resources (HR) staff, he contacted Job Watch, a not for profit employment rights service that provides information and referral for Victorian workers. Travis was advised that he should either contact the Human Rights Commission or DEAC Inc, a not for profit association that provides, among other things, legal and advocacy services to people with a disability. He contacted DEAC and they agreed to write a letter to his management.

'...it was a fairly legalistic letter. I contacted them and they played telephone tag, and they had considerable difficulty getting onto the human resource management...During this time things were very unpleasant at work and my manager refused to speak to me...However, after the letter, a meeting was called with store management and I was given the rostering hours that I wanted. After the letter was seen by the HR Headquarters, they changed the roster so I could finish at 5.30 so I could get my bus.'

However, while the rostering changes applied to all staff in Travis's area, his success with re-negotiating his roster changes was an individual one. Travis said other colleagues were not nearly as 'lucky' as he was. Some people who had childcare arrangements and one colleague of his who liked to go to church on Sundays and for many years had not worked on Sundays were forced to adjust to the new rostering arrangements. Travis said at this time there was very low morale and a number of staff had resigned. Even the team leader in his area had not been able to negotiate a roster in order to meet her own family obligations.

After their employment was terminated, three interviewees, (Kylie, Maryanne and Annie) contacted the Office of Workplace Services to pursue underpayments of their wages and penalty rates. At the date of interview only Maryanne had received the underpayment. Another interviewee, Deanna, also got a small amount of pay owed to her after calling Job Watch and being advised to contact the Office of Workplace Services to get the necessary forms.

Maryanne felt very pleased to recover the underpayment of her wages, despite the work it took her to pursue it:

I went to a great amount of trouble with WorkChoices to let them know what [former employer] was paying me and I ended up getting \$2,500 in back pay. That was worth doing, but I know for a fact now that most younger kids and people that work in service stations wouldn't have the nouse to go. Like it took me nine hours to figure it all out. I'm not an accountant, but yeah. And it was settled straight up, they didn't even go to mediation or anything, they just signed the cheque, so I hope he was crying while he did that. As I said, it took me a lot of hours to figure it out and if I didn't, if I hadn't of keep such a good diary I wouldn't have been able to do it...I still think it's wrong that all these companies will try it on until somebody goes to this amount of effort. (Maryanne, former Retail Worker)

However, attempts to negotiate the changes were often unsuccessful. At the time of interview, Maria was still unsure if the rostering changes that her manager threatened to introduce could be renegotiated. Even where workers only sought some explanation for what had happened to them, such as being provided with a reason for dismissal without warning, they were not always successful. Mary received no response from her employer to her written request to discuss changes to her employment that saw her permanent part-time hours cut in half without consultation. James, who queried his employment conditions, eventually managed to get his employer to give him one page of the collective agreement, despite making numerous requests to see a copy of the whole document.

**KYLIE'S
EXPERIENCE**

Kylie, a 15-year-old, was dismissed via a phone call after working for eight months in a small delicatessen/ café. Her mother, Meredith, phoned the owner to seek a reason for Kylie's dismissal. When asked if the owner gave her a reason, Meredith responded:

'No not really, not, she just said she wasn't up to the standard and I sort of asked wasn't there, shouldn't there have been some sort of lead up to it, a warning of some sort and at that point she put me onto her husband. She's sort of a very timid person and I think she found me a bit too aggressive for her because I was a bit upset, but I certainly wasn't aggressive but she thought I was. So I went up and spoke to him and I said, "Well, you know, won't you sort of reconsider giving Kylie a fair opportunity...if she's already up to the standard of the chocolate making part?" They were full of praise of how good she was, couldn't fault her chocolate making, which you would imagine would be a lot harder still than serving drinks and things, you know. And I sort of asked, "Wouldn't you be better taking her from the standard she is and trying to raise her up rather than hire someone who you're going to have to start all over with?" But there was just no agreement with that, it was just, "That's it." It's over and basically no further discussions would be entered into.'

Christine believed some of her colleagues were signing individual contracts because they had finally succumbed to pressure placed on them by their employer after a process that had gone on for over 12 months. Initially the employer was negotiating a new union collective agreement, but then pulled out of these negotiations. Over several months, Christine and other employees of the agency, who are located across the metropolitan area and in country Victoria, made many attempts to get a satisfactory consultation process in place without much success:

And so after that...very little information came out. The working party ended up changing their name from the EBA party to the...I think she kept calling it the EBA party actually but, actually they were gonna move to individual contracts. We were trying to rally everyone to be able to vote on what they wanted. [But we] couldn't get a majority together. They were not even giving us an opportunity to get everybody together... it just never worked, it just simply never worked...No, we tried, and we tried via email to get everybody collectively...and we gave it the old college try as it were, but it just wasn't ever gonna work. (Christine, Aged Care Worker)

Some, like James, had always relied on knowing there were award conditions and that they would be paid accordingly. James had never thought he would need advice or representation by a union.

No, I mean hospitality as far as I know, you're never really in a union. I've worked in hospitality for, since I was about 22 or 23, I'm (in my 30s) now. Throughout studies, you just get a job and do the job you know, it's never really well paid but you always usually get the award rate and that sort of thing and award conditions...there's never been any sort of awareness or there's never been any organisation that's contacted me or any member of an organisation that worked in any places that I've ever worked. It's that type of industry where [its] just not happening'. (James, Hospitality Worker)

3.2.2 Remedies & Effectiveness

There were limited remedies for many of the 30 interviewees. In respect of unfair dismissal, most of those who had lost their jobs were aware that they were not entitled to pursue any claim for harsh, unreasonable or unfair termination. Far fewer were aware about any remedies they might have for unlawful termination or discriminatory treatment. While some complaint-handling agencies such as Job Watch in effect provided a 'one stop shop', providing information about correct entitlements as well as advice and support, many of the interviewees found the process of finding out what their entitlements were and the action they could take extremely confusing.

Lack of legal remedies:

If an employee is dismissed in a workplace with 100 employees or fewer there is no remedy, unless the facts of the case allow that person to pursue the termination as a discrimination matter under the unlawful termination provisions of the *Workplace Relations Act 1996* (Cth) or in a complaint to a human rights body under equal opportunity legislation. Those interviewees who came into that category seemed to have scant knowledge about these options as possible avenues of redress.

After Simon's dismissal, his wife Chloe rang a number of different advisory services. She believed Simon had been dismissed in part because he had cited family responsibilities for not wanting to work more hours and she was advised he could pursue an unlawful termination. She found the process very confusing and felt she was getting contradictory advice. Once she received the paperwork she was even less confident about successfully pursuing the issue:

The whole process has been very confusing. I mean when we received the papers in the mail to just lodge the unlawful dismissal, we also, there was a fee attached to it so we would have to pay a fee to actually lodge, just lodge the paperwork and this thing was huge, it was a book to read and to go through and fill out and without some legal advice, I don't know how I would have done that by myself.

Interviewer: It wasn't straightforward?

No, it's not at all so. They're basically, I think they're counting on people just giving up, saying this is too hard, which is exactly what we've done. (Chloe, married to Simon, Hospitality Worker)

When Adriana's employer changed her fulltime job to part-time, she resigned and sought advice. However, she found she had no access to a remedy due to her employer having 100 or fewer employees. By the time she realised that she may have lost her job due to discrimination on the basis of her pregnancy she was no longer interested in seeking a remedy, in part because she felt there was little likelihood of any success in a system she felt was not set up to help employees.

After the first time (seeking help), I don't think its really set up to help the worker you know. What would I get out of it? Just a lot of stress. It seems like its too easy for him. You know he knows I don't know the laws. (Adriana, Retail Worker)

While as noted above the Office of Workplace Services can assist employees recover underpayments, relatively few interviewees were aware of this. Further, a number of those we interviewed had no idea of what their wages should be or the penalties to which they were entitled. To pursue the underpayment of wages, employees first need to know they are being underpaid and then have the persistence and knowledge to follow this up as did Maryanne or the good luck to contact one of community agencies that may suggest individuals contact the Office of Workplace Services. However, for several interviewees, being able to pursue underpayments was little consolation for the changes that had occurred to them.

For example, in Annie's case, when she was dismissed for querying her wages, even though she can now pursue an underpayment, she has still lost her job.

Advice and support agencies:

Interviewees indicated they had sought assistance from a number of advice and support agencies as well as legal services. While most were pleased that there was somewhere they could get information, several of our interviewees found the advice they got from the various information services confusing, and at times conflicting. For example, by the time she spoke to us, Lynette believed she could not seek a remedy to an unfair dismissal because her employer had fewer than 101 employees. However, prior to being advised of this by Job Watch she had sought advice from several other sources.

I did ring a few places, I went to, I had an appointment with Legal Aid and they weren't very helpful towards me. They said if you are still working then they would have been able to help me but because I left it was very hard for them to help me. I said 'what do you mean, do I have to start work as a slave?'...I just found that a little bit hard to take and also I did ring a place in Canberra and I spoke to this person and he told me that I did have a case for constructive dismissal. But I just didn't know how to go about it and that's why I went to Legal Aid and Legal Aid just told me, gave me some names of some lawyers that take cases on a basis of a win/win base, you know no win, no pay type of thing, that was the only thing available to me. (Lynette, Retail Worker)

In the experiences of several of our interviewees who had contacted the WorkChoices information line or Wagenet, the only information provided was about award entitlements, rather than advice about what to do if these entitlements were not being provided. For example, Liz's experience when she rang to check if she was entitled to the 17½ percent annual leave loading:

Well I rang up the WorkChoices infoline or you know looked up Wagenet or whatever it is on the computer now. I would ring them about each thing because I wanted to have all my facts straight. Before I actually confronted her (the employer) with them you know that I knew it was true like, I couldn't just say that I thought that or I wanted to make sure that it was true before I actually broached it with her.

