

Not fair, No choice

**The impact of *WorkChoices* on twenty
South Australian workers and their households**

***A report to SafeWork SA and
The Office for Women***

**Jude Elton
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July 2007

**Centre for Work + Life
Hawke Research Institute for
Sustainable Societies
University of South Australia**


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and Life**

The authors would like to thank the workers who made themselves available for interview. We would also like to thank the service providers who gave their time for interviews.

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EXECUTIVE SUMMARY

The study

This report examines the experiences of twenty workers affected by changes to industrial law in Australia following the enactment of amendments to the federal *Workplace Relations Act, 1996* in March 2006, commonly referred to as the *WorkChoices* amendments. The in depth interviews which form the basis of this qualitative study were conducted in early 2007. Most of the workers who were interviewed are vulnerable and all of them were negatively affected by changes arising from their employment conditions.

These workers responded to public advertisements seeking volunteers affected by changes in industrial law, or agreed to interview after referral by a service provider. One was directly referred by a trade union.

Increasingly, average data about industrial outcomes in Australia are inadequate as a measure of changes at work. This is for two reasons. Increasing dispersion in outcomes around the average, mean that average wage outcomes for example, conceal as much as they reveal. While some workers are doing well in the current labour market, this is not true for many, and it is difficult to gauge the breadth and nature of dispersion around the mean based on average data (like average weekly ordinary time earnings). Second, single measures of remuneration change (like wages) do not capture the nature of changes at work given the complexity of changes in outcomes which involve alterations in wages, penalty rates, the security of hours, redundancy, and so on. Study of the total package of a worker's remuneration is necessary, as is analysis which tracks the total package over time to assess its positive or negative outcomes. Qualitative study helps map that totality for the particular workers whose circumstances it can analyse. Further, qualitative analysis allows us to develop a picture of what the package of changes mean for incomes, working time, voice at work, respect and employment security for individual workers, and its impact on the larger household in which they live. However, qualitative study of small numbers of workers - twenty in the case of this study - is inadequate for an overall assessment of the impact of very significant changes like *WorkChoices*. Such major change in a regime affecting the lives of millions of Australians deserves proper qualitative and quantitative assessment. Unfortunately, that study is not being properly undertaken on a national scale in Australia. In its absence small scale qualitative study of groups of workers serves to provide some insight into the overall effect of changes, and their impacts.

Overview of findings

Some of the workers in this study have had negative experiences that have been partly shaped by employers who have acted harshly, from these workers' perspectives. There have always been harsh bosses in Australia: this is not new. Some employers take advantage of employees and act unilaterally, whether legally or illegally, in ways that damage employees. However, the accounts assembled here suggest that *WorkChoices* has created a climate where some employers feel licensed to act with unilateral disdain for workers and their rights in many cases. Further it has resulted in direct cuts in workers' conditions - cuts which have not been compensated for by other positive changes in wages or conditions. The federal government's *Stronger Safety Net Amendments* of June 2007 will make little difference to most of the accounts set out in this report, especially those related to dismissal, control over working time, and work and family flexibility.

It seems from this research that the effects of changes in unfair dismissal are casting a long shadow across the parts of the labour market in which vulnerable workers are concentrated. This is having significant effects on their voice at work, their willingness to speak up for themselves or colleagues, their capacity to act collectively or to involve unions, and their access to timely and clear information about rights and obligations.

The findings of this study contradict the assertion that *WorkChoices* is resulting in more flexibility, certainty and productivity - from the point of view of these employees. Indeed, the evidence is strongly suggestive of greater managerial prerogative, more unfairness at work, loss of control over working time, weaker

voice, lower unionisation and less capacity to negotiate. Existing services appear unable, at least in some cases, to offer holistic advice about the total package of new conditions affecting workers.

WorkChoices has facilitated reductions in the income of study participants, ranging from the loss of over \$100 a week for low and middle income earners, to loss of penalty rates, loadings, and allowances. In these examples, there has been no compensating increase in other conditions.

There is evidence that the secrecy around individual arrangements is making pursuit of gender equity more difficult. Transparency around wages and conditions is an essential precursor to the pursuit of fair pay that does not discriminate on the basis of gender. Australian Workplace Agreements (AWAs) significantly reduce this transparency and make gender inequity much more difficult to recognise or pursue.

We find no signs of negotiation on the part of the workers we interviewed. The scope for genuine negotiation – which presumes arrangements that give negotiating parties some semblance of equal voice – is ephemeral in these accounts. Instead, these workers describe unilateral action by employers on a ‘take it or leave it’ basis, often backed up by direct or indirect threats around effective dismissal. Most of those in our study are long-term employees. However, most are also women, many are part-time, many are employed in small workplaces, most are un-unionised and – while experienced – many lack readily transferable skills. *WorkChoices* has made them very vulnerable and they are not engaged in a form of individual transaction which resembles any conventionally recognisable form of industrial negotiation.

Some have been dismissed without any redress and with no opportunity to argue the nature of harsh claims made against them. The lack of procedural justice for these employees imposes high costs – both personal and material. The arbitrary basis of their loss of redress – based on size of their firm – makes this injustice hard for them to take. Many are likely to carry their injury into the future, affecting their labour market participation and imposing hidden health and workers compensation costs. Costs also exist for their families.

A significant area of impact lies in the hours of work. Employees in this study have much less say over their start and finish times, the length of their unpaid overtime, their breaks and the predictability of their hours.

These issues are of particular importance to workers with family responsibilities. These accounts suggest a hardening of their employers’ attitudes around accommodating work and family. For some, this hardening has ended with dismissal when they have requested changes in hours, or resisted changes that their families struggle to accommodate. In some cases, minor requests have been met with severe responses. A casual basis for employment proved especially hazardous for some. *WorkChoices* is being enacted in an environment where a quarter of employees are employed on casual terms.

Leave is also an area of significant change for many of these interviewees. In some cases they have lost leave entitlements they previously enjoyed, have difficulty getting access to holidays and have reduced access to sick leave.

For others, redundancy conditions have also been reduced with important financial effects on individuals and households.

One of the most consistent findings in this set of South Australian interviews revolves around the issue of insecurity at work. Twelve of the twenty interviewees had effectively lost their job, with direct connections to *WorkChoices*. In other cases, changes in the form of employment have occurred (e.g. to involuntary conversion to ‘independent contractor’ status, or to casual status), or changes in hours have been imposed. Greater insecurity at work, flowing from changes in the operation of unfair dismissal is having a significant impact on workers in many workplaces, based on these accounts. The sacking or unilateral imposition of a change in the form or hours of employment affects more than the individual and their family. They set out a lesson to those who remain. In this way, these cases show how changes imposed through *WorkChoices* are casting a long shadow in terms of the voice of workers at work, their capacity to speak up for themselves and to identify practices or behaviours that might be unsafe or wrong – through ‘whistle-blowing’, for

example. In this way, at least in areas where workers like those we interviewed work – in retail, manufacturing and services – *WorkChoices* is changing the workplace climate. Workers describe being more fearful. The effects of *WorkChoices* on the nature of workers voice at work deserve much closer and more extensive analysis. Our review of these twenty cases in South Australia suggest that workers' citizenship in their workplaces is being seriously degraded where *WorkChoices* is being used to change job security and to mobilise unilateral employer power.

A number of employees in this study talk of difficulties in involving their union or acting as union delegates. In some cases, this affects job security. In an environment where unionisation and union activity is more difficult, it is easier for employers to disguise unlawful behaviour and this is clear from some of the cases reported in this study.

Many interviewees sought remedies for their treatment. In most cases, effective remedies did not (and do not) exist. In other cases, possible remedies (i.e. through the pursuit of unlawful dismissal) were not practical on the basis of cost or delays. Low income workers and those with financial dependents struggle to pursue redress, even where the legal possibility is available to them. In other cases, they lacked advisors, or accessible services, or clear information about their entitlements. The complexity of industrial arrangements is now a serious difficulty for some workers in navigating their entitlements.

The argument that a tight labour market will protect workers from cuts in wages and conditions does not hold, based on these case studies. A combination of factors acts to limit the employment opportunities of most of these workers, despite the analysis occurring at a time of low official rates of unemployment in South Australia. These factors include their family responsibilities, their skills, their ages and/or their rural location. Even so, the effects of *WorkChoices* on these kinds of vulnerable workers would be much greater were unemployment to rise.

The changes arising from *WorkChoices* that are described in this report have significant effects on individual workers and, beyond them, on their families and households. These changes have imposed financial strain, reduced living standards, imposed stress and worry, meant a loss of independence and, for some, poor health. These impacts reach beyond the individual and their household to the public purse in the form of health and workers compensation costs. Most of these are hidden costs. They deserve much closer, systematic analysis across Australia.

There is a pressing need for more research about the effects of this significant change in Australia's labour law.

Recommendations

The body of research in this report underpins the following set of recommendations. These recommendations are not exhaustive, but address major findings relating to: industrial information and advice; pay rates, increases and equity; working time; unfair dismissal; the capacity of employees to meet caring responsibilities; forms of agreements under *WorkChoices* that disadvantage employees; union entry and collective bargaining. Recommendations are also made in relation to enforcement and further monitoring and analysis of the effects of changes in industrial regulation. They recognise that while the industrial relations powers of state jurisdictions have been significantly reduced by *WorkChoices*, there are some actions that states can take to better protect employees in the new industrial climate. These actions include pursuing those recommendations relating to the federal arena with the Commonwealth Government.

Communication of results to the Commonwealth Government

It is important that the experiences of the group of workers reflected in this report are conveyed to the Commonwealth Government so that weaknesses and inequities in the operation of the existing system are clearly understood by law makers and those who implement and enact legislations, as well as enforce it.

We recommend that:

- The South Australian Government bring the findings of this report to the attention of the Commonwealth Government and press it to take action on recommendations relevant to its powers as a matter of urgency.

Further research and monitoring

This study reports on a small number of South Australian experiences. There is a pressing need for larger studies and systematic research that reviews the effects of *WorkChoices* on a wide range of employees. This research needs to comprehensively investigate overall effects on wages and conditions, as well as effects on dismissal and other key employment outcomes including voice and workplace citizenship. A very significant change like *WorkChoices* deserves thorough monitoring along with effective liaison with service providers who must assist workers dealing with the negative consequences for them and their families, especially in the event of dismissal.

We recommend that:

- The Commonwealth Government commit to a five yearly comprehensive study of changes at work in Australia, repeating a modified version of the Australian Workplace Industrial Relations Survey (AWIRS) on a five yearly basis, beginning as soon as possible.
- The Commonwealth Government and state governments complement the quantitative analysis of AWIRS with qualitative analysis of the effects of changes at work on sub-groups of workers, including young people, women, and other disadvantaged and vulnerable groups.
- The Workplace Authority and Workplace Ombudsman systematically and regularly collect, analyse and publish data on the numbers, coverage and content of individual and collective agreements and awards.
- The data on such agreements and awards be available for independent research.

Better data on dismissals and use of remedies in the event of dismissal, is essential for policy review of dismissal arrangements in Australia and their incidence and impact.

We recommend that:

- The Commonwealth Government implement research to provide robust data as a basis of monitoring dismissal in Australia.

Information for employers and employees

The cases reported in this study illustrate the low level of knowledge that many employees have about their rights and entitlements under the new arrangements. While many employers have received advice about how to make *WorkChoices* work for them (as several cases we have described show), employees are not so well informed. Indeed, many are confused about their situation and potential avenues of redress. Better advisory services for employees are essential. It is important that governments examine gaps in the knowledge of employers and employees about basic rights and responsibilities and target groups shown to be typically ignorant of this information.

We recommend that:

- Research be conducted on employers and employees' knowledge of basic employment rights and entitlements, as well as obligations, including industrial standards and the instruments governing employment, and key state and federal sources of information and advice.
- Groups shown to be without such information be targeted for information dissemination.
- Information and advice be provided to employees and employers about negotiating rights and processes and further avenues of support and representation.

- The South Australian Government continue to support specialist advice and advocacy services for vulnerable workers, including the South Australian Working Women’s Centre and the Young Workers Legal Service.
- The Commonwealth Government continue to support independent, specialist advice and advocacy services, including the Working Women’s Centre.

Enforcement

A number of examples in this report suggest that enforcement of industrial conditions is weak in diverse workplaces. There are strong arguments for better machinery of enforcement to support employees. More information about the penalties for breaking industrial law should be provided to both employees and employers so that employees can seek remedies where the law is broken. Further, employees should have greater access to timely, low cost advice and redress where they are underpaid. The South Australian Employee Ombudsman should be required to continue to do this and to review the efficacy of its efforts in this regard.

We recommend that:

- The federal industrial inspectorate be strengthened to enable timely investigation and prosecution, and random inspections, particularly of workplaces that employ low paid and vulnerable workers and that have 100 employees or less.
- The federal grant to assist an employee to obtain legal advice be extended to include representation, whether by the same or a different legal practitioner.
- The Office of the Employee Ombudsman continue its work to provide employees with information and support so that it can seek remedies where the law is broken. Further, that it increase its efforts to ensure that employees have access to timely, low cost advice and redress where they are underpaid.

Pay

Many workers are now uncertain about their pay rate and pay increases. More systematic information about pay changes, and the implementation of a regular annual pay increase system would benefit employees without union representation and limited knowledge of their entitlements.

We recommend that:

- The Australian Fair Pay Commission explicitly consider the needs of women working in low pay jobs and pay equity in its deliberations.
- The Australian Fair Pay Commission take more active steps to promulgate its decisions giving pay increases to ensure they are widely applied.
- The Australian Fair Pay Commission monitor the impact of *WorkChoices* on pay equity, both in terms of wages increases and trade offs.

Pay equity

On average, women’s wages in Australia still fall well short of men’s. The cases discussed in this research report reveal that some women now find it difficult to know whether their pay is fair and equivalent to men’s, even where they work alongside each other. The secret nature of AWAs works against the kinds of transparency necessary in an industrial setting to achieving pay equity. Secret pay arrangements should be avoided because – apart from their other effects – they work against pay equity.

We recommend that:

- Legislative provisions that make contracts of employment secret and that restrict the sharing and comparison of contract conditions be removed.
- The Australian Fair Pay Commission conduct an inquiry into the gender pay gap and means to reduce it.
- The South Australian Government follow the lead in other states and undertake a review of pay equity in South Australia and possible means of redressing it.
- The Commonwealth Government increase research around pay equity in Australia to inform future steps to reduce the gender pay gap.

Working time

In some cases, interviewees are working extended unpaid working hours, on low hourly rates of pay and sometimes in casual employment. There is a need for better regulation of working time to prevent very exploitative outcomes like this in Australian workplaces.

We recommend that:

- Prohibitions on award content should be removed permitting parties to negotiate over working time arrangements that are appropriately protective of health and safety on an industry by industry basis.
- Penalties for non-payment of overtime be increased and publicised.

Unfair dismissal

Workers should have adequate protection against the unilateral and unfair treatment of capricious employers. A number of cases in this report reveal very unfair treatment which – but for the fact that it occurs in small or medium sized workplaces of less than 101 employees – would be illegal. This is unfair. Further, it sets a new uncertain climate which is having important repercussions at the bottom end of the labour market. It should be redressed through universal protection from unfair dismissal regardless of size of workplace.

We recommend that:

- The right to take action for unfair dismissal be reinstated for all employees, regardless of size of business or operational requirements.

Family friendliness

WorkChoices is being implemented in ways that are family unfriendly, not least in terms of the effects of changes in unfair dismissal law that – as many examples through this report show – works to reduce employee say over working time. Fitting paid work alongside caring responsibilities relies on effective employee say over working time and the configuration of work. These cases show how poorly current arrangements are working for many in the study. They create an argument for improved employee say over working time through right-to-request legislation and firmer employee rights around dismissal.

We recommend that:

- That a right for employees to request changed working hours (including the number of hours, starting and finishing times and shift patterns, along with the right to return to full-time hours), be enshrined in legislation as a minimum standard. This law should require employers to not unreasonably refuse such requests and enact appropriate enforcement machinery to ensure the right.
- Legislative prohibitions on award content, including in relation to forms of employment and hours of work, be removed.

Choice and voice

Greenfield ‘agreements’ which give employers unilateral say over working conditions should be abolished. They prevent any employee say. Similarly, employment conditional upon signing an AWA should be prohibited to address the lack of choice in accepting employment on non-negotiated employer terms. Employees should have more genuine and effective rights to consultation and negotiation.

We recommend that:

- The right of employers to impose Greenfield ‘agreements’ on employees be abolished.
- Any legislative or government funding requirements making it mandatory to offer an Australian Workplace Agreement in the advertising and hiring of employees be removed.
- Employment conditional on the signing of an Australian Workplace Agreement be prohibited.
- Legislative barriers to and restrictions on union entry and collective bargaining be removed.

Funding and contracting of government programs

Under *WorkChoices* state governments have lost considerable regulatory power in relation to industrial relations. However, there are initiatives that they can take to increase the protection for some employees covered by the federal industrial jurisdiction. These include the enforcement of more comprehensive labour standards via funding of contract services e.g cleaning, and in the letting of other contracts.

We recommend that:

- The South Australian Government ensure in its tendering processes organisations do not compete on the basis of labour costs and that freedom of association and collective bargaining are genuine options for employees.
- The South Australian Government develop a set of minimum, family friendly labour standards that must be met by organisations submitting tenders for government work.

INTRODUCTION

This report presents the findings of twenty in depth interviews with South Australian workers who have been affected by changes in national work regulation brought about by amendments to the *Workplace Relations (WorkChoices) Act, 1996* (Cth) which took effect at the end of March 2006. It examines changes to wages, conditions, industrial instruments and forms of employment, processes of change and the effects of change on workers, households, families and communities. Effects on workplaces are also identified.

These findings are complemented by in depth interviews with key senior staff of two organisations providing industrial related services; one to businesses in difficulty and one to young workers. Focus groups with eleven staff members of two organisations (one providing health and the other employment services), further build the picture of change and its impacts, including on public and community service provision.

The report assesses the effect that amendments made to the *WorkChoices Act* in May 2007 might have made to situations described by interviewees.

Finally, the report considers the implications of these findings for state and national industrial policy and services.

Origins of the study

A recognised need

Studies reviewing the potential impact of *WorkChoices* point to possible significant negative effects on working men and women, especially those most vulnerable in the labour market: the low paid, casuals, those employed in smaller workplaces, those historically reliant on industry awards and those with relatively little bargaining power or ‘voice’ (Edgar 2005, Peetz 2007b, Plowman 2005, Pocock 2005, Statement of ‘A Group of 151 Australian Industrial Relations, Labour Market, and Legal Academics’ 2005). These possible effects include lower rates of pay increases, loss of conditions such as penalty rates, overtime rates and shift penalties, less control over working time and less employment security.

Quantitative analyses of available data on Australian Workplace Agreements (AWAs), union and non-union collective and employer Greenfield agreements, and Australian Bureau of Statistics (ABS) data on hours and earnings undertaken since the implementation of *WorkChoices* confirm these predictions (McIlwain 2006, Peetz 2007a, Peetz 2007c). They are further confirmed by findings of the inquiry into the impact of *WorkChoices* on Queensland workplaces, employees and employers by the Queensland Industrial Relations Commission (Final Report January 2007), an analysis of calls made to the Workplace Rights Information Line in Victoria (Gahan 2006) and media reports of specific instances of reductions in wages and/or conditions.

These analyses, inquiries and reports focus on quantitative data and case studies that highlight the effects of *WorkChoices*, particularly on the initiative of employers, on employee employment provisions and job retention. However, to date there has been little deep qualitative research and analysis of these effects linked to processes of change, workplace effects and effects on individual circumstances outside of the workplace, including finances, accommodation, dependant care, education, health and life planning. A recent national study of low paid services employment in Australia includes findings about the emerging effects of *WorkChoices* obtained from interviews with child care workers, cleaners and workers in luxury hotels (Pocock and Masterman-Smith 2006, Masterman-Smith and Elton 2007). That work is primarily concerned with broader issues than the effects of *WorkChoices*, and interviews did not focus on this topic. That study points to the need for further research on the lived experience of change for workers and their families.

This study addresses the need for in depth qualitative analysis of changes in employment provisions and arrangements (including trade offs), processes of change and their effects, especially on vulnerable workers.

It targets workers in South Australia in order to assess the particular impacts that *WorkChoices* might have on employees, workplaces and services in this state. It has been co-ordinated with matching qualitative studies conducted independently by university researchers in Queensland, New South Wales, Victoria, Western Australia and the Australian Capital Territory.

Project history

A proposal for a national qualitative study of the impact of *WorkChoices* on vulnerable women workers was initiated in early 2006 by the following research team:

Western Australia

Professor Alison Preston & Dr Therese Jefferson, Women in Social & Economic Research (WiSER), Curtin University of Technology

South Australia

Professor Barbara Pocock, Centre for Work + Life, University of South Australia

New South Wales

Associate Professor Marian Baird & Dr Rae Cooper, Work & Organisational Studies, University of Sydney

Victoria

Dr Sara Charlesworth, Centre for Applied Social Research, RMIT

Queensland

Associate Professor Gillian Whitehouse, Queensland University

This team contracted with the Human Rights and Equal Opportunity Commission (HREOC), the National Foundation for Australian Women, the Women's Electoral Lobby and the Young Women's Christian Association, to undertake, firstly, a scholarly review and evaluation – or 'stocktake' – of current data collections on the status of women in employment; and, secondly, a qualitative analysis through interviews with 100 women from five state jurisdictions to assess the multidimensional nature of women's experiences at work within a changing labour market.