Interviewer: ...did they give you any advice about what you should do?

Well, not really. No. They can't really tell you, they don't really tell you what to do. They sort of can't really give you any like direct advice. (Liz, Retail Worker)

4 Effects of Change

In this section we outline the direct and indirect effects of WorkChoices on the interviewees themselves, as well as the broader ripple effects of these changes on families, workplaces and communities. As set out in earlier sections, these changes relate both to the legislative changes introduced by WorkChoices, as well as to how these changes have been understood and operationalised by employers. Most important in shaping both employer attitudes and behaviour has been the shift to individualising employment relations, which flows from the structure and interaction of the WorkChoices changes (Sheldon & Junor 2006: 169). The lack of practically available remedies for employees, together with the climate altering impact of WorkChoices, means that the changes have an effect beyond the limits of individual legislative provisions - most importantly in the application and experience of increased managerial prerogative.

4.1 Effects of Change on Workers

The impact of change such as losing a job, particularly without warning, is profound, as reflected in Annie's comments:

I was quite shocked because it's the ramifications of your whole life that's been affected. It's not just that suddenly you're unemployed; it's the commitments that you have financially too that your employer provides you with the income to actually pay for your life outside of the job so to speak. It's not that I'm defined by the work I do but the work that I do provides me with my life outside of work. (Annie, Retail Worker)

4.1.1 Financial Impact

Almost all the interviewees were dependent on their paid employment as their only or main source of income. The loss of a job was financially devastating for some, especially those who do not have many financial resources to back them up, including young women like Emily and Kate.

Well, because when I claimed Centrelink again, the way my life had been was before, you know, a couple of weeks earlier I'd had everything. I'd had a house I absolutely loved. I'd had enough money to pay my bills, to put food in my stomach. When I first lost my job I was living off hot chips because this take away place in Frankston did like the best deal. They had like a dollar for a bucket of chips...With that I could feed myself [for] a whole week on ten bucks! (Emily, Hospitality Worker)

After her employment was terminated, Kate was left with a mobile phone contract, which her employer had encouraged her to take on so she was contactable at short notice to work additional shifts. Her loss of income and capacity to meet her financial commitments led to strained relationships with family and friends.

And speaking of relationships, you know, I'm on tight strains with a lot of my friends, with my family members, because I owe them money, you know. And borrowing, and can I pay you back here, you know, 'Oh don't worry, I'll get this one,' but you can't get the next one. I've lost contact with my friends. I can't use my phone as much, because I can't afford it. It's hard. (Kate, Hospitality Worker)

While a few interviewees had another source of income, this was often a government benefit or pension. Most interviewees were on low incomes and heavily reliant on their earnings from employment to get by.

**JAMES'S
EXPERIENCE**

James, a 30-year-old hospitality worker, lived on a combination of Austudy payments and earnings from his part-time work and he found it very difficult to get by when his shifts were cancelled for a few weeks:

'Well yeah, especially amongst certain times of, you know, being busy, not having the money to pay the bills basically and I just got into such a dire situation with bills that you know things went, you know, way, way into the red and I was just living on very, very skimped rations.'

Interviewer: So you needed the money you were earning to live on?

'Yeah and even then you know, it's not a lot of money to pay rent and food and the bills and so it was really, really difficult. I had to borrow money from family members to sort of get by for a period of time.'

Mary, in her 60s, lost half her income when her hours were cut but she thought she would be able to manage by supplementing her pay with a part Age Pension:

...I'm probably, oh, \$80-\$90 a fortnight worse off. Which is okay, I mean, I don't get a lot of money, so you know that makes a lot of difference, but I could probably live with it. As I said I've only got about one or two payments of my mortgage, once I pay that off, that will make things a lot easier too...But you know anyone that had a large mortgage or whatever or really...I mean I rely on it, that money, of course to live on and I don't want to. (Mary, Aged Care Worker)

4.1.2 Fear & Uncertainty

The experience of change following the introduction of WorkChoices led many of the interviewees to worry about what other changes might occur in the future. Even those who were union members and had enterprise agreements negotiated by unions underpinning their wages and conditions, expressed concern about the long term effect of WorkChoices. Maria had already seen rostering changes forced through in the library that was also part of her local government workplace, despite the enterprise bargaining agreement:

They changed their hours and they just like that and they weren't, staff weren't happy at all with the change of hours and they were trying to, you know, to compromise...I can't remember what it is, anyway, like even just one example of 38 hours, they had to work 42 hours...so they weren't happy...It happened to them like I'm thinking so everyone in the childcare centre...I was thinking, oh my God, you know what would happen to us, when our enterprise agreements finish...like everyone is saying once this finished, we are in limbo, like what are we going to do, like they can do anything with us...(Maria, Childcare Worker)

Many interviewees who lost their jobs through dismissal felt uncertain and fearful both about what had occurred and about what might happen in the future. Jan's experience illustrates this well.

**JAN'S
EXPERIENCE**

Jan is a 50-year-old retail worker who had been dismissed. She worried about whether she should have spoken up in her workplace and she felt distrustful and scared in her new job:

'You know and no sleep, I would wake up at night and you worry about it. You stew over and over and over and over again. What if I had done something different but I thought, no! I was within my rights to do what I did. But then I was feeling like I wasn't, you know maybe I shouldn't have opened my mouth. Maybe I should have just put up and shut up. Plus the fact that I am always looking over my shoulder now. I don't trust anybody anymore.'

Interviewer: Oh, that's not good.

'No it's a horrible feeling. Even with, you know my new employers keep saying, "We are okay, we are not going to, you are here with us forever," you are not, I just have this horrible feeling that I am being watched and whatever I say, you know.'

Jan felt like this even though she liked and respected her new employers:

'Oh yeah, you want to work for them, you want to earn money for them. You just, you don't have this going home and hating it, you just really want to do something for them.'

4.1.3 Loss of Self-Esteem

All the interviewees were asked about what they liked about their work. Most were extremely proud of what they did, and so losing a job or having hours changed was extremely stressful. A number of workers described a classic grieving process of shock, anger and sadness after being dismissed.

Oh I felt like a criminal. And the paperwork I was given, which I obviously tried to read, but I was so bewildered and shocked I couldn't make head nor tail out of it...I feel incredibly angry sometimes, I feel incredibly hurt and very, very bitter. But the worst thing for me is the injustice of it because the reason I was such a good support worker and advocacy was always my greatest skill was because I'm really really sensitive about injustice and this actually happened to me and I can't quite believe it. Do you know what I mean? (Stephanie, Community Services Worker)

...I felt like a thief. I felt like I had done something really, really wrong. ...I didn't really want to go out and talk to people...I felt like a bit of a loser. (Jan, Retail Worker)

4.1.4 Internalising New Workplace Norms

While most interviewees expressed anger and indignation about negative changes in their workplaces, others were not surprised by reductions in their conditions or by their employers' poor practice or bad behaviour and accepted that this was 'just the way things are'.

For those who had experienced exploitation and poor employment practices in low paid jobs, the negative changes they experienced under WorkChoices served to highlight their powerlessness in their employment relationship and their limited employment options. For example, Malcolm was frustrated that he was going to lose a part-time job he had held for two years as a result of his employer no longer being prepared to pay penalty rates. But he accepted his employer's treatment of him as typical of employers in the industry in his region and as something he just had to put up with. He also accepted that another of his employers did not pay superannuation contributions for any of his employees, many of whom earned more than the required \$450 a month, and that this may be typical for cleaners in the region.

Anyway with him, we don't get, I don't think he even pays super this particular fellow, that's fairly common in this (area), a local employer, this one at the _____, it's fairly common round here that they don't pay superannuation to the cleaners. (Malcolm, Cleaner)

Malcolm was also resigned to the fact that he was not going to get reimbursed by his employer for the \$180 he had paid for bathroom supplies for one of the sites he cleaned.

...they've always been pretty tight with their money, they do owe me a lot of money because I've had to buy, not, well a couple of times I've had to buy gear for them because they were a bit slow bringing down stuff you know. This is mainly soap or toilet rolls and stuff like that and there's a couple of bills there of \$90, you know there's never, they said they were going to pay it but they never do...(Malcolm, Cleaner)

4.1.5 Impact on Job Satisfaction

Many interviewees described how important their work was to them and how much they enjoyed work. Changes they had experienced invariably had negative impacts on their enjoyment of their work. A recurring theme in the interviews was a strong sense of betrayal and disappointment about changes interviewees' employers had made or the way the changes had been implemented following the introduction of WorkChoices. Interviewees, such as Maria, spoke of reduced job satisfaction, as well as reduced loyalty to their employer.

I really genuinely love the children, I do, I do and I miss them...even though sometimes I feel really I'm thinking, oh this is so hard. But you know, the next day you sort of recover and then you're sort of full of energy again...so you have to be emotionally, actually like you know, helping them and trying to give [them] some words, try this you know, resolve conflicts and do this...plus the physical part...you have to run with them, jump with them, dance with them and all those things that we have to do. I love that...yeah I do actually because I don't think I would be there after 15 years if I wouldn't like children services. But most of the people do like seven, eight years and then they just go, get other jobs like related to but not in the field...I'm planning with these part-time hours to be able to stay more, like more years of my life because there is no way that I can do fulltime job.