The 'stocktake' was successfully completed in September 2006 (WiSER 2006). However, HREOC determined not to proceed with the second, qualitative stage of the research. State governments were then approached to fund second stage interviews. This eventually enabled the extension of the research into the Australian Capital Territory and the inclusion of a further 15 interviews. It also broadened the focus of interviews in some states, including South Australia, to include a few men working in low paid and vulnerable jobs.

Funding

The South Australian study has been conducted by the Centre for Work + Life at the University of South Australia and funded by SafeWork SA (\$10,000), the Office for Women (\$5,000) and the Centre for Work + Life.

Studies in other states have been funded by their respective state governments. State reports will be combined in a single national report with a focus on the effects of *WorkChoices* on women workers, later in the year. State co-ordination and the writing of the national report have been made possible by funding from the National Foundation for Australian Women, the Women's Electoral Lobby and the Young Women's Christian Association and the Centre for Work + Life.

Goals of the study

This study aims to provide a deep and detailed qualitative assessment of the effects of changes in work regulation brought about by the *WorkChoices Act* on a group of South Australian workers, particularly those that are especially vulnerable, including young workers, women, workers with disabilities, workers with dependent care responsibilities, the low paid and workers in country locations.

The impacts of changes are assessed by addressing the following research questions:

1. What effects are changes having on workers' remuneration, including base rates of pay, loadings, penalty and overtime rates?
2. What effects are changes having on the form of their contract of employment, as well as on hours and patterns of work and their job security?
3. What effects are changes having on their access to and amount of paid and unpaid leave, including that relating to sickness, childbirth and care of others?
4. How are changes affecting their ability to balance and participate in work, family and community life?

Through this analysis, the study aims to inform public debate on the impact of *WorkChoices* and to assist the South Australian Government to understand the implications for state service provision to vulnerable groups of workers as well as respond in policy terms.

Methodology

Ethics clearance

In September 2006, the Human Research Ethics Committee of the University of South Australia approved the study, to be undertaken in 2006-2007. This approval was based upon an application from the Centre for Work + Life, which set out the research aims; methodology; processes and instruments for recruitment, selection and obtaining consent from participants; and recording, reporting, storage and access to research results and data.

Recruitment

Recruitment of interviewees occurred through several methods. The first method targeted women from diverse backgrounds in occupations and sectors identified in stage one of the national project as particularly vulnerable to change; that is in cleaning, child care, aged care, retail, clerical and hospitality jobs. It involved the distribution of project publicity through community and health organisations in direct contact with young workers, women workers, women of Aboriginal and Torres Strait Islander backgrounds, women from culturally and linguistically diverse backgrounds and women with disabilities. Organisations were requested to display the publicity, leave information sheets in waiting rooms and pass the publicity on to any other organisations and individuals to whom the study might be relevant. If an organisation determined that it was appropriate, it contacted previous clients directly and with their approval, passed their first name and contact number on to the project research officer. Publicity was also distributed through relevant union networks on the same basis. However, unions were not a focus of recruitment and only one interviewee was directly recruited through a union.

A second round of recruitment occurred through advertisements placed in local newspapers; the *Southern Times* (covering Adelaide's outer southern suburbs), the *News Review* (covering northern suburbs) and the *Murray Valley Standard* (covering Murray Bridge, Mount Barker, Mannum, Swan Reach through the Mallee to Tintinara). These placements reflect concentrations of lower paid workers, the aim to include country as well as city participants and a limited advertising budget. Advertisements did not specify gender, occupation or industry so as not to limit participation of workers from these locations and reflecting the broader scope of the South Australian study.

A \$25 shopping voucher was offered to encourage participation and to provide some compensation for the approximately one hour spent in interview.

The recruitment methods outlined above were not intended to provide a random or representative sample of employees who had been affected positively or negatively by *WorkChoices*. Rather, as the following report shows, they enabled the research to conduct in depth, qualitative interviews with participants who self-identified as being affected by 'recent changes in Australia's workplaces laws' (as the advertisements

put it). These included participants from a range of age groups, household and life circumstances and locations.

Copies of project publicity are included in appendix one.

Selection criteria

Not all workers who volunteered for interview were accepted. Seven workers were excluded as their changes in employment were not connected to the regulatory regime established by *WorkChoices*. Not all clients (five) referred from organisations could be contacted or were able to participate due to change of residence, current employment arrangements, fear of potential identification despite assurances of confidentiality or other personal circumstances. One older, long term employee who had been dismissed, was so angry about her experience and that of several other employees at the same aged care facility, that she decided not to proceed with an interview as it would not give her and fellow employees direct redress. A further interview was not included in the final analysis as towards its conclusion detail emerged that showed that the work changes being described were not attributable to *WorkChoices*.

Data collection:

The interview schedules used in the study were developed jointly by the researchers listed above (on page 13), to ensure consistency of approach in the matching studies conducted across Australia.

Background data was collected on all participants using a common Background Information Sheet (appendix two). This gave information on age, education and qualifications, type of household, dependents, occupation and industry, size of workplace, form of employment and wages and conditions.

The pro forma for interviews was split into two to enable an exploration of the circumstances of both workers experiencing change in their current employment and those who had lost their job as a result of *WorkChoices* (appendix two). Questions were open-ended so as not to restrict the issues and effects raised by respondents. They were carefully structured to be non-directive and to allow a relatively unstructured conversation.

Open-ended and non-directive interview questions enabled the exploration of diverse and complex work and personal situations. They facilitated an investigation into reasons for and processes of change; trade offs; impacts on individual workers considering factors such as age and location; and impacts on households, workplaces and communities. In so doing, they give additional real life meaning to quantitative data on, for example, employment conditions removed or reduced in AWAs or data on reductions in pay equity.

Prior to interview, potential interviewees were sent copies of an information sheet and a consent form setting out the conditions of interview and guaranteeing confidentiality (appendix three). All participants agreed to their interview being recorded and transcribed. Interviewees chose a pseudonym, which was used in the interview and transcript to help protect their identity. Eighteen interviewees chose to be interviewed over the phone. One interview was conducted at the participant's home and another at the Centre for Work + Life. Interviews and focus groups with staff of organisations occurred at their workplace. Interviews ranged from 30 minutes to one hour.

Transcript analysis

Interviews were analysed thematically, transcript by transcript, to identify variations in changes affecting workers and to take into account their different individual, household and workplace contexts. This report maintains the use of pseudonyms in presenting analysis.

Quotations from transcripts have been edited of pauses, repetition and extensive use of fill words such as 'like' or 'you know', with careful attention given to preserve meaning. Where there is intervening text that is extraneous to the point, or a probe question, it has been deleted and the edit indicated with three dots.

STUDY PARTICIPANTS

Who were they?

Interviews were conducted with eighteen women and two men. They were employed in or had been dismissed/resigned from the following occupations and industries: sales and storeperson jobs in the retail industry (nine interviewees); clerical work in various private sector organisations (five); customer service jobs in the hospitality industry (two); nursing and attendant care in private aged care facilities (two); and community workers in the community sector (two).

This gender, occupational and industry distribution partly reflects the first round of recruitment, which focused on cleaning, retail, hospitality, child care, aged care and clerical work in which women predominated. It may also reflect the varying take up of *WorkChoices* by different industry sectors in South Australia, influenced by factors such as competitive pressures, the predominant form of industrial instrument in operation, size of workplace, union coverage and the bargaining power of employees.

Interviewees were primarily from workplaces with less than 101 employees (15 workers), the cut off number for action in relation to unfair dismissal. Five workers came from workplaces with less than ten employees; three from workplaces with 10-20 employees; seven from those employing more than twenty but less than 101; and five from workplaces with 101 or more employees.

Eight interviewees were reliant solely on an award. Six were employed on an individual contract: three definitely on an AWA, one on a common law contract and two on a contract the form of which they were uncertain. Three interviewees were employed under a non-union collective agreement. Only three were covered by a union collective agreement. The five interviewees who were union members were all employed under collective agreements: three union and two non-union.

The majority of interviewees worked full-time weeks of 37.5 or 38 hours: 12 on a permanent basis and one as a casual. Of those interviewees working less than full-time, five were employed as casuals and two as permanent part-time employees. Part-time hours ranged from 15 (one), 17 (one), 24 (one), 30 (three) and 32 (one) hours per week. Five interviewees were shift workers: two morning; one afternoon; one rotating; and one on call roster. Eight interviewees regularly worked at least one day of the weekend.

The length of employment at the point of change ranged from 3 months to 15 years. Two interviewees had been employed around 14 years; one for eight years; two around seven years; five around four years; two around three years, and four around two years. Four interviewees had been employed for one year or less.

The majority of interviewees (14) had completed some form of post-secondary school qualification. Eight had completed a TAFE Certificate. Of these, one had obtained a trade qualification and one had completed a traineeship. A further two interviewees had completed an employment related diploma. Three interviewees had completed and one was studying for a university degree. Twelve interviewees had completed year 12 at secondary school; four had completed year 11; and four had completed year 10.

The rate of pay of thirteen interviewees was \$18 per hour or below: two received \$15 per hour; eleven received around \$16-18 per hour. Other individuals received \$19, \$20, \$21, \$22, \$23, \$30 or \$33 per hour.

Interviews included workers in both suburban and country areas. Five interviewees were located in country towns ranging from approximately 100km from Adelaide to remote centres. One person lived in the Adelaide Hills adjacent to the city of Adelaide. Those living in the Adelaide metropolitan area were concentrated in outer southern and outer northern suburbs.

Two interviewees identified as having one or two disabilities that affected their employment options.

The ages of interviewees ranged across all stages of employment: from students combining work and study, to young employees, workers beginning a family, those with school aged children and workers nearing retirement. There were five interviewees aged between 18-24 years; three between 25-34 years; six between 35-44 years; three between 45-54 years; and three over 54 years.

The household and dependent care circumstances of interviewees similarly varied. Nine workers lived in dual earner households; three in sole parent households; one in a single income couple household; and seven in single person or share households. Seven interviewees had dependant children living at home, while thirteen had no dependent children.

In addition to interviews with workers, the study included in depth interviews with two key senior staff and focus groups with eleven staff of one public women's health organisation and three community organisations providing employment related services to businesses in difficulty, young people and women. The services of the community organisation assisting businesses included responding to general inquiries relating to the implementation of *WorkChoices* and to inquiries from the parents of young workers 18-20 years offered employment on the condition that they register as a business.

Why participants agreed to be interviewed

Respondents to project publicity were not motivated by the voucher, although some commented that this would be helpful given their new circumstances. They were very clear about their reasons for wanting to participate. Some just wanted the opportunity to tell someone about what had happened or was happening to them, because they were not listened to anymore at work.

Where respondents had been sacked or forced to resign with no remedy for unfair or constructive dismissal, they particularly welcomed the chance to describe what had occurred and its effects. If dismissal involved allegations of misconduct, respondents carried an ongoing, unresolved burden of shame and a deep sense of injustice that 'their side of the story' had not been independently heard. Several of these interviewees were quite distressed during the interview, but persevered. They wanted to both tell their story and hear that of others in order to counter feelings of being alone. Aged care nurse Jane typified this approach:

...it is nice that you can just sit and talk to somebody, nobody's going to judge me, I'm not going to walk out of here and feel as if I'm being judged.

...I'd like to have a look at what other people have experienced and get that whole feeling that I'm not the only one out there in the world who has been treated like this. I mean I've paid my taxes all my life, I've never been a bad person. To suddenly find myself in this position is really devastating.

All interviewees except one, wanted to receive a copy of the research report.

Respondents also wanted to increase community awareness about what was happening to workers and families as a result of *WorkChoices*. Their concerns were for others as much as themselves. Retail storeperson Jeremy welcomed research into changes and their effects:

...it is good to hear that someone else is interested in not just my workplace, but other workplaces and trying to see what effect on the employees it has had. I think that a lot of people don't realise the full extent of these laws and what they can and can't do. So it is good to see that there are people out there and doing studies to monitor the effects on people and most importantly their families.

Jane thought that it was important that what was happening to workers was made public:

I just hope that the information that comes out of this, obviously it's not going to help me...But that somebody somewhere gets an inside picture really of how we are hurting and what it is doing to us.

And as I said I'm probably one of the lucky ones - if you have to have categories - I can get on with my life, I can pick myself up...but the person with kids, with a mortgage they're the people who I would like to see helped if nothing else. Somebody's got to be aware that these people are hurting.

Finally, interviewees wanted their stories to contribute in some way to legislative change. Jane commented, 'You know the whole scenario is so wrong. Somebody's got to be woken up and shaken', and community worker Carol said:

I just hope whoever you send this to really listens ... and does something...

Participation of service providers

Representatives of the business and other services who participated in the study initiated contact with the Centre for Work + Life because of their concerns about the effects that *WorkChoices* was having on service inquiries and the circumstances and decisions, including decisions affecting life planning, preventative health and pregnancy, of service users. Organisations providing employment services to young and women workers agreed to participate because they also wished to inform the public and policy makers of the changes to the nature of industrial inquiries that they were receiving. They were particularly concerned about the reduction in protections and remedies that were available for employees under *WorkChoices* and the effects that this was having on clients and themselves as service providers motivated by a desire to assist young people and women.

CHANGES EXPERIENCED BY WORKERS

This part examines the impact of *WorkChoices* on the employment of research participants. The effects of the new legislative regime are analysed under headings covering employment standards, job security, work processes, managerial prerogative, abuse and access to a union. Changes experienced by interviewees in one area of employment were generally accompanied by other changes or led to other effects. Consequently there is some overlap in the discussion of effects and patterns of change between headings.

Employment Standards

Income

No interviewees reported that the industrial regime established by *WorkChoices* facilitated improvements in their employment income. Rather, participants demonstrated a range of ways in which the legislation enabled their employer to reduce their return on employment. These negative impacts were not offset by improvements in other employment provisions. They were cost cutting mechanisms initiated and implemented by the employer without consultation. There was no suggestion in any interviews that changes involving employee remuneration were intended to mutually benefit the employer and the employee. The following case studies illustrate various situations under *WorkChoices* in which employees are incurring a loss of income.

The income of interviewees was affected firstly by the removal of so-called 'protected' award conditions:

John, a middle-aged baker, is the sole income earner in his household. He wanted to relay what had happened to him, but was also very concerned that telling his story would lead to dismissal. Given his age, trade and location, he was fearful that he would not find another job. It took courage on his part and reassurance that he would not be identified, for him to proceed.

John has worked as a qualified baker for more than a decade and for this particular employer for around five years. There are around a dozen employees at his workplace. His wages (\$18 per hour) and conditions prior to change reflected the Milling Industry Award.

Without warning, on return from the Christmas/New Year break on 2 January 2007, John's employer handed out a document setting out new 'rules' that were to apply to all employees. This document stipulated (amongst other reductions in conditions), that as from 1 January 2007 overtime would be paid at ordinary time rather than at the rate of time and a half, the leave loading of 17% would no longer apply, and public holiday rates would also be at ordinary time, except for Christmas Day, which would be paid at time and a half. Work on public holidays had previously received time and a half for the first two hours and double time thereafter. The 'rules' also stipulated that shop and baking uniforms and the bakers' rubber boots and steel cap shoes would no longer be provided, but must be bought by employees. Four sets of clothing were used each year. No compensation or trade offs for the loss of income and additional costs to employees were included in the 'rules'.

The employer clearly linked the changes that he was making to *WorkChoices*. John recalled, 'He just said that due to the new IR laws, we've got a few new rules that are going to take place'. The use of *WorkChoices* by the company to reduce wages and conditions was not driven by financial problems. From his experience of the industry and that particular workplace, John assessed the business to be profitable: 'it's doing good'.

The effect of these changes has significantly affected John's income. The cut in overtime rates has reduced his weekly before tax pay by 13% or \$104 per week, from \$800 to \$696. Removal of the leave loading has cut his holiday pay by \$473. He estimates the cost of supplying his required work clothing to be approximately \$200 per year. He has not as yet calculated the impact of the loss of public holiday rates.

Storeperson/fork lift driver Jeremy was confronted with the financial implications of a loss of or reduction in 'protected' provisions, when his large retail employer presented a non-union Greenfield 'agreement' to its employees and their union in October 2006. The agreement would take effect when the

company's distribution operations shifted to new premises early in 2007. Employees had been covered by a union collective agreement.

Jeremy had worked in the distribution centre for 14 years on a permanent morning shift, Monday to Friday. He received \$19 per hour for his normal working week. Additional hours accrued overtime rates. The centre also employed a permanent afternoon shift, five days per week.

Under the Greenfield agreement, Sunday overtime rates are cut from double time to time and three-quarters. The opportunity for weekend overtime is minimised and ordinary time weekly income is made unpredictable by changes in shift patterns and hours (discussed further in the following section). Importantly for Jeremy, the productivity incentive scheme that he had come to rely on for a significant portion of his mortgage payments is not included in the new agreement. Employees were informed that the scheme was being revised. The likely outcome appeared to involve a reduction in payments. The extent of this reduction was uncertain and worrying:

...at the moment all attempts to negotiate or have any sort of input into that has so far met with little or no compassion from the company. They will tell us probably the day before it comes into operation I think.

Pay for the afternoon shift is reduced by the 17½% shift loading applying only after 7pm rather than from start of shift at 2.30pm as occurred under the union agreement. While this reduction did not affect Jeremy's current income, he was aware of its negative effect on the pay of afternoon shift workers and of their concerns.

Deborah and her fellow women community workers were also financially disadvantaged by their community sector employer reducing the application of a camp allowance previously paid to all employees providing overnight care to a group away from home. Such overnight care was an expected part of their work and the allowance was of particular importance to women who had to pay for overnight care for their children, in addition to their normal child care costs, while they were away.

Other aspects of *WorkChoices* relating to wages, the removal of wages provisions from awards and the primacy of agreements also affected the income of Deborah and three other women interviewees.

From the commencement of her employment in 2002, Deborah's wages and conditions had been set by an enterprise agreement based on the South Australian Community Sector (SACS) Award. However, in 2004 the agreement had expired and due to turnover of staff and management, had not been kept up-to-date. Following March 2006 her employer reassured staff that their conditions would be maintained and agreed to enter into a new, upgraded enterprise agreement. Subsequent to this undertaking, it accepted the advice of the Community Employers Association that the organisation came under *WorkChoices* as a trading corporation.

Not long after this, staff became aware that CPI increases provided for under the SACS Award had not been passed on to them. When this was taken up with management, staff were informed that on legal advice it had been determined not to pay the increase. Deborah and her co-workers then sought their own advice, but it confirmed that under the industrial arrangements established by *WorkChoices*, it did not have to pass on the CPI adjustment. More than six months later, they were still negotiating an agreement, including on wages.

Dispensary assistant Frances experienced changes in her wages after her employing pharmacy became a company, changed franchises and was covered by *WorkChoices*. For several years she had been paid above the Pharmacy Assistants Award in recognition of her particular role as a consultant for customers with a particular medical condition, which required her to fit masks and show them how to use equipment. Not long before Christmas 2006 and prior to her commencing maternity leave, Frances found that her hourly rate had been cut by \$1.55, from \$17.50 to \$15.95. She initially thought that this was a mistake, but when she raised the matter with her employer, he informed her that the rate had been reduced because he did

not think that she was 'doing much of the ...consulting anymore'. This was in spite of Frances continuing to perform this work and as the senior consultant, train another worker.

Frances contacted Workplace Services to see whether anything could be done to prevent the reduction in her hourly rate. She was referred to a community organisation, which in turn suggested that she obtain independent legal advice and assistance. However, the opinion of the lawyer was that nothing could be done; '[T]hey basically said that because of the new IR laws I didn't have a leg to stand on'. The changing climate arising from the enactment of *WorkChoices*, she felt, undermined her capacity to retain her pre-*WorkChoices* pay and conditions.

Provisions relating to Australian Workplace Agreements detrimentally affected **accommodation worker Anne's** income. Anne worked for a bed and breakfast establishment employing eight workers. She commenced employment on a pre-*WorkChoices* AWA as a casual, working 30 hours per week; 5.30-8.30pm, Thursday, Saturday and Sunday, remaining on call on the premises overnight before working 6.30-8.30am the following day. Anne received \$16 per hour for her reception and breakfast duties and \$6 per hour when on call.

After 20 months (and the introduction of *WorkChoices*), Anne became aware that other staff, doing exactly the same work, had received a wage increase of \$1.20 per hour. She found that her AWA made no provision for wage increases, unlike those covering other workers. When Anne queried the discrepancy, she was reprimanded:

I was just told that mine was well, mine might have been different to the others but I wasn't supposed to know that anyway. I wasn't meant to have seen anybody else's but I had and I wasn't actually allowed to look at anybody else's and I wasn't even allowed to know what rate they were on...We were told that because of the new regulations in March that we weren't allowed to discuss what different rates we were on.

Anne was given no reason for the discrepancy. She was informed that she would get no increase until a new AWA was negotiated. There was no guarantee that existing provisions would be improved.