Well after that day, you know, I felt like stressed out after they said they were going to change my hours...You feel like your morale [is] really down because why are they doing that to me like after 15 years, come on, you know I've been loyal to you. I've been working for you and you feel a bit why...because I've been fighting for these hours and then I have to fight again and they don't really care actually. (Maria, Childcare Worker)

Kate felt deeply hurt by her dismissal without warning as she felt she had worked as hard as she possibly could and at times her work had taken precedence over her daughter:

Yeah, when I first started, some days I'd start at 5.00 and finish at midnight, 1 o'clock. And I was a hard worker, you know, non-smoker, so I didn't have any smoking breaks...Every weekend, then my baby girl had to adjust to having no mum for those weekends. (Kate, Hospitality Worker)

MARY'S EXPERIENCE

Mary is in her early 60s. Her permanent part-time hours were cut in half as a result of a restructure in part of the aged care institution where she works. After her hours were cut, Mary stayed with her employer only because she didn't think she could find another job due to her age and because she planned to retire in a year or two when she had paid off her mortgage.

'You know in your workplace...it's [the] financial impact...and because no one was consulted and talked about before and you just sort of well feel...all this loyalty that you, because the other girl was 10 years younger than me, we were in that sort of age group that you don't have sickies unless you're sick, you know...we almost probably worked every day at least half an hour more, we always started earlier and never went home right on the dot if there were things to do you know, so...Julie left, she left and got another job in another facility, but I think I said to you before because of my age...I thought, well you know, Mary, just try to stick with it...but I was still angry, you know, I mean it was just shocking.'

Other interviewees also spoke about their employers' lack of acknowledgement of their hard work and of the effort they had put into their work, over and above the call of duty. Emily, a 21-year-old woman, had worked in a suburban restaurant chain and after six months was sacked without notice:

I just felt so upset by it because I put so much into that job and with a partner working days as well, we had forty minutes to spend together per day. No days off together and still I put in a hundred and ten percent...

I very, very rarely actually called in sick. I remember one time in particular I was throwing up. It was, I got endometriosis pretty bad and I was in so much pain that I was actually throwing up and stuff and the manager just took one look at me and just said, 'Go home.' And I went, 'Oh no, I'm good, I'm good, I'm good,' and she practically threw me out the door to get me out of there, which also comes down to the dedication that I had for the job and then on the way home I was so sick I actually passed out twice. (Emily, Hospitality Worker)

4.1.6 Loss of Power

For many of the workers who experienced dismissal, feelings of powerlessness accompanied their sense that an injustice had been done and there was no remedy. For example Maggie explained that while she had coped financially after her dismissal, the emotional effect was significant:

I think probably because I have this other cottage industry business, the small business from home, also in one sense because it was Christmas time that was better for me then too because my orders increased a bit and I was able to I guess see my way through that period of time. But it was more how I felt about myself; it was the powerlessness to be able to say that really it is not fair to treat anyone that way.
(Maggie, Hospitality Worker)

The change in workplace climate experienced by many interviewees left them feeling powerless:

I feel like I'm weak because I don't really think I am a weak person but because of the situation like in a small town, that you would see them outside of work, you know maybe they could make it unpleasant if you wanted to get a job somewhere else and if you wanted a reference for instance. (Liz, Retail Worker)

Christine was one of a very few interviewees who had spoken up loudly about the changes occurring in her workplace. She had tried hard to ensure employees were consulted and given an opportunity for genuine negotiation of new arrangements. However, her inability to make changes in the current system and in the face of resistance by her employer left her feeling disheartened and exhausted.

But after what happened today, I was ready to walk out the door and not come back and it's gotten to the point where I feel so devalued and demoralised...I am so tired of fighting with [the employer], it's a never-ending struggle, and now what they're successfully doing is that they've done divide and conquer.
(Christine, Aged Care Worker)

Several workers, like Mary above, felt powerless to leave their jobs even though they were very unhappy about changes in their workplaces. When Lilly was asked why she didn't leave her job given her difficulties with her manager's lack of supervision and the consequent stress she felt, she said that she really needs the current job, as her husband's income is not sufficient. She also felt that it would be extremely difficult for someone like her to find a new job.

Loss of protection against unfair dismissal also means employees working in workplaces with 100 employees or fewer have no means of protecting their reputation when false accusations are made as the basis for dismissal, such as allegations of theft. Kate asked her employer for a separation certificate for Centrelink purposes after she was dismissed.

And then she just got all grumpy on me over the phone and it took her weeks to arrange that. She did produce it and he had written on it, and he said reason for leaving - 'suspected theft'. Oh, I rang up Job Watch again to say, and they didn't say much, that I could do anything about it...But that's very karmic and very...That put me off wanting to get a job for the rest of my life. I went through months of going that's so heartbreaking, especially after everything that I'd given them, and to write that there, with no proof, and when I did ring Job Watch, they said, 'Well, that's disgusting, was there any police involved?' I said, 'No, there was nothing.' And then I wanted to go for defamation. I didn't have the money for a lawyer, and I just thought, I was getting too upset and getting sick, and you know...(Kate, Hospitality Worker)

She then spoke about other mothers at her daughter's school finding out about the allegations of theft:

One of the mums said to me, 'Oh, yeah, so you're not working at the [restaurant] now'. I said, 'Oh no, it didn't work out, you know, I've moved on.' And she's going, 'Oh, yes, so what was the reason?' And I said, 'Well, it just didn't work out, you know.' I didn't want to say I made a mistake, because I didn't make a mistake, it was common practice to do that stuff. I [just] gave them [co-workers] a drink, you know, it was crazy, and then for it to hit me at school, I really went through a hard time, you know. I couldn't even walk through school holding my head up, even though it was making a drink, you know, I felt silly.
(Kate, Hospitality Worker)

4.1.7 Health & Wellbeing

Adverse work conditions, including job strain, insecurity and a perceived inability to get another job, increase the probability of negative health outcomes (Shepanski & Diamond 2007: 32). The negative direct and indirect effects of the WorkChoices changes on health and wellbeing were reported by a number of interviewees:

What had happened had an awful affect on me, my weight dropped and I saw a counsellor. However by the time I got a suitable roster for myself I felt so disillusioned that I resigned from my job one month later. (Travis, Retail Worker)

I can't say that I wasn't stressed, because it was an extremely stressful time, but I mean it was frustrating as well because it was just, I just knew it was just too unfair you know, and it's like anybody that ever goes through an unfair problem or period in their life or whatever, you just get angry, do you know what I mean, and the whole point with this company is that they're just so unreasonable. (Jodie, Retail Worker)

Oh, I was quite ill, my blood pressure shot up. I was devastated because I was the sole provider for myself and my daughter and I only just got over [illness], so I had been having a year's treatment for [it]. So I was up to my eyeballs and I thought, I was just, that I left the department store to get something a bit quieter and less stressful and I ended up with more stress, so. I wasn't well, yeah I wasn't well for some time... (Jan, Retail Worker)

It was at a really stressful part of the year and to have that, you know, have a serious thesis to write and serious projects on the go, to have that extra stress of you know, life a) there's no work for this week which is told at really late notice and have no money plus the, you know, being a couple of shifts that were on the roster being cut, yeah, that was really stressful to have that money not being received that I was, actually that I was told I was going to receive that I didn't. (James, Hospitality Worker)

4.1.8 Finding Another Job

Some of the workers who lost their jobs had little difficulty finding a new job. This did not however assuage the hurt, anger and mistrust they felt. Like Jan, who said, 'I am always looking over my shoulder now. I don't trust anybody anymore,' Justin was extremely wary of ending up working in another situation where he was treated badly. Almost a year after his dismissal he continued to do temporary work through an agency. However, Justin did not see his current situation as a temporary worker as ideal and he thought it might be difficult to get a permanent job due to the fees his agency could demand from an employer wanting to take him on. He thought on-going temporary work created problems for his own skill development and was not best for clients of the services in which he worked:

The danger is not developing your skills as much as you could and not exploring the possibilities of what you could actually do with a client if you work long term with them. Cause there's lots of times where I've actually, and this is probably my colleagues' experience as well, you do a job for one or two days or could be four weeks and the main thing is that you create inroads, or there's potential for some great inroads. But then you know there's a time frame where it has to finish. So you kind of, in the back of your mind, clients that you haven't worked with for a while who have a good rapport with, you often wonder how they're going or whether or not the difficulties that they were facing could be handled. (Justin, Community Services Worker)

Helen's work is also temporary and on less pay than she previously earned.

It has actually been quite difficult. I am with an agency, I am with (x) Agency at the moment, which is fantastic and I get a lot of work through them. But a permanent job, look, I shouldn't say it is difficult, but it is difficult because of my experience, the pay I was on, it is difficult to find a job even close to that sort of pay. (Helen Childcare Worker)

However, others had considerably more difficulty because of the lack of local job opportunities and the family obligations they had to accommodate:

...and because I think people just accept it in the hospitality industry, and it's wrong. Because I'm finding it hard to get, like some people think it's easy, there's lots of jobs out there, not when you've got a kid, not when you're living in [outer suburb]. (Kate, Hospitality Worker)

Several workers who had been dismissed felt they had lost the confidence they needed to find another job. Some, like Maggie, also worried how they would manage without a reference from an employer.