When Anne checked a copy of her AWA at the workplace, she found that it had been extended for a further 18 months without her knowledge or consent. The Office of Workplace Services informed her that the extension of the agreement was lawful, but that if she was not happy with it, she could negotiate with her employer over its conditions.

Sales assistant Wendy reported a further way in which income can be negatively affected under the industrial regime established by *WorkChoices*. She has been employed on a casual part-time basis for a large retail chain for 2½ years. She is contracted to work afternoon shifts 5-8pm, Monday, Tuesday and Friday, 8.30am-6pm on Saturday and 2-6pm on Sunday. For this she receives \$15 per hour and \$21 per hour on Sunday, amounting to about \$340 per week. Wendy relies on regular increases in this low rate of pay to maintain herself while she undertakes university studies.

Since the introduction of *WorkChoices*, management have made a number of changes to the organisation of work and employment conditions (discussed in later sections). Wendy maintains that these changes are reflected in the workplace climate. Enforcement of employee entitlements is now much weaker with her employer markedly less considerate of employee needs. An important illustration of this, is the delay in the forwarding of a pay increase due to come into effect in August 2006. Despite complaints, this increase was not paid until February 2007. Wendy received back pay in a lump sum that incurred a higher rate of tax. Although this would be recouped at the end of the financial year, what mattered more to Wendy was the timely receipt of a small but vital increase in her weekly income.

Hours

Participants reported changes in the number, pattern and predictability of hours that undermined rather than facilitated their capacity to balance work and family responsibilities, and work and study. Their stories

reveal unwillingness on the part of employers to accommodate the caring and educational needs of workers. The reduction in protections regarding working hours and lessening of constraints on forms of employment under *WorkChoices* and an accompanying 'freeing up' of the employment climate have enabled the employers of these workers to increase their flexibility in the use of labour at the workers' expense.

The experiences of interviewees are reinforced by those of service providers.

Storeperson Jeremy is the parent responsible for collecting 14 year old twins from school and providing after school care. He has been able to fulfil this responsibility through his 14 years of employment with this retail company by working a permanent morning shift, 6am-2.30pm, Monday to Friday. His partner is not in a position to provide care during the day as she works for a small, family-owned business 'with very limited scope in relation to family needs'.

Jeremy's capacity to fit his parenting responsibilities with work is now threatened by major changes in shift arrangements and hours of work to be unilaterally implemented under a Greenfield agreement. Working hours will change from a regular Monday to Friday, 7.6 hour day, set morning and afternoon shift pattern to a 24 hour/7 day site with three shift cycles. Employees on each shift will be required to work from a minimum of four to a maximum of ten hours per day with rostering over a four week cycle of up to 152 hours. The four week cycle can be increased up to a four month cycle at the employer's discretion. Management stated that these changes were being made so the distribution centre's operations could 'become part of world best practice' and to make it 'a world class facility'.

Under this new arrangement the company will have greater flexibility in the use of its employees. However, hours and weekly income will be less predictable for employees and will not be family friendly. Jeremy will find it difficult if not impossible to provide the necessary after school care. He will also have less time with his family on weekends. He is concerned that variations in hours and shift cycles will effectively remove RDOs (rostered days off).

Changes to working hours severely disadvantaged **sole parent Ruby**. She was employed as a clinic secretary for 15 hours per week, Wednesday, Thursday and Friday, 9.30am-2.30pm. Another woman worked 9.30am-2.30pm on Monday and Tuesday in a 'job share' arrangement. These hours enabled Ruby to combine paid work with accessible paid care for her pre-school aged son and were ideal for when he started school. Ruby commenced employment as a casual, on a pre-*WorkChoices* individual contract based on the South Australian Clerks Award.

When two staff left in January 2006, Ruby and the other 'job share' worker were asked to increase their hours to 9am-5pm. Ruby agreed, but the other worker refused and resigned. She was then asked to work four days, 9am-5pm. She was able to accommodate three full days paid work, but more hours made juggling work and care problematic. Her son was just about to start school and after school care was not available on Wednesdays. After discussion, the head of the clinic agreed that she could work until 2 pm on Wednesdays until care was found. Ruby then tried without success to find after school care. Her father offered to pick her son up from school on Wednesdays to help out.

During this time, Ruby was asked by the head of the clinic to take on a 'floating' secretary's role. She was excited by the prospect of learning new skills and accepted on the understanding that she could work on a permanent part-time basis. This was agreed to. The new position was due to commence in April 2006 after two weeks leave, which Ruby was taking to settle her son into his first year of school.

While Ruby was on leave, she was contacted by the newly appointed clinic manager for a meeting. Ruby attended the meeting in her own time and had to bring her child with her. On this occasion and in a subsequent phone call to her at home it was made clear that the manager wanted a part-time worker willing to fill in on a full-time basis when the secretarial staff went on leave. No consideration was given to previous commitments to Ruby or to her caring responsibilities:

She just said that she needed me to be more flexible... and I said well I don't know how much more flexible I need to be, I'm working, you know my contract's 9:30 til 2:30 I haven't done that since

January, I've been working 25, 30 hours a week...but she wanted me to be able to work Monday to Friday basically 8 til 5:30. And when the doctors' secretaries went on holidays...then I had to be prepared to cover them...And so sixteen doctors' secretaries are all entitled to four weeks' leave, so I sat down and tried to tell her that it's not just a four week block, that it actually worked out to be forty two weeks of the year I'd be working full-time hours...

In spite of the previous undertaking given to Ruby that she would take up a permanent part-time position someone else was appointed. Ruby understood (later confirmed) that she was being forced out of employment because she would not work additional hours:

And then she said to me that the new girl was starting and I said I just think you're keeping me on now to train the new girl, I said and I don't understand why I got offered the job, I've been given no reason why the job's been taken off me. And she said this new girl can be flexible and I said well, I said can she be as flexible as you want, and she said yes, she doesn't have kids.

It is likely that this action by the manager amounted to discrimination on the basis of family responsibilities. However, this and subsequent actions outlined in later sections, were carried out following the manager's attendance at a seminar conducted for employers and managers on *WorkChoices* and the Clerks Award. The manager understood and conveyed that what she was doing was now possible under the new legislation and Ruby suffered significant unrectified disadvantage as a result. In this case study neither the legislation nor training on it facilitated greater organisational flexibility in relation to family responsibilities. Indeed the reverse. Despite her previous service and good relations at work, the climate created by *WorkChoices* (and conveyed through training for employers) reduced Ruby's effective say over working time, with the eventual consequence of losing employment.

Shannon is also a sole parent with children 8 and 11 years old. She had shifted from one country town to another in mid-2006 in order to obtain work as a permanent full-time bar manager on an individual contract. She worked a split shift Monday, Tuesday, Thursday and Friday, commencing at 10am, with a break between 1pm and 5.30pm, then working until close of business. On Saturday she worked 5.30pm until close. On Sunday she worked four hours in the morning. She was paid \$15.97 per hour.

These extended hours were of concern to Shannon, but she needed the work. She used the midday break to do work at home and the hours at least enabled her to be with her children before and after school:

Well I managed, I don't know how. I mean they were left alone a lot at night, four nights a week I was working and they were, yeah I'd make dinner for them before I left for work and they'd be alone until I came home. They'd have to go to bed by themselves.

Shannon's employer demanded flexibility on her part to cover the varying closing hours of the establishment, but was not similarly considerate of her caring responsibilities. Shannon regularly worked until 2 or 3am and between 15-20 hours beyond her contracted 38 hours each week. She was not paid for these additional hours; nor did she receive time off in lieu:

Yeah you should get paid for so much overtime, I mean a few hours a week, fair enough I don't think people get paid for that now do they, but 20 odd hours a week, you should get paid for that...I mean when it was quiet...they didn't even offer me time off in lieu of what I'd worked of the overtime. I asked for an hour off once and they said, no we can't do that...

When her boss went on holiday, Shannon was asked to increase her hours from 10am-1pm to 10am-2pm. In spite of this increase eating into her limited mid-day break in which she had to travel 11km each way to her home to do necessary work for the family, she agreed. On his return her request to return to her normal hours was refused. She received no pay for this extra hour. Shannon eventually objected to the working hours demanded of her, leading to her dismissal. She has no remedy under *WorkChoices* for her unfair dismissal (discussed in later section).

Shannon is one of the many Australian's working unpaid overtime (ABS data suggest that 36.8 per cent of Australian workers work overtime and 48 per cent are not paid for it (ABS Cat. No 6342.0 November 2006)). However, Shannon's unpaid contribution makes no difference in the face of her employer's demands and her sacking without any opportunity for redress has very significant consequences for her and her household.

The experiences of permanent casual **receptionist Mary** also point to a decrease rather than an increase in flexibility for families under *Work Choices*. Mary had worked for nearly seven years on a regular 32 hour week, Monday, Wednesday, Thursday, Friday, commencing between 6 and 9am and finishing between 3-5pm, and Sundays, 9am-2pm. She had 'a lot of problems with maintaining family friendly hours and/or conditions. Just trying to align hours with family time'.

Mary's employer demonstrated a lack of sympathy for family needs. Management would change patterns of hours or reduce hours without consultation if a worker sought to vary her normal hours:

...if you requested certain hours to be changed slightly maybe an hour here or drop back two hours on a certain day, then you felt like you were being punished by a total rearrangement of your hours...they seemed to take offence that they weren't in control or something.

After *WorkChoices* this attitude hardened even further. It became more punitive towards requests to change hours to fit family requirements, even when Mary had organised a suitable fill-in or replacement. During 2006, Mary asked for a permanent change to the finishing time of two shifts:

Well, I particularly asked for two shifts that finished at 5pm to be changed to 3pm so I could be home for my children because I was finding that the pressure of getting home at 5.30 and then trying to help them with homework and trying to cook dinner and so forth and the next shift was a 6am start, I found that I wasn't being able to do it without stress and rushing and having some quality time with my children. I came to them with a fill-in that normally started when I finished at 5 who was happy to start at 3 instead of 5...

Management's response to this request was to not only reduce the two shifts by two hours but to also take away a whole day from Mary's roster without consultation or notice. She argued that this was not fair, and that it would create great difficulties for her and her household. However, management was adamant; 'I just had to go back to work and take it or leave it'.

The experiences of Jeremy, Ruby and Shannon regarding working hours and reduced flexibility are reinforced by enquiries received since March 2006 by a **women's employment organisation**. A focus group of four staff confirmed legislative change as not making it easier for women workers to meet caring responsibilities. They also raised further doubts as to the value of any trade offs:

Staff member A: One of the things that I really noticed in my role was the huge increase in the number of queries about individual contracts and AWAs since the new laws came in and that's certainly picked up in the last six months. And the connection with family responsibilities was really evident in that every single individual contract I'd ever look at did things like increase the span of hours and reduce the rights of being able to be flexible within the workplace and that kind of thing. And there might have been almost a financial teaser as in a wage increase offered, but when you calculated the expense of lost leave provisions and lost flexibility, it definitely wasn't all win for the worker. And that was having a huge impact on people's ability to juggle their family life with their work life.

Staff member B: I think the majority of ones that I saw, there had been some legal input into the formation of the contracts. They did usually meet the five minimum requirements but they, if they followed on from a previous collective agreement, they were without doubt worse off for the worker.

Staff member C: I received a few enquiries about an organization might extend their span of hours from, it might be eight 'till five and they change it from seven 'till six and suddenly childcare pick up is a real issue and not being able to get away from work in time to meet child care deadlines, was a huge one.

Staff member D:...so I think for people going in with family responsibilities, it was a real, there was no surety for them, it was all up in the air and it was very hard to, really at the beck and call of their workplace. And really quick changes...this week you might work until four and then you've got something the next week that's until six.

It seemed that the changed industrial relations climate created by *WorkChoices* generated difficulties in balancing work and study as well as caring responsibilities for workers in the study with no signs of compensating financial benefits.

Young **sales assistant Wendy's** general conditions are set by a union collective agreement, but her specific working hours and days were set down in an individual contract signed on employment commencement 2½ years ago. Since March 2006, Wendy has found that this arrangement is increasingly ignored. She must now check a notice board each week to see when she is rostered on:

I got a contract when I first started in my department - I've signed it and everything, and they said oh that'll be your contract, these are your agreed hours. These have changed and I haven't signed anything else to say that I even agreed with that, but they're the hours that go up on the board and each week you just go have a look...

Changes to her work pattern have placed Wendy's employment in conflict with her university studies:

I am actually rostered on for Wednesday, I finish uni at 6 I start work at 5, and it's gonna be interesting to see how that goes, because I've been telling the company for three months that I can't do a Wednesday and I've been rostered on every single Wednesday since then.

Wendy is in a dilemma, not knowing how to respond to this clash of commitments:

...it's hard work to juggle both at the best of times and...I don't want to give up uni and go to work, cause it's easier...but at the same time...I've got stuff to pay for and how am I going to do that if I don't go to work.

[I]f I don't go to work I get a written warning so...it's hard because I'm paying for this course, you know I'm saving my money and trying to pay it off as I go...and I'm paying so much money for my books and everything, to be honest I really don't know at this stage what I'm going to do because I don't want a written warning because if I do look for another job and they ring up where I work now and [they say] well she didn't turn up to work. And that's two and a half years of good service to the company...coming to work, doing the right thing and I don't want a black mark against my name, but at the same time, I do want to go to uni.

The senior staff member of an **organisation for young workers** also cited problems in balancing work and further education arising from changed undertakings given to a young employee regarding working hours and time off for study. The capacity of this worker to deal with conflict between work and study was undermined by the removal of rights to challenge an unfair dismissal where the company employed less than 101 employees:

...we recently had someone in that was concerned about an agreement that this person had with his employer about study leave and changing the hours of his employment to finish off his study and it was directly related to his employment and while it was initially agreed and he enrolled in the course, after a few weeks there was pressure for him to revert back to those hours that he was doing previously and that would effectively mean that he could not attend any lectures at all and then he started to get warnings for not turning up to work when it was agreed he could change his hours so again it was really difficult for us to advise on that situation because we had to sort of explain to him

if they did take termination of employment, if they took that course of action, what options were open to him to challenge that?

Control of working hours is an issue for workers with children and without. These accounts emphasise the importance of the capacity to exercise voice around working time and the climate-shifting effects of *WorkChoices* in reducing worker say and increasing effective employer prerogative about working time arrangements. This picture is significantly shadowed and shaped by the influence of changes in dismissal rights and redress (see below).

Breaks

Three interviewees, two in the retail industry and one in hospitality, recounted work situations involving an absence, reduction in or removal of breaks subsequent to *WorkChoices*. Less access to breaks raises concerns regarding occupational health, safety and welfare as well as productivity, especially for workers such as **check out operator Ellen** and **bar manager Shannon**, who worked long hours each day.

Ellen has worked for eight years on a permanent full-time basis for a large retail company, earning approximately \$16 per hour. She works 9-hour days and under the union collective agreement is supposed to have an hour lunch break and a tea break of 15 minutes, morning and afternoon. However, since March 2006 breaks have become erratic and are being allocated further and further beyond of their required time.

In spite of working a very long split shift Shannon was not relieved at the bar so that she could take a break. Neither was she aware or informed of her entitlements:

I never got breaks...I'd work 8 or 9 hours straight without a break which apparently you're supposed to have a break every four and a half hours or five hours or something but he never mentioned that so I wasn't sure what I was supposed to do.

Cuts to breaks were made without consultation or notice at **Wendy's** retail workplace soon after *WorkChoices* was enacted. A break of 10 minutes has been removed from four-hour shifts and cut from 20 minutes to 15 minutes in five-hour shifts. Workers found out about these changes when told by their shop floor supervisor when they went to take what had been their normal break.

Rest breaks are vital to safe work and to worker well being. These workers describe arbitrary changes to breaks and rest as a consequence of their employer's action after the enactment of *WorkChoices*.

Leave provisions & arrangements

Interviewees reported changes to annual, carers' and sick leave provisions impacting on flexibility for family care and health care.

Annual leave arrangements at **community worker Deborah's** workplace have become less flexible. Prior to *WorkChoices* an employee could go into debt on annual leave over Christmas (to be recouped later) in order to manage the break and school holidays. This arrangement is no longer available as a consequence of her employer's unilateral change imposed after *WorkChoices* was enacted. These changes particularly affected a young mother during the 2006-2007 Christmas/New Year period:

I know one of the young ones at work hasn't got enough leave to cover her over the holidays with school...they had a vacation care program that she thought she could get her daughter into, that's been cancelled and so she is having to come back early and she's not quite sure how she's going find care for her daughter but she obviously couldn't afford to not come back because they weren't going to let her extend her leave and then pay it off later on.

There is also evidence of a general contraction of provisions to the minimalist *WorkChoices* standards. For example, in his baking job, **John's** sick leave was cut from 12 days to the minimum 10 days under the Fair Pay and Conditions Standard. A medical certificate is now required for one or more day's absence, whereas previously it was for three days or more. Similarly, employees at **storeperson Jeremy's** workplace have lost their separate carers' leave provision catering for circumstances such as family illness. Leave for family

purposes is now obtained through conversion of some of their personal leave to carers' leave. Requirements for medical certificates have also changed. Under the union collective agreement workers were entitled to 22.8 hours per calendar year without a medical certificate. That has been reduced to 15.2 hours under the Greenfield agreement. A provision stipulating that when at least half a shift had been completed a medical certificate was not required has been removed. This also means that the 15.2 hours accumulates more quickly.

Medical, counselling and reception staff at a women's health service remarked that changes to arrangements relating to sick leave and medical certificates have affected the users of their service subsequent to *WorkChoices*. Of particular concern to doctors and patients is an increasing requirement by employers to specify the actual medical condition on a medical certificate. A staff member in referring to one instance commented:

Apparently that employer had every right to demand that and we were quite shocked and it was part of her agreement of employment so we are trying to think of ways that we can support women at companies who are concerned and try and get around that in some way to maintain the confidentiality but in the meantime that really does need to be addressed. Men or women - it doesn't matter - nobody is entitled to know what someone's medical condition is as an employer.

Reception staff in these services have also experienced more requests for appointment times on Saturdays because women were finding it harder to get time off work during the week, 'even when we talked to them about offering them medical certificates they might say that's not going to help I will lose my job, or what is the medical certificate going to say'. Medical staff reported women having to deal with difficulties in accessing sufficient work time for medical procedures:

Sometimes women don't feel free to take the amount of time off that they're meant to have off from work after their procedures. They're meant to rest 24 hours but some indicate that it would be difficult for them to have the next day off work.

The service also noted that men were also finding it harder to obtain leave to accompany and support their female partners:

It can make it difficult for their partners to support them and take time off as well. We found that is quite common, we like women to not be alone and have their partner with them at night but that relies on their partner being able to take time off work.

Other conditions

The stories of study participants revealed a range of other changes to employment provisions following March 2006.

Clerical worker Kate and **sales manager Lily** were both affected by a reduction in redundancy entitlements.

Kate had worked 14 ½ years for an insurance company before she was made redundant in July 2006. Prior to this she had shifted from award coverage to an AWA, which maintained a link to the award for some purposes. However, award processes of selection for redundancy, including opportunities for redeployment or negotiated retention under amended conditions were no longer available. When the company failed to secure certain contracts it was advised to retrench those employees with 'long term obligations'. Kate and two other employees with 10 years' service were dismissed while short-term casual employees were retained. Kate maintains that there were opportunities for longer serving permanent full-time and part-time employees to be kept on. The two casual workers were still employed some time later. Kate suspects that the company planned to shift from the employment of permanent staff with accumulating long service leave obligations to casual staff, pointing to a removal of certain duties from her and their reallocation before her redundancy.

Sales manager Lily's hours and working conditions were changed and she was eventually made redundant following her return from unpaid maternity leave. In consideration of her employer, Lily had originally requested only three months leave. However, due to her baby's ill health, she requested an extension of maternity leave to six months, which was granted. On her return Lily noticed a change in attitude towards her and she was informed that the company car that she had previously used for sales work had been sold. She was expected to use her own car. Her employment was also reduced from five to four days per week. This change was presented to her as a favour in that her daughter continued to be unwell. When *WorkChoices* came into effect in April 2006, Lily was told that she was redundant. Instead of six weeks' severance pay that she expected to receive, Lily was paid just two weeks' wages.

The Greenfield agreement that **Jeremy** will shift to also amends public holiday provisions, making them less certain and less conducive to combined family time. The company has announced that it will move to 'variable public holidays'. Of the eleven public holidays granted in South Australia, the company will have the option of nominating six days and the employee five days on which the holidays can be taken. While this might enable say, the taking of a day for a child's birthday, the overwhelming need is for days to coincide with community public holidays when schools are closed. This will no longer be guaranteed.

Discrimination & accommodation of particular needs: climate change

Interviews and focus groups with the staff of the service organisations record a less hospitable climate post *WorkChoices* in relation to employment rights and accommodation of the needs of certain groups, including workers with an impairment, pregnant women workers and workers with parental responsibilities.

The counsellor at **the health service** noted that women clients were less certain about their rights surrounding maternity leave and felt less able to negotiate around it:

They...were feeling that they weren't going to have the same support [at work] around maternity leave, not that they have much already, and also that they would have less control in negotiating with their employer around taking leave and returning to work.