...then you have to brush yourself off and go to the next interview and you feel...well that posed a problem as well for me because I knew he wouldn't write me a reference so it opens up a whole sort of hornets' nest of problems and it is very upsetting. (Maggie, Hospitality Worker)

CHENG'S EXPERIENCE

Cheng is a 40-year-old hospitality worker. Poor and sometimes racist treatment from his employer along with the experience of being dismissed without an opportunity to explain his side of the story made Cheng think perhaps his only option was to try and start his own business.

'They are already of the opinion, you are rubbish. You are in the bottom, they don't care about you and they know, they do that for you, you can't do anything for you. If you are against them, you lost job.'

Interviewer:

They have power over you?

'They have got the power, you know, they are bully, you know. So they don't care, you have to do everything right, maybe sometimes after that they know that it is their fault, they do not apologise...So this is the reason you know. I feel, if I looking for another job. The cleaning or something like that, something that I can do but it is still the same. So the only way I can do it is start my own business, be my own boss.'

For Stephanie the sudden loss of a job she had loved meant the end of her working life and not in the way she intended it to be.

I have actually made some enquiries and I know I could do some voluntary work with several organisations, which I sort of think perhaps I'm 65, hey maybe I have done my bit anyway and I will do some voluntary work because I have still got a lot to offer. I'm certainly not going to stay home and do my tapestry. I have actually at the moment and I do hope this will pass I've been left with an incredible fear. I am fearful of actually working for somebody again, working for a wage if you like. Yeah, I feel really anxious about that and I think voluntary work would suit me fine because I wouldn't feel, I wouldn't have that fear. (Stephanie, Community Services Worker)

4.1.9 Workers in Rural & Regional Areas

The weaker level and structure of labour demand and the scarcity of fulltime jobs in regional areas makes working families more dependent on their current fulltime or part-time jobs. This in turn means that individuals and families are more vulnerable to changes such as those recently introduced via WorkChoices (Charlesworth et al 2007: 3). All seven interviewees who lived and worked in regional Victoria felt that their employment prospects and the opportunities they had to withstand changes introduced as a consequence of WorkChoices were limited by their location outside metropolitan Melbourne.

For Liz the constraints of living in a small regional town were exacerbated by her age:

You know I do, I think, you know I have noticed like private industry possibly does treat their employees a little bit worse because they think they can get away with it maybe. Because they're so small, like if it's a big industry there's a lot of people and you know it can be a collective agreement or whatever, but in a small industry in a small town where there's not many jobs and just my age as well, that there's not many jobs, you have to give a reference, everybody would know who you used to work for, things like that. It's just sort of harder. (Liz, Retail Worker)

Despite thirty years experience as a skilled administrative worker Malcolm didn't think he had much choice regarding his employment or conditions of work because of where he lived:

I mean they don't pay much but they're always, I think everyone's sort of looking for cleaners all the time sort of, like a lot of people won't do it because it's only like I say, a couple of hours, you can do a couple of hours there and with me, I'm just sort of biding my time till retirement really, at my age because I mean basically it's all I can get. My qualifications aren't sort of, they aren't much relevant anymore.

You have your male clerical person in their 50s, really you don't get a job round here, you may in Melbourne or in the cities you might but if you want to stay in the country it's basically, you'll have trouble with job security, you have to take what you can get. (Malcolm, Cleaner)

Maryanne felt quite cynical about the federal government having any understanding of situations like hers in low income work in a small regional town:

...in a small country town situation you don't want a reputation of being a trouble maker. I don't think Johnny Howard has ever lived in a country town or had a low income job. (Maryanne, former Retail Worker)

4.1.10 WorkChoices & the Welfare System

WorkChoices has been accompanied by recent changes in social security policy, referred to as the 'Welfare to Work' changes. This imposes a work test on recipients of certain pensions and payments and ultimately seeks to move many of them on to the standard 'Newstart Allowance' designed for unemployed persons. The target groups include people with disabilities and sole parents, who are obliged to seek at least 15 hours paid work once their youngest child has turned six. At the same time the participation requirement of other Newstart recipients as reflected in Maryanne's story have also become more onerous. The effect of these changes, together with the introduction of WorkChoices, breaks down the boundary between receipt of welfare benefits and participation in a low pay sector, creating a larger and larger pool of people who churn through low pay jobs, forced to continue to rely on supplements from the welfare system even when in jobs (Charlesworth et al 2007: 7). The situation is exacerbated for many low paid workers by a social security system that can deny welfare benefits to those who refuse to take a job on whatever terms an employer may offer (Stewart 2006).

The difficulty those in low paid work have in managing their interaction with Centrelink and Newstart requirements, which are not geared for people who are also working, is illustrated by Malcolm's and Maryanne's experiences:

That's the trouble and you see you've got to run about three, three different jobs otherwise Centrelink start chasing you again because you're not working enough hours per fortnight. (Malcolm, Cleaner)

MARYANNE'S EXPERIENCE

Maryanne is in her 40s. When Maryanne left her employment at the petrol station she was able to return to a cleaning job in which she had previously worked. The problem was she could only secure a maximum of 15 hours a week, which was not enough to support her. So she applied for Newstart Allowance to top up her wages and now is subject to the work test:

'Yes again it's a real pain because I have to continue to look for jobs. Now, I have asked them [employer] to increase my hours just so I don't have to annoy people with interviews that I really can't take. I have to contact seven people for job interviews. I have to try for seven jobs, which is really hard to do when you work every day and I can't predict what hours I'll have in the future; it all depends on who takes holidays or whatever and so it's a waste of everybody's time. The people at Centrelink understand it's a waste of everybody's time and the common thing they say to me, they say, "Oh look, you're just one that falls through the cracks." But to me I think it's a waste of everybody's time. It might make the political statistics look good or something, I'm not sure, but it's a waste of my time to go and apply for seven jobs, then if I do get that job I can then say to them, "But I'm not sure when I'm available," you know? Yeah and up until a fortnight ago you used to be able to just ring through how much you'd earned. Yeah because you used to be able to phone it in, you used to be able to do it on the internet. And they've banned that now. It takes

me 100 ks just to get there...Yep and of course if I get an interview that's another 60 ks. Before, when I went in they said, "I'm sorry, we can't see you today." And I said, "I rang up this morning and they said just to come in." "Oh yeah, but we're too flat out, we can't take any more walk-ins today." So that was absolutely totally a wasted trip.

'Yeah, and you know I really wanted to avoid being back on Centrelink again but because I'm only getting the fifteen hours or so at the moment I have to. And the other thing is every night I come home from work I actually have to sit down and figure out my earnings for that day, which is pretty hard to do because it changes all the time. I understand it when people say it's not worth working part-time it's easier to stay on the dole and I completely respect and understand that. I actually go to work because I get a bit of a social life, you know, and I want to get out of the house.'

4.2 The Ripple Effect of Change

The WorkChoices changes experienced by the 30 interviewees had effects beyond those individual workers. They had effects on the workplace, on other vulnerable workers, on the clients many of those in childcare and community services worked with, and on households and the broader community.

4.2.1 Workplace Effects

The effects of the changes in the workplace and on colleagues were seen as patchy but nonetheless pervasive. Several of our interviewees felt resentful about other co-workers they saw as too cowed to do anything:

I'm very disappointed in my co-workers, and I'm, because I'm, I think that they're all to the point where they're so stressed out, that, that they feel that, that we're all sniping at each other...I was so weathered today, frankly I don't care if I ever walk back in there again. And it's really unfortunate because I love my clients and I love the work that I do. And I will be out of here as soon as I can and actually even if I don't have a job [elsewhere], I'm gonna go be a check out chick or something. (Christine, Aged Care Worker)

Jan, who had been dismissed, was concerned about the impact of her dismissal on her co-workers:

Oh and then they sent me a letter and said that I wasn't allowed to discuss it with anybody else, any of the other staff and then they told all the other staff that they weren't to discuss it at all. I was gone and that was it and there was to be no discussion and of course they are all still there, worried and looking over their shoulders. I have a colleague still there and she will probably come across to my pharmacy. Because she said, she is stressed. She is forever looking over her shoulder too wondering you know if she is going to be next. (Jan, Retail Worker)

Others were concerned about other workers they saw as more vulnerable.

ANNETTE'S EXPERIENCE

Annette is a 55-year-old aged care worker. She is fearful about the impact of WorkChoices on the migrant and refugee workers who are increasingly coming into the aged care industry:

'...and that concerns me with laws where they're not protected and that is becoming a larger workforce... And also to find information because I, you know, went to the phone book and looked up those pages in the front and there were many, many calls. They [migrant and refugee workers] wouldn't know, maybe where to start. You've got an enormous pool of non-skilled workers who are totally taken advantage of and brought into this country and just used and abused. I mean it's very hard, as I say. And I've got friends in different high places, I'm able to go and ask questions of...when I heard this report saying that they should look towards bringing in unskilled workers and particularly for aged care, I thought, wow, the companies really wouldn't have to do a lot. Because we have meetings and they [migrant and refugee workers] just don't say a word. They are frightened of authority...[and] losing their jobs...[their] partners are unskilled labourers as well, so they're both on low incomes and they need the penalty rates to meet their needs.'

Annie was anxious about what would happen in the event of a dispute for other workers in her former workplace who were paid cash in hand:

Without sort of divulging too much information I'm pretty sure, I think there were a few, well I know there were a few people who were receiving cash payments or actually being paid under the award. They were also not, well being a cashy, they were not entitled to just your basic fundamentals that provide you with a safe working environment. There's no record of where you've been working, there's no record of ATO. The ramifications of that are quite big. (Annie, Retail Worker)

4.2.2 Impact on Clients

For many of those working with children, aged people or those with disabilities, the ripple effect of the WorkChoices changes on their clients was a major issue as has been highlighted above in the experiences of Stephanie, Helen, Justin and Annette.

AMANDA'S EXPERIENCE

Amanda is a 36-year-old community services worker. For Amanda, the impact of the dismissal of a co-worker on her clients was quite traumatic:

'Now you are talking about people who are really vulnerable, so really to actually have a system of support in the place isn't hard and you don't, if the organisation didn't want to say that for her confidentiality, that's fine but support someone...'

'...basic human rights are not even being heard or respected and in terms of where I've worked with regards to working in human services, one of the most horrendous experiences and one of the most damaging experiences, in fact cutting someone off from support with no notice...but to actually cut off when clients know that their support worker would never, never do that and if there was a problem, she would contact them and to have no system there and then to watch the domino effect of people reacting to separation, to grief and then also doing it to that staff member, it is dangerous, negligent, disgusting and they should be absolutely strung up for it. But there's no understanding, they have no concept.'

For Christine, the tension at work over the employer collective agreement is exacerbated by poor morale and other workers quitting, which she saw as having a direct impact on the clients her agency is supposed to provide support for:

I come home, and like I came home tonight and I was, I'm upset, I'm stressed, it's difficult to get your work done at work. I'm working outside of hours, we don't get time in lieu, we don't get overtime, you cannot get your work done during the time because you know, because you're all talking to each other and then now we've got all this sniping going on...and because so many people are quitting, somebody has to manage their caseloads and so it's all getting dumped onto the rest of us. So in addition to the case load that we already carry, we're each picking up a few more from here and there, from all the people who are quitting because they don't want to, to work under these, under these conditions that have been laid out. (Christine, Aged Care Worker)

4.2.3 Impacts on Households & the Community

The 30 individuals interviewed in this study all have family and community networks. Most of them talked at length about the impact of their experiences on their families and their relationships. In Maggie's case her son's reaction to her dismissal made her feel quite anxious.

Maggie: It also impacted at home, my son was upset for me that I'd lost the work.

Interviewer: How old is your son?

Maggie: He's 16. And being a single parent, obviously, they take on that role of almost being a young adult, being concerned about our welfare, so it did impact.

It also impacted at home, my son was upset for me that I'd lost the work.

How old is your son?

He's 16. And being a single parent, obviously, they take on that role of almost being a young adult, being concerned about our welfare, so it did impact.

Jan was similarly concerned about the impact her loss of employment had on her daughter:

(I) come home and (my daughter) says, 'Why are you here?' and I say, 'Well, I have just been fired,' you know. So she was devastated as well and she was still trying to recover from me being treated for (illness) and then she got this on top of it. So she had an extremely tough year to do her exams. It is just demoralising, it is absolutely... (Jan, Retail Worker)

The loss of Simon's job was having a significant impact on his family both emotionally and financially. Asked whether Simon's job loss had had any significant financial impact on their household, Simon's wife Chloe said:

Absolutely, and an emotional impact as well. I mean my husband and I argue about silly little things, you know, that we never used to argue about before. Money is always a big issue because we want to be able to provide for our children and our lifestyle has completely changed, completely changed...in some ways I feel like I'm using the system because we actually are entitled to a health care card. I'd rather be out there working and contributing to our family finances but I just can't at the moment. I'm breastfeeding so I can't do that. So work, the industry's just very slow at the moment, so Simon is not finding the work that he needs. So it's had a huge impact on our life and it's very frustrating. (Chloe, married to Simon, Hospitality Worker)

Jodie was particularly uneasy about the impact of WorkChoices on the more vulnerable people in society, including those with families:

I think it, as like I mean, as has been said in the press many times, I've read and stuff. I think it's just hurting the more vulnerable people in society, you know. People that need to make, you know, minimal amounts of money to live day to day, you know. People like your university students, like your single mums, people returning back to work, you know, that sort of stuff, it hits them the most...I think you know your sort of blue-collar people that basically don't earn a lot of money and you see, you know, it's hard...Like I'm lucky I don't have a family to provide for. Imagine if I did, imagine if I had kids and stuff, the stress factor would be like through the roof. I'm sure I would have had a nervous breakdown by now. But yeah, you sort of sit there and think, oh my god, how am I going to pay my bills, you know. (Jodie, Retail Worker)

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5 Workers' Views on WorkChoices

The 30 workers interviewed in this study came from a wide variety of backgrounds and had had a range of employment experiences. Many had been in their jobs for a considerable period of time and were proud of their work. Most of those interviewed had opinions about WorkChoices, both drawn from their own experiences and from those of others whom they knew. While they were focused on what had happened to them as individuals, all were concerned about what had happened and what might happen to other workers as a result of WorkChoices.

5.1 The Current System

Many of those interviewed were quite critical of the new system of regulation, seeing it as underpinning a shift from a system that could to some extent protect workers, to a system that was unbalanced. As Travis put it:

In my view the workplace relations laws put too much power in the hands of the employer. People need protection and it shouldn't be possible for managers just to ignore the enterprise agreement. Certain protections of employees should be guaranteed by the state. (Travis, Retail Worker)

Justin also believes the laws are unbalanced:

These days no-one knows where they stand because if a manager is upset and he feels the need to, well not consciously scapegoat but subconsciously seek out someone in order to make an example of [them], with other staff in mind. These laws are tailor made for that situation. Whereas the old laws weren't tailor made. You can't just dismiss someone on an emotional whim. There's a few processes that have to be followed and [should be] lawfully acknowledged. (Justin, Community Services Worker)

Chloe, Simon's wife finds the new system extremely confusing and complex:

... (it's) very confusing and very difficult for anyone, for a layman out there, it's, you know we all don't have legal degrees and know the lingo so it's extremely difficult. (Chloe, married to Simon, Hospitality Worker)

For Liz, the changes have unravelled a lot of hard fought for employment standards:

Oh I think, I don't even know how to describe it. I think they should have been what people have fought for all these years that the people that work are the ones that actually make the business run. And they really should look after them because they're the people that they're making the money out of. And if people aren't happy I don't think they're productive in their job, they wouldn't want to go there, they wouldn't have the enthusiasm and they just feel degraded, like you know... But we're the ones that are making it go well. I just don't think like bosses [do]; they just need to get real. (Liz, Retail Worker)

Helen thinks the changes are particularly hard on those who work in the caring jobs such as childcare:

Well, I think definitely for childcare workers, I think it is a bad thing because they are the ones that generally don't speak up as it is. Because I just believe that they know, that they are there for the children and if they make a fuss, then the children are going to be the ones that miss out. (Helen, Childcare Worker)

Others were worried about the employment futures of their children:

Well I think it's a bit frightening for young, like I said, I've got a young, well he's an adult son but he does (manual work), you know, and I think he's only ever had one job that was permanent, most people employ them as casual, well, you know, he's never really been, had a lot of entitlements but they'll probably get worse. (Mary, Aged Care Worker)

Other interviewees tried hard to be even-handed when asked what they thought about the current industrial relations system. For example, James, said:

I don't know much about politics and things and the government. But the thing for me is that the people in the government have said we want business to go better, we want business to thrive more, how can we give businesses, you know more money, or how can they, we can make it easier on businesses and that's to get money from somewhere and that's to get money from the small people who don't have any money, so they just take the money from the poor people even more to make the businesses flow better with their system. But yeah, I was talking to someone the other day and he heard that the reasoning behind the WorkChoices reform...I think was competitiveness and I don't see where that comes into play because as far as industrial competitiveness, or internationally I don't think it's going to exist and I don't think they are planning for it to exist. But I don't see how it works, I don't see what they've, what they can achieve by doing WorkChoices. Maybe there are a couple of things, which are good about work, you know the reforms that they are trying to do, but there's a lot of things that just make it harder. (James, Hospitality Worker)

5.2 What People Want

A lot of the workers who were interviewed came from quite conservative or apolitical backgrounds. While seven were union members, two of these were dissatisfied union members as their unions had been unable to help them. However, whatever their background, there was an overwhelming sense among them of the WorkChoices changes having gone too far:

I was having this conversation with a friend last night and [she] was saying basically the whole reason why these laws started being introduced, this is from her point of view, was basically there's a lot of people in government that were in these positions getting paid a lot of money and they'd come to work and they'd do nothing every day. They just couldn't get rid of them, kill them off, they couldn't just sack them or anything because they had no grounds to do so. So that's how it all, like you know, how it all started coming in but now it's like the other scale, the other end of the scale where basically it's like bad luck. I don't like the look of you, see you later, and yeah, they don't really care because I mean the CEO at the top of the company's not worried about buying any food for the next week is he? (Jodie, Retail Worker)

Well I feel it is important for somebody, a worker like myself, to feel you have got somewhere to go and because the law it is almost ludicrous to me the numbers of how many they employ becomes totally irrelevant. I mean it doesn't really have any bearing on how you feel in yourself when something like this happens, the unfairness or otherwise. (Maggie, Hospitality Worker)

The interviewees were asked what they wanted in employment regulation in the future. Most have strong views on the changes needed. They want fairer, more balanced treatment, they want to be able to raise issues in the workplace without fear for the consequences, to have access to better and accurate information and mechanisms to protect their rights, to be treated with dignity and respect and to be able as women, carers, people with disabilities, people who live in rural and regional areas to participate in work, family and community life.