She was particularly disturbed at one instance where threatened discrimination and a consequent reduction in wages in a less certain industrial climate had a significant bearing on a woman's decision on whether to continue with a pregnancy:

One woman in particular worked for an industrial factory company on the outskirts of the city. She'd worked there for a long time and had worked her way up through the hierarchy and was working in what was considered to be the most...complex kind of work, the most interesting kind of work and where they were respected for their input quite significantly as workers. Once she had become pregnant she was being told that she would no longer be able to work in that section because she was no longer a stable employee that she would be downgraded to another position on the production line.

So it really meant a lot to her in relation to her status ... and she wasn't clear about what the new legislation would mean for her. There was just a general sense of a lack of power and control over that aspect of her life and it was certainly one of her main considerations because she didn't expect to have to support from the man involved in the pregnancy and she had two other children that she was supporting on her own as well...she wanted to continue the pregnancy but she wasn't sure whether she would actually be able to do that financially and manage without having to sell her house etc. and rent with an unstable workplace.

Staff of **the women's employment organisation** also reported a changed climate in relation to discrimination evident from worker enquiries:

I think there's a sense that employers think that the legislation has given them some sort of almighty power where they can now do anything. So there's a lot more blatant discrimination than there used to be, in our experience.

Complaints of discrimination were largely on the grounds of pregnancy and parenting responsibilities, but also involved physical impairment:

I seem to have had a lot of disability discrimination definitely, over things like needing to have six weeks off work for an operation. All or most of my cases lately have been interim disabilities, not long term disabilities.

Staff noted an increase in enquiries from women regarding problems in taking and returning from maternity leave. Queries about individual contracts and AWAs involving family responsibilities had also grown.

The **employment service for young workers** reported having to deal with additional and more diverse cases of unfair treatment arising from physical injury or impairment. The senior staff member illustrated this change with two examples of the dismissal of young workers with a physical injury:

One case which we followed up this year was a young man who has an injury that was not work related but was something prior to him working at the organisation and he found it difficult to follow up with some of his duties but the employer practically terminated his employment after some time off because they weren't allowing him to have modified duties and another situation was a young guy, would have been 16 or 17 and when he returned from Work Cover, he was following his rehab plan which told him not to do certain tasks which may aggravate his prior injury and when he told the employer he couldn't do a certain task he was told to leave...so yeah more things are now coming through with physical injuries and impairments.

The service was also receiving more complaints regarding pressure to return early from maternity leave and conditions of return, particularly hours of work:

Yes, we have two actions going at the moment regarding either pregnancy discrimination or discrimination based on family responsibilities with having to work and not having that modification to hours that is a reasonable modification, not being allowed to work say the hours that they'd previously worked and they are now being offered hours that are certainly unworkable, for example working at night when you're returning from maternity leave with a young child. There's been pressure on people to return to work a lot sooner and almost made to feel grateful that they are given three months time off and that's it and if you don't return after three months then there's going to be problems with your employer and with getting any work at all.

The work of the service included checking AWAs at the request of young workers, and the staff member was concerned at some of the reasons listed in such contracts that would lead to dismissal. Of particular concern were references to termination for 'unsound mind', which raised potential for discrimination:

The one that I've seen and it's always stuck with me and I've found quite concerning is the dot point, a reason that the employer may terminate an employee is if the worker has become of unsound mind. Now whether it's in the employer's opinion that worker has become of unsound mind or there's an outside assessment, but it doesn't detail and explain what unsound mind is. I found that particularly alarming...we've seen it in more than one AWA.

Individual interviewees spoke further of a changed climate at work that was less accommodating of physical impairment and caring responsibilities.

Sales assistant Sarah had worked very successfully on a permanent full-time basis for nearly five years with a small retail company before being pressured to resign due to illness. She is a bronchial asthmatic and had used some sick leave in the past, but not more than she was entitled to and approved. She came into work if there was no one to cover for her: 'I didn't stay home until I physically couldn't get out of bed'. Sarah worked hard, frequently did unpaid overtime and was praised for her work:

Just the customer feedback, the staff that I worked with at the time they would report back to the boss. The boss would thank me for staying back and going the extra bit. He sort of asked me to

come in a bit earlier or stay back a bit later to help him with the load of the work because I was one of the only people that could. Just things that he would say and his wife would thank me quite often. They were co-partners but she never came into work. But she'd ring me and thank me for all the extra added bits that I used to do.

However, her employer's attitude towards her and any use of sick leave changed with a downturn in the business and the coming into effect of *WorkChoices*. Sarah was very definite about timing and the connection to the new legislation.

Just like I said the conditions of going from being, this probably makes me sound shallow, but being praised and being recognized for the 46 hours a week I put in and not being compensated for it and the thanks and just general happiness and pats on the back, then constant being over watching, you should have done this better, why haven't you done this. This time like why didn't you push that...group that came in to book their suits and it just made me feel edgy and nervy to the point that, and also working as many hours as I was in those conditions it was stressful and I think I broke down because of it and it did affect my health. It certainly did.

Sarah developed chicken pox and was off for two weeks. She had a medical certificate and accumulated sick leave. However, the owner objected:

He wanted a second opinion and he wanted to see my blood test results to prove that it was chicken pox cause I'd had them before...I sort of said it wasn't any of his business that I had chicken pox, I had a doctor's certificate letting him know that. I actually showed him my spots that I had left over, cause I went back to work and I wasn't contagious, I had the all clear from the doctor for that, but obviously the healing of the sores took longer than the time I was allowed off work, and he was just sort of very – I don't really care. He was frustrated because the day that I called in sick he had a cold and his wife told me that he was sick, he owned the place and I should go into work.

Following this incident Sarah was threatened with dismissal:

After that...he called me aside and said...that he needed someone healthy and able to run the place that my health was a concern to him that I'd had quite a bit of time off through the past couple months, and that I needed to go to the doctor, get a flu shot. He wasn't able to sack me because I was sick but he could sack me because my sales figures weren't there and he provided I guess an estimate of what I would have made in the week that I was actually off sick with chicken pox from past history and he showed me monetarily what I cost him in those 2 to 3 weeks that I was absent from work.

Not wanting to be dismissed and knowing that the increasing stress of the job was affecting her health, Sarah resigned.

The previously discussed 'redundancy' of **sales manager Lily** was linked to an unwillingness to accommodate parenting responsibilities as well as her employer's desire to cut costs. One of the reasons given to her for being made redundant was:

...he just said that he didn't feel that it was working out between himself and me having a child. He didn't feel it was beneficial to the company, even though I'd only just gone back for the first 3 months, that yeah, that it just wasn't working out for them.

A similar combination of a lack of concern for women workers with caring responsibilities and a desire to cut costs applied at the pharmacy employing **Frances**. While her wages were reduced prior to her commencing maternity leave, three other mothers with young children, who had worked as regular night and weekend casuals for more than one year, were dismissed without notice. They were replaced with young workers without such responsibilities on junior rates of just \$8 or \$9 per hour.

These accounts illustrate the importance of a legislative regime in shaping not only minimum standards but also the climate in which employment occurs. For these workers, change in the attitudes of their

employers, their own uncertainty about these changes, and their rights, as well as material losses in their entitlements, all contributed to serious consequences for them - and in many cases their households shared the effects.

Security

Job insecurity was a major issue for 17 out of the 20 workers interviewed. They reported that their concerns about or experience of insecurity had increased significantly since the *WorkChoices Act* came into effect. This insecurity was exacerbated by the removal of unfair dismissal rights in firms employing 100 workers or less, a weakening of redundancy procedures and entitlements and narrower choice about forms of employment and types of contracts.

Twelve study participants had lost their jobs in circumstances that could previously have been challenged. One participant was threatened by changed conditions and a marked shift in forms of employment at her workplace, and was looking for other work as a result. Another's job was threatened by changes to hours of work. Three interviewees wanted more security and better conditions through a change in the form of their employment, but could not get it.

The staff of two of the organisations providing employment related services had recorded an increase in enquiries relating to job security. The service for young workers had not had an increase in contacts regarding dismissal but was particularly concerned about the reduction in remedies for those workers that had made contact. The health organisation noted greater job insecurity and uncertainty affecting health choices amongst the users of its services.

Loss of job

In addition to the 'redundancies' and forced resignation already mentioned, interviewees had lost their jobs under four distinct sets of circumstances: long hours and stress; harassment and bullying; 'whistleblowing'; and accusations of theft or misconduct. Staff at the women's employment organisation also noted more terminations for personal reasons since March 2006.

Bar manager and sole parent, Shannon, and aged care worker, Rebecca, were dismissed following very long hours of work.

Shannon was dismissed instantly over the phone on a Friday morning after working from 5.30pm the previous night to 6.30am that day and objecting to commencing work at 10am after only 3 hours sleep:

Yeah, the boss. He had a bunch of his friends around, they were all publicans, they all came round and they were drinking and I was on that night, I was the only one working and there was like 20 people in the bar and this went on until 5.30-6 o'clock in the morning and then I...finally had to do all the tills, and put all the money in the safe and lock up, so it was about quarter to seven by the time I got home...Well I got home and went to sleep obviously because I was tired and then I woke up just after 10 o'clock and I thought oh, I'd better ring him and let him know that I won't be in and he said you better come in and I said, I can't, I'm too tired and he said well don't bother coming in at all then.

Shannon attempted to reason with her boss over the phone, to no avail. She made enquiries about taking action for unfair dismissal, but was informed that there was nothing she could do to obtain reinstatement due to the small number of employees in the organisation. She received one weeks' wages in lieu of notice and one weeks' holiday pay.

Rebecca was very upset during the interview, but welcomed the chance to recount what had happened to her. She had worked as a permanent aged care worker in a private aged care facility employing 35 workers for three and a half years. Her work record was good; she had 'never ever' had any complaints prior to her dismissal in late 2006. She worked a minimum 60-hour fortnight on a 24/7 call in roster, meaning that her days and hours of work varied. She was paid \$15.45 per hour.

In the months preceding her dismissal, several people close to Rebecca had passed away. She was also trying to juggle work with study for enrolled nurse qualifications. She was aware that she was suffering from stress and had consulted a medical practitioner who prescribed anti-depressants. However, she felt that she could not take any time off work:

...there was no way I could confront or talk to the boss about my situation because she just does not believe in anyone being sick. If you don't turn up to work, you're dead and that's all there is to it.

Immediately prior to the incident that led to her dismissal, Rebecca worked 72 hours with only one full day's break in between. She had worked seven shifts in a row without a break. As the on-call employee, she was expected to replace other employees who could not attend work. When a fellow worker asked Rebecca to fill in for her, Rebecca told her boss that any more hours were too much. However, she could not find a substitute and was forced to work the shift herself.

During this morning shift, Rebecca was left on her own to wash and dress a resident with dementia, who could be difficult to assist. When the resident was unable to co-operate with the morning shower, Rebecca wet her in spite of her still wearing her nightdress. Realising that what she had done was wrong and that she was fatigued and stressed, Rebecca called for assistance from another carer and left the room.

Rebecca informed the senior worker on the shift what she had done and then attempted to stay away from the resident:

...I'd actually kept away from the lady concerned because I didn't feel, like it wasn't right and I just said to the other girl I'm going to keep out of this resident's, "X's", way because I just don't feel, it's not, there's something not right. Anyhow I told my senior what I'd done, that I'd wet this woman and she just laughed and didn't sort of care when I told her and I just thought I couldn't believe that I'd even done that.

Soon after this incident, the resident began to move about the facility without her walker for support. Rebecca placed the walker beside her, but the resident pushed it away. Rebecca called the woman back when she began to enter the rooms of other residents uninvited. In coming out of a room, the resident fell and was later found to have broken her hip.

Rebecca completed the shift and worked on the following four days, still without a break and with no comment from management on the incident or what had followed. The next day she was called into the managing director's office and 'dressed down' for the incident. She was told to provide a statutory declaration of what had happened.

Rebecca sought union advice on how to proceed. She was later told by another employee that as soon as it was known that she had contacted the union, Rebecca was taken off the roster and a decision was made to dismiss her.

At a subsequent disciplinary meeting Rebecca was dismissed and told to leave the premises. She felt that her explanation of what had happened and the circumstances surrounding it 'were not even heard'. She was also held responsible for the situation in which the resident broke her hip.

Advice from both her union and an independent lawyer was that if not for *WorkChoices*, Rebecca could have claimed unfair dismissal. Neither of the incidents appeared to be offences warranting dismissal and her continuing to work for several days afterwards would have helped her case. The incident in the shower was also clearly out of character. She was advised to just get on with her life; but the knowledge that there was no remedy or opportunity for her to present her side of the story greatly upset Rebecca. She loved working with elderly people, and this avenue of employment was now threatened.

Harassment and bullying

Marketing manager Maggie and clinic secretary Ruby lost their jobs in situations involving bullying and harassment. In both circumstances employers believed that contract provisions and the removal of unfair dismissal rights under *WorkChoices* gave their employees no redress.

Maggie was employed on an individual contract as a national marketing manager for a food manufacturing company that employed 15 workers. After setting up the marketing side of the business and at the end of her probationary period, she was bullied and intimidated into resignation by her boss and owner of the business.

Maggie gave four weeks notice as required in her contract. However, the day after she had tendered her resignation a letter was left on her desk stating that she would receive payment only to the end of the week. On the Friday she was told by her boss to collect her things and was escorted from the premises.

Maggie believes that the pressure to force her resignation was planned. She had completed the initial marketing of the business and had trained a sales manager, taken on after her, to do some of the work.

Sole parent and clinic secretary Ruby faced harassment in addition to the changes in hours affecting parenting responsibilities described previously. After Ruby had been informed by the new manager that working less than full-time hours was no longer acceptable to the clinic, she began to be harassed. The manager called her mobile at home during her leave and after hours. On return from leave Ruby was required to attend meetings in her office on an almost daily basis. This continued for six weeks. In these contacts the possibility of a suitable work arrangement would be raised, but then withdrawn. At one meeting the manager frankly said that she wished Ruby would leave:

...one day she called me into the office and she said I wish I could just give you four weeks leave and you would go away.

During this period Ruby was asked to work on irregular, unscheduled days. Finally the manager told her that as she would not work full-time, she was dismissed. Ruby was informed that she would be paid two weeks wages in lieu of notice. She was then rung up at home and asked to work the notice, but Ruby declined, as she was too upset. The notice was then not paid.

'Whistleblowing'

Carol was employed to supervise unpaid workers and carry out clerical work at a recycling facility. There were only two paid employees on site. She did not know the total number of employees of the organisation. She was hired on a contract for one year with an expectation of renewal if her work was satisfactory.

Carol soon became aware of questionable practices at the workplace involving her supervisor. She reported these practices to senior staff of the organisation. Her reports included allegations of theft, misuse of funds, falsification of records and breaches of occupational health and safety requirements. She supplied the names of people who could corroborate her story. Before making any allegations she checked occurrences with her supervisor. Carol made it clear that she disapproved and wanted no part of what was happening. She was afraid that, as the senior employee, he would have the capacity to implicate her.

Senior management responded to her reports by saying there had been complaints regarding her work. These complaints could only have come from her supervisor. They did not check her allegations with suggested witnesses. Following her report of a significant amount of money going missing, her supervisor retaliated:

He basically accused me of stealing it and his exact words were you and I are the only two with a key and I didn't steal it and I just broke down and cried and thought no, I knew this was going to happen...

...he came up to me, he slammed his fist down on the table and he started yelling at me saying what am I saying...what am I doing, right in my face. And that's when I rang up and he walked out and he was really angry...it's when I rang up and I said I need to be transferred out of here, he's...gone beyond boundaries.

Carol was transferred out of the workplace, but still had to confront her supervisor who visited her new location, 'he kept really staring at me and making me feel very, very uncomfortable'. No action was taken

against him by the organisation and well before the expiry of her contract he told her that it would not be renewed. Carol requested assistance from her employing organisation, including mediation and assistance with the renewal of her contract. However, none was forthcoming. She sought advice from the Office of Workplace Services, but was informed that as her contract was almost up and given that proceedings would take time, it was not worth commencing action.

Other case studies of job loss arising from allegations of theft or misconduct also illustrate how the removal of unfair dismissal rights under *WorkChoices* can enable an employer to avoid obligations such as long service leave. They also show how employers can make it very difficult for a worker to use those limited protections that remain; for example, in relation to discrimination on the basis of parenting responsibilities and union participation.

Receptionist Mary resigned rather than be dismissed, following a management accusation of theft. This accusation occurred not long after the reduction in her hours of work discussed previously.

On a shift that Mary did not work, a client left a jacket at the workplace. She did not know this. After her next shift, when the client returned to collect the jacket, it was not in the lost and found container. She was rung at home about it and she referred the inquiry to the worker responsible for lost items. She worked her next shift and then received two further calls where she reiterated that she knew nothing about the jacket. On the following Monday she was called in to a meeting with management and accused of theft. She was not permitted to have anyone with her:

I came to work on the following Monday and within half an hour of working, I was taken into the office where the four of the owners, their family members were there and they accused me of taking the jacket [they said] we think it was you who took it and other people have said that they've seen your husband wearing lost property before, and that there was other incidences of things going missing and they think it was me...

I was in the room for three quarters of an hour with four people, I had asked for other people to be present, they weren't allowed. I felt bullied, I felt really hurt, I was astonished that I was, that they didn't believe me, that they had made up their mind that I had taken it and I pled my innocence and gave them every scenario that may have happened. I was grilled. I was bullied.

Mary attempted to contact a staff member who was on the same shift as her when the jacket was supposed to have gone missing to obtain more information on what had happened. She was then instructed not to contact any staff and to discuss the issue only with the owners. She was informed that, even though investigations were continuing, 'there was no coming back'. Mary and her husband were very upset by the allegations and at a loss to understand why they had been made. However, they became aware that although only 42, Mary was now one of the oldest employees and about to become entitled to pro rata long service leave. They also knew that management did not approve of her requesting changes to her hours for parenting responsibilities. It was further apparent that existing staff were being systematically replaced with young workers with no such responsibilities. They strongly suspected that Mary was being pressured out of employment in order to lessen the company's employment obligations.

Mary became ill and depressed. She received legal advice stating that in spite of having a case, she had no right to argue unfair dismissal because of the number of employees. She resigned.

Unfair dismissals are often events of trauma and upset. However, the removal of any opportunity for redress or justice for workers like Mary has important effects on individual workers, their households and their wider workplaces and colleagues. It sends message more widely.

Store manager Elizabeth was dismissed from her position of four years for allegedly knowingly obtaining two refunds on the same item that she had put on lay-by. She was given no warning or opportunity to defend herself against the allegation, which she strongly denied. She was not permitted to have anyone with her at the meeting to discuss the matter:

He had a form ready and wanted me to separate immediately and I was told that, he told me a few times that I don't want to go down any other path so I won't bring in the police which is normally he would have to.

Elizabeth was intimidated into signing a form accepting her dismissal:

I did and probably because...I felt very intimidated, I felt very upset... this was the first I'd heard of it, I felt very overwhelmed, I didn't know really what to do in that situation so I did. I felt a little bit like if I didn't the police would be brought in and to me that just seemed incredibly scary and I think because I'm a bit naïve...I now know the right procedures in how to handle a situation like that but I didn't at the time.

Because she was dismissed, Elizabeth only received wages owing and payment for accrued annual leave. If she had resigned she would have been entitled to several weeks notice.

Elizabeth maintains that her instant dismissal was part of a change of climate in the organisation following March 2006. This included an attempt to dismiss another young employee 'for a very, very small incident'. It was put to Elizabeth by other managers who remain with the company that it had developed a policy to 'move people on' after two years of employment.

Senior management at the store understood that they were able to dismiss Elizabeth and the other worker without regard to potential claims of unfair dismissal, as it employed few employees. However, Elizabeth sought advice about her dismissal and upon close investigation it was found that the company owning the store employed more than 100. She then took action for unfair dismissal and in a conciliation conference had her dismissal changed to resignation and secured a statement of service and four weeks pay.

But this outcome did not reinstate Elizabeth's job and it left her in a vulnerable employment position:

I was very emotional experience for me because I'd been with the company for four years and felt quite angry that it had to end in that way. Also I felt that in their statement they said several things that were very untrue which I think made my character look bad and I just felt it was very tacky and just extremely spiteful the way they portrayed my character and I felt that it didn't have much to do with the case itself, except to make me look as if I was unintelligent and just unreliable.

Nor did the action taken by Elizabeth halt the company's approach. A further employee was dismissed after her and the policy regarding staff turnover apparently remained.

Aged care nurse Jane has worked as an enrolled nurse for 30 years and a registered nurse for five years. Prior to her dismissal for misconduct in early 2007, she was employed for three years on a permanent part-time basis as a registered nurse in a private aged care facility. She had made a conscious decision to change from general nursing to part-time work in aged care in the lead-up to retirement, sometime in the next ten years:

I'd been nursing forever and I needed a change but I'd done acute nursing and I'd always enjoyed aged care, whichever areas I'd worked in, there had been that aged element. I guess I am family orientated. I love extended family so aged care was sort of a progression at the end of my career. Like I can do this, it is close to home and it is what I enjoy doing.

Jane was the only union member on site and argues that she was targeted for dismissal because of her union involvement. From the commencement