I don't know, there's a lot, because there's a lot of elements, there's a lot of elements on both sides that need to be incorporated I think, but, just a fairer system I think. I just don't think that with all the power lying with the employers is the best way to go, you know. (Jodie, Retail Worker)

...those changes don't help small workers like us. [what] I would like to see is for people like me to have more say. We have absolutely no say at all and so people like me in my situation can be pressured into leaving our jobs. (Lilly, Aged Care Worker)

Some interviewees were quite specific about changes they would like to see such as fair wages, with penalty payments to compensate for working unsocial days and times:

...and in getting paid a fair wage for what you do. Because again, (with) companies it's profit and if they can get away with anything they will. And again with, because our workplace now is seven days a week, I still think if you've got to give up your weekend you should be given some extra payment for it. A very sad thing though that, and I realised recently with some young people that you don't have a life any more like I knew it; when I worked Saturday trading finished at midday and that was it. You went to the football and did whatever you wanted to do as a family. So to get something extra for I guess inconvenience there. If you didn't get any extra it's very difficult. You have no life at all if you're doing night shift, it's just that you do it at the same rate. And people are struggling in lower paid jobs like ours. (Annette, Aged Care Worker)

Mary had never been a union member but saw unions as important to securing decent working conditions in the future:

Well, I'd hate them to outlaw unions because I think they're probably the mainstay for people. No look, I understand that there has to be rights on both sides you know, yeah, I mean I know that there are some stupid...I know there are some things on both sides that go on but I think, you know, most fair-minded thinking people just want to be fair on either side. You don't want to, you know, take advantage of your employers but you don't sort of expect them to take advantage of you either. You know, I just think fair in some middle of the road laws that are going to make everyone happy, you know, I mean you're never going to make everyone happy, but be fair to people. Yeah, that's what I would hope, I mean as I said I'm at the end of my working life, but I just hope for the future generations that, you know, that will happen. (Mary, Aged Care Worker)

In an email communication after the interview Tess described the sort of workplace she requires as a woman with a disability and also stressed the importance of inclusion and consultation:

...in relation to being a Deaf woman accessing the employment market, I wish to see all employment industries provided all the necessary correct resources that are required so the employee is productive in their work within the organisation and the client group they are targeting...if you are employed and you have declared your needs to help do your job then they should be provided. If you are employed on your skills, experience, training and knowledge of that industry therefore you should be provided with those resources without question. I feel that the laws should look at the level of income for people with disabilities and especially women. WE ARE underpaid in industries that take us on as 'good publicity' to help the 'less fortunate' when in reality we are no different. Laws made should be in consultation with people who have the disability and not with people who 'think' they know what it's like for us. (Tess, Community Services Worker)

6 Overview of Findings

The limited statistical data available demonstrate that many of the men and women who work in the minimum wage sectors that are the subject of this study *have* been affected by the WorkChoices changes. There has been a rapid increase in AWAs in both the retail and hospitality industries especially in Victoria. The latest data from the federal Workplace Authority (formerly the Office of the Employment Advocate) indicates that in Victoria as at March 2007, 13,592 hospitality industry (Accommodation and Food Services) employees have their conditions of work regulated through an AWA registered since the introduction of WorkChoices as have 12,386 employees in the retail industry (Workplace Authority 2007). This affects the conditions of women in particular as they are more likely than men to be employed in the retail and hospitality industries.

Leaked data from the Office of the Employment Advocate indicate that many of the AWAs registered in the first six months since WorkChoices reduce conditions (Davies 2007):

- 45 percent of AWAs have stripped away all of the award conditions that the Federal Government promised would be 'protected by law' under WorkChoices;
- 76 percent of the agreements removed shift loadings;
- 59 percent removed annual leave loading;
- 70 percent removed incentive payments and bonuses;
- 22.5 percent removed declared public holidays; and
- 33.3 percent of AWAs provided no wage rises during the life of the agreement.

As noted in the Introduction, analysis of available statistical data suggests in particular that rates of pay and conditions of employment in feminised 'minimum condition' sectors are particularly vulnerable to the WorkChoices changes as, with the limited bargaining power of workers in these sectors, any streamlining or reduction of minimum conditions of employment might be expected to result in large scale changes to standard employment conditions (Preston et al 2006: 15). Retailing and hospitality are the two lowest paying industries in terms of hourly or ordinary time earnings. Even from such a low base, over the period from March 2006 to December 2006, real wages in these industries *declined* by 0.7 percent in retail and 0.9 percent in hospitality (Peetz 2007: 48). A similar decline is also found in the lowest paying occupational group of elementary clerical, sales and service workers, in which many of the workers in this study are located, where there was a real drop of 0.5 percent in the first nine months of WorkChoices (Peetz 2007: 49).

While the inadequacy of the available data – particularly in relation to gender and industry - for allowing some analysis of the impact of WorkChoices has been comprehensively documented (Preston et al. 2006; NFAW 2007), better quantitative or statistical data would still reveal little about those workers who have lost their right to unfair dismissal; those who feel they are pressured into signing AWAs; those who have decided to stay in a job because they couldn't risk losing income; those who have decided not to speak up because they don't want to rock the boat or about the sorts of ripple effects the WorkChoices changes have on people's self-esteem, on their family and friends and on the broader community.

Could the recently introduced Fairness Test for AWAs have helped any of these 30 workers? The *Workplace Relations Amendment (A Stronger Safety Net) Act 2007* amended the *Workplace Relations Act 1996* by introducing a 'Fairness Test' for AWAs lodged on, or after, 7 May 2007. The amendments allow the Workplace Authority to assess if employees have received fair compensation if their agreement removes or changes their protected conditions. In essence, the new test leaves the decision as to what is 'fair' up to the discretion of firstly the employer, and then the Director of the Workplace Authority. Moreover the test is a limited one which does not take into account all the protected conditions of the relevant award nor provide any transparency or avenue for appeal. The amendments do nothing about reinstating unfair dismissal

rights and do nothing for those who before 7 May 2007 were forced onto AWAs or sacked or otherwise disadvantaged for refusing to do so. Nor do they redress the impact of the WorkChoices changes, both direct and indirect, on the loss of power and self-esteem experienced by the interviewees, all of which make it so much more difficult for vulnerable workers to seek further employment.

The experiences of the 24 women and six men documented in this study reveal the hidden costs of the WorkChoices changes not evident in wages and other data. These 30 workers came to be participants in the study through different sources and come from different areas of Victoria, both metropolitan and regional. They come from different socio-economic and cultural backgrounds and work in a range of occupations. What they have in common, however, is that they work in minimum wage sectors, which are particularly vulnerable to the WorkChoices changes, and their individual experiences are similar in many ways. In essence, what the documented experiences of these 30 workers highlight are many of the ways in which the WorkChoices changes, both directly and indirectly, give unprecedented discretion to individual employers to determine the conditions of work and to hire and fire at will. Moreover, WorkChoices effectively removes even the limited environment of checks and balances that existed to protect this group of workers, particularly through the flow-on effect of the loss of protection against unfair dismissal for those in workplaces with 100 or fewer employees and the lack of practically available remedies for employees.

6.1 Dismissal

The most profound impact of WorkChoices documented in this study was felt in dismissal without warning. This affected 12 of the interviewees, with another four effectively being constructively dismissed. The loss of unfair dismissal protection under the WorkChoices changes for workers who work in workplaces with fewer than 101 employees has far wider ramifications than just removing the right of people to question their dismissal and take action where they believe they have been unfairly terminated. The loss of unfair dismissal protection in particular not only removes employee rights to pursue reinstatement or compensation in cases of harsh, unjust and unreasonable termination, but also removes the effects of permanency for those workers who are not casual or fixed term (21 of the 30 interviewees).

This in turn works to mute the 'voices' of workers in querying wage rates and entitlements and in speaking out about issues such as occupational health and safety. It affects HR practices and procedures, for example, in performance management, in managing disputes between workers, in the giving of first and second warnings, and even the provision of reasons for termination. As Andrew Stewart argues, protection against unfair dismissal is all the more important in workplaces where the 'take or leave it' employer practice works to undercut even those minimum working conditions that are 'protected' or 'guaranteed' under the Fair Pay and Conditions Standard (see Stewart 2006).

This study demonstrates that the impact of losing a job is profound, especially for those who experienced difficulties in finding a new job. Even where workers are able to find a new job, termination without warning has ripple effects on finances, on family relationships and on self-esteem. It also has an impact on the workplace for those who remain, the sudden termination acting as a warning to those who might speak out or query entitlements. In addition, there are also costs for the welfare system, with several workers being forced on to Centrelink payments for various periods of time after they lost their jobs.

6.2 Wages & Conditions

All those interviewed in this study were receiving the minimum wage for their position and in several cases were paid below the legal hourly minimum. The only wage increase reported by any interviewee was the AFPC minimum wage increase of October 2006. Further, as the study has shown, for several interviewees, the AFPC minimum wage increase was not passed on for some time or not at all, while for two interviewees, Maryanne and Liz, it was effectively absorbed by reducing the hours these 'permanent' part-time employees were originally contracted to work.

This study also highlights the ways in which, under WorkChoices, hours of work have been increased or decreased without negotiation and rostering arrangements have been changed without notice, even for permanent workers. Moreover the capacity of interviewees in this study to challenge both illegal and legal changes made to their working conditions since March 2006 has been severely limited by the removal of unfair dismissal remedies for workers in workplaces with fewer than 101 employees and shifts in the workplace climate.

6.3 Change in Climate

The WorkChoices changes have palpably changed the workplace climate for the workers whose experience is documented in this study and for many others who work in these industries. In particular, these changes work to normalise poor employment practices, which both reflect and depend on a lack of respect for the dignity of employees and the dampening of employee voice. The change in climate is also reflected in changes that are not strictly legal under WorkChoices, such as being dismissed for querying wages and conditions or in unilateral rostering changes made when mutual agreement is prescribed in the award or in a collective agreement that covers the workers. Disregard for the letter of the law is also reflected in the failure to pass on minimum wage increases, removing award conditions without going to the trouble of making the employee sign an AWA as happened to Liz, and the undercutting of conditions such as in Malcolm's case.

However, the reduction of any available remedies such as through rights to take action in the case of unfair dismissal, the severely restricted access of unions to assist with disputes involving union members and the drastically reduced role of the Australian Industrial Relations Commission in resolving disputes means that illegal practice is not checked. This disregard for industrial law is also carried over to the rights of workers under anti-discrimination law with several employers either directly discriminating against workers or failing to reasonably accommodate those with family responsibilities or disabilities as arguably required under the law. In this way the advent of WorkChoices has normalised breaches of employment regulation. This is underpinned by almost total confusion among both employers and employees about existing rights to certain rates of pay and conditions.

The extent to which employers use the full potential of the regulatory changes clearly depends on the calculations and choices they make. While the employers represented in these interviews have used what they have seen as the opportunities opened up by WorkChoices, they are not necessarily particularly bad employers or exceptional employers. They do what they think they are able to do in a system that places significantly increased power and discretion in the hands of the employer.

6.4 A Missed Opportunity?

The federal government's stated position is that all workers have the individual capacity to initiate change, negotiating or bargaining for the terms and conditions that suit them. However, what this study shows is the capacity to effectively bargain for many workers in minimum conditions sectors is in fact a myth. This is so even for more confident workers such as Annie and Helen. As the acting Sex Discrimination Commissioner and President of HREOC, John von Doussa, recently warned, there is a risk that people in jobs where demand for workers is low, particularly women, will be disadvantaged by the WorkChoices legislation. 'When you're dealing with gender-segregated employment like the hospitality industry, health and so on, particularly where people are working for small employers, the ability to actually negotiate is ridiculous.' (Cooke 2007)

The federal government claims that the WorkChoices changes will lead to increased productivity (Australian Government 2005). Such a claim seems to confuse increased productivity with the increased profitability of business through the reduction of labour costs (Peez 2007; Stewart 2006). An employment relationship that is skewed towards unilateral employer and managerial discretion is antithetical to increased productivity, which research has consistently demonstrated needs to be built on trust, commitment and a positive organisational climate in which employees feel valued and recognised. Thus, over the medium to long term, the sorts of changes that individual interviewees in this study experienced, and about which they feel hurt and let down, are also a problem for the business and the employer they worked or still work for. The WorkChoices changes do nothing to encourage good people management or decent or quality work.

In summary, the experience of the 30 workers documented in this study suggests that the WorkChoices changes have worsened work conditions and the experience of work for workers in low paying minimum conditions sectors. Most importantly, as noted above, the prospects of improving the wages and conditions in these sectors under the current national regulatory framework are extremely limited. The trend towards minimalist AWAs with a single hourly rate of pay also undercuts the idea of a career structure with nothing to encourage careers or advancement over time (Murray 2007). The removal of the AIRC test case mechanism also means that improving standards for minimum conditions sector workers is highly unlikely. These profound changes to national employment regulation take the 'low road' to employment participation and labour market efficiency. They reduce opportunities for worker-initiated flexibility, especially that required to balance work and family, and entrench gender inequality through the depression of wages in low wage feminised sectors. This is not what workers or their families want. In essence what the women and men interviewed for this study want from labour regulation is 'decent' work as defined by the ILO:

Decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men (ILO 2007).

As the ILO notes, decent work is not only fundamental to the security and dignity of workers but also essential for productive businesses.

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Appendix 1

IMPACT OF CHANGES IN NATIONAL WORK REGULATION BACKGROUND INFORMATION SHEET

Your name _____

Contact number _____

(For contact purposes only. No information that might identify you is included in this study.)

What is your age?

- 18-24
- 25-34
- 35-44
- 45-54
- 55 & over

Country of birth _____

Main language spoken at home _____

- Aboriginal or Torres Strait Islander
- Person with a disability

Year of schooling completed

- less than year 10
- year 10
- year 11
- year 12

Do you have any post-school qualifications?
If yes, please specify.

- Certificate _____
- Diploma _____
- Degree _____
- Graduate diploma _____
- Postgraduate degree _____

How many dependent children do you have?

- no children
- 1 dependent child
- 2 dependent children
- 3 or more dependent children

How old are your dependent children? _____

Do you have any other dependents?

- Yes

Relationship to you _____

What type of household do you live in?

- Couple
- Lone Parent
- Lone Person
- Group household
- Other family
- Other, please specify _____

At the commencement of March 2006 (before any change or loss of job):-

What was your occupation?
(in your main job if you had more than one)

If you had more than one job, what occupations were they?

2nd Job _____

3rd Job _____

Which job did you experience change in or did you lose?

Which Industry was this job in?

- Agriculture, forestry and fishing
- Mining
- Manufacturing
- Construction
- Wholesale trade
- Retail trade
- Accommodation, cafes, restaurants
- Transport and storage
- Communication services
- Finance and insurance
- Property and business services
- Govt admin and defence
- Education
- Health and community services
- Cultural and recreational services
- Personal and other services

Did you work for:

- A government agency (local, state or federal)
- A non-government community org.
- A private business

How many were employed at your workplace?

- 1-4
- 5-19
- 20-99
- 100-199
- 200 or more

How many hours did you usually work each week, excluding overtime?

- 0-15 hours
- 16-34
- 35-40
- 46-50
- 50 or more

What days did you usually work on?

- Monday
- Tuesday
- Wednesday
- Thursday
- Friday
- Saturday
- Sunday

If you were a shift worker, what sort of shift did you work?

- Day shift
- Afternoon shift
- Night shift
- Rotating shift

What was your hourly rate of pay in this job?

- under \$10
- \$10-\$15
- \$15-\$20
- \$20-\$25
- \$25-\$30
- \$30-\$35
- \$35-\$40
- \$40-\$50
- over \$50

What was your usual weekly wage in this job? (before any change)

- \$0-99
- \$100-199
- \$200-299
- \$300-399
- \$400-499
- \$500-599
- \$600-699
- \$700-799
- \$800-899
- Over (specify) _____

Was your job

- Permanent Casual Limited Term Contract (specify length) _____

If you were a casual worker, was your work

- Regular/ongoing
- Relief
- Short term
- seasonal
- Unpredictable

How long had you been doing this job?

- Less than 1 year
- 1-5 years
- 5 years or more

Were your wages & conditions set by

- award
- collective agreement
- Australian Workplace Agreement
- another individual contract
- don't know

What was your main source of household income? (before any change)

- Wages and salaries
- Government entitlements/pensions
- Business
- Other (e.g. superannuation)

Residential Postcode: _____

Work Postcodes: _____

Appendix 2

SEMI STRUCTURED INTERVIEW SCHEDULE: FOR PARTICIPANTS WHOSE CONDITIONS OF WORK CHANGED SINCE 31 MARCH 2006

1. Could you tell me about any changes at work that have affected you since 31 March 2006 (allow participant to tell her/his own story). In exploring the nature and extent of changes, check/elaborate on the following:

Changes to hours of work

Have your hours of work changed?

- Overall number
- Starting & finishing times
- Days of the week
- Shift arrangements

Are your hours predictable?

Has the way you are notified of your working hours changed?

Do you have any control over your working hours?

Do these hours suit your needs?

How comfortable would you feel to ask to change your hours or pattern of work?

Changes to rates of pay

Has your *normal* hourly pay gone up or down, and by how much?

Has your total weekly pay gone up or down, and by how much?

Has your access to any of the following changed?

- Shift loadings
- Overtime loadings
- Penalty rates for weekend or work outside of normal hours
- Casual loadings

Changes to leave provisions

Has your access to any of the following leave arrangements changed?

- Paid maternity leave (pay & amount)
- Paid paternity leave
- Leave for the care of sick dependents
- Leave for personal emergencies
- Cultural leave
- Training leave

Changes to security of employment

Has your job security been affected by changes in your

- Required notice of termination
- Workplace location

Changes to form of work contract

Have you moved from a collective agreement/award to an AWA?

Have you moved from permanent to casual status?

Has your employer changed? What effects might this have on your work?

2. Have any other aspects of your workplace or working conditions changed?

Explore the following:

a. Thinking about the *atmosphere at work*, has anything changed - for example, in terms of:

- How secure you feel
- How willing you are to speak up (to fellow workers, to the boss, to the union)
- Relationships at work
- Occupational health & safety

b. Thinking about your *workload*, how would you say that has changed? (a lot heavier, a bit heavier, a bit lighter, a lot lighter)? - Because?

3. Do you know why these changes were made?

4. Were they discussed with you beforehand, either directly or through the union?

5. Are you anticipating further change?

6. Do you know when your wages and conditions of employment will be adjusted next time?

7. What about in your other job(s)? Have there been any changes there?

8. What effects have these changes had on you?

(allow participant to tell her own story)

In exploring effects check/elaborate on the following:

a. Thinking about the *balance between work and home or family*, has it become easier or harder to balance work & non-work commitments (a lot easier, a bit easier, a bit harder, a lot harder)?

b. Have changes at work affected, for example:

- Caring arrangements
- Sharing household work
- Household/family relationships
- Household finances/budgeting
- Life planning e.g. house, education, kids leaving home, holidays, retirement
- Commuting/travel time

c. Have changes in your working life affected your *participation in community, school or church activities*? (e.g. neighbourhood watch, school coaching, tuck shop...)

d. Have changes in your working life affected your *social life* in any way? (e.g. catching up with family and friends, going out...)

e. Have changes in your working life affected your *health* in any way? (e.g. stress, tiredness, given up exercise, more prone to work injury...)

- 9. What do you like about your work?
- 10. What are the good things about your pay and conditions?
- 11. What don't you like about your work?
- 12. Did you belong to a union? Do you now?
Would you feel comfortable in contacting a union for assistance? Would you previously?
- 13. Do you have any thoughts about the changes to employment laws in Australia?
- 14. What would you like to see happen in the future about employment laws?
- 15. Is there anything else you would like to add?
- 16. Would you be willing to be contacted for a follow up interview in a year or two to see if anything has changed in your experiences at work? Yes No

If so, what number would be best to call you on? _____

Appendix 3

SEMI STRUCTURED INTERVIEW SCHEDULE: FOR PARTICIPANTS WHO HAVE LOST JOB SINCE 31 MARCH 2006

1. Could you tell me about how you lost your job?

(allow participant to tell her own story)

In exploring the circumstances of job loss, check/elaborate on the following:

a. What form of job loss was it?:

- An individual dismissal
- Pressure to resign
- Work restructuring
- Part of general redundancies
- Change of owner
- Other

b. What reasons (if any) were you given?

c. Why do you think it happened?

d. Did you have any warning?

e. Was your dismissal preceded by other changes to your wages or conditions?

If yes, what were they?

f. Did you try and do anything about it?

If yes, what happened?

2. What effects did the loss of your job have on you?

(allow participant to tell her own story)

In exploring effects check/elaborate on the following:

How has it affected you:

- Individual & household finances
- Housing/place of residence
- Family/dependents
- Relationships
- Ability to socialise
- Community participation

3. How easy or hard has it been to find a new job?

4. Have you found a new job?

5. If yes, how does this job compare with the old one?

In comparing jobs, check/elaborate on the following:

a. Change to form of work contract

Have you moved from a collective agreement/award to an AWA?

Have you moved from permanent to casual status?

b. Changes to hours of work

Have your hours of work changed?

- Overall number
- Starting & finishing times
- Days of the week
- Shift arrangements

Are your hours predictable?

Has the way you are notified of your working hours changed?

Do you have any control over your working hours?

Do these hours suit your needs?

How comfortable would you feel to ask to change your hours or pattern of work?

c. Changes to rates of pay

Has your *normal* hourly pay gone up or down, and by how much?

Has your total weekly pay gone up or down, and by how much?

Has your access to any of the following changed?

- Shift loadings
- Overtime loadings
- Penalty rates for weekend or work outside of normal hours
- Casual loadings

d. Changes to leave provisions

Has your access to any of the following leave arrangements changed?

- Paid maternity leave (pay & amount)
- Paid paternity leave
- Leave for the care of sick dependents
- Leave for personal emergencies
- Cultural leave
- Training leave

e. Changes to security of employment

Has your job security been affected by changes in your

- Required notice of termination
- Workplace location

6. Has your change of job made easier or harder to balance work & non-work commitments (a lot easier, a bit easier, a bit harder, a lot harder)?

Has it affected, for example:

- Caring arrangements
- Sharing household work
- Household/family relationships
- Household finances/budgeting
- Life planning e.g. house, education, kids leaving home, holidays, retirement
- Commuting/travel time

- 7. Has your change of job affected your ability to participation in community, school or church activities? (e.g. neighbourhood watch, school coaching, tuck shop...)
- 8. Has your change of job affected your social life in any way? (e.g. catching up with family and friends, going out...)
- 9. Has your change of job affected your health in any way? (e.g. stress, tiredness, given up exercise, more prone to work injury...)
- 10. What do you like about your work?
- 11. What are the good things about your pay and conditions?
- 12. What don't you like about your work?
- 13. Did you belong to a union? Do you now?
Would you feel comfortable in contacting a union for assistance? Would you previously?
- 14. Do you have any thoughts about the changes to employment laws in Australia?
- 15. What would you like to see happen in the future about employment laws?
- 16. Is there anything else you would like to add?
- 17. Would you be willing to be contacted for a follow up interview in a year or two to see if anything has changed in your experiences at work? Yes No

If so, what number would be best to call you on? _____

Appendix 4

The Workers Interviewed

| NAME, AGE & INDUSTRY SECTOR | MAIN CHANGE/EVENT REPORTED |
|---|---|
| 1 Malcolm, 50+-year-old cleaner | Told by employer that with the introduction of WC, the client would no longer pay penalty rates for night work. |
| 2 Mary, 60+-year-old community service sector worker | Permanent part-time hours cut in half. Position description changed. Threat of AWAs, 'Climate of fear' |
| 3 Melanie, 22-year-old hospitality industry worker | Dismissed without warning after an order was 'mucked up' by another worker. No recourse to constructive dismissal claim because < 101 employees. |
| 4 James, 30-year-old hospitality worker | Loss of penalty rates and leave entitlements under non-union collective agreement. |
| 5 Jan, 50+-year-old retail worker | Dismissal without warning after raising issue about stock. No recourse to constructive dismissal claim because < 101 employees. |
| 6 Cheng, 40-year-old hospitality industry worker | Dismissal without warning after taking some loose change left on a table in the bar as a tip. No recourse to constructive dismissal claim because < 101 employees. |
| 7 Deanna, 35-year-old health services worker | Dismissal without warning after requesting part time arrangement be adhered to. No recourse to unfair dismissal claim because < 101 employees. |
| 8 Maryanne, 45-year-old retail industry worker | Resigned after bullying and abuse by owner increased post WorkChoices. |
| 9 Kate, 26-year-old hospitality industry worker | Dismissed without warning. No recourse to unfair dismissal claim because < 101 employees. |
| 10 Tess, 30+-year-old community services industry worker | Change in climate. Less accommodation of her disability and increased job insecurity because of disability. |
| 11 Grazia, 45+-year-old cleaner | Had a workplace injury, union not allowed on site till written permission finally given. Led to difficulties negotiating an appropriate return to work. |
| 12 Maria, 50-year-old childcare industry worker | Unilateral rostering changes threatened, despite provision in EBA for mutual agreement. |
| 13 Annette, 55-year-old aged care industry worker | Change in climate. Threatened with instant dismissal after raising concerns in staff meeting. |
| 14 Liz, 48-year-old retail industry worker | Unilateral removal of annual leave 17.5% loading. |
| 15 Lilly, 50+- year-old aged care industry worker | Climate change. Manager refuses to intervene in dispute with co-worker. Asked to breach OH & S regulations. |
| 16 Annie, 36-year-old retail industry worker | Dismissed without warning after raising issue of underpayment of award wages and conditions. No recourse to constructive dismissal claim because < 101 employees. |
| 17 Stephanie, 60+-year-old community services sector worker | Dismissed without warning, after 16 years with agency. No recourse to unfair dismissal claim because < 101 employees. |
| 18 Kylie, 15-year-old retail worker | Dismissed without warning, despite good feedback about performance. No recourse to unfair dismissal claim because < 101 employees. |
| 19 Helen, 30-year-old childcare industry worker | Dismissed without warning when tried to negotiate workload and responsibilities as part of new individual contract No recourse to unfair dismissal claim because < 101 employees. |
| 20 Jodie, 22-year-old retail industry worker | AWAs introduced with no negotiation. After company backed down penalised with cut in hours. |
| 21 Emily, 21-year-old hospitality industry worker | Dismissed without warning after her same sex partner dropped her off at work. No recourse to unfair dismissal claim because < 101 employees. |
| 22 Travis, 40+- year-old retail industry worker | Unilateral rostering changes, despite provision in EBA for mutual agreement. |

| | | |
|----|--|---|
| 23 | Lynette, 50+-year-old retail worker | Resigned after her hours were cut and another person was employed to undertake the work on a lower rate of pay. No recourse to constructive dismissal claim because < 101 employees. |
| 24 | Adriana, 28-year-old retail worker | Employer reduced her hours from fulltime to part-time at the end of her probation period. She has no access to unfair dismissal because < 101 employees. |
| 25 | Christine, 48-year-old aged care industry worker | Negotiation of new Union EBA halted and AWAs introduced with loss of conditions. |
| 26 | Justin, 34-year-old community services industry worker | Told he would be dismissed so he resigned. No recourse to constructive dismissal claim because < 101 employees. |
| 27 | Amanda, 36-year-old community services industry worker | Colleague was dismissed without warning with serious negative impacts on clients & workplace. Colleague had no recourse to an unfair dismissal claim because < 101 employees. |
| 28 | Kath, 50-year-old retail worker | New contract makes her a contractor & places greater demands on her. Told by supervisor this is allowed under WorkChoices. |
| 29 | Simon, 34-year-old hospitality industry worker | Dismissed after saying he did not want to sign a new individual contract which increased his working hours for no additional pay. No recourse to unfair dismissal as < 101 employees. |
| 30 | Maggie, 48-year-old hospitality worker | Dismissed following repeated requests that her manager address bullying behaviour by a colleague. No recourse to constructive dismissal claim because < 101 employees. |

For further Information

For more information, go to the Industrial Relations
Victoria website at:

www.irv.vic.gov.au

Industrial Relations Victoria

Department of Innovation, Industry and Regional Development

July 2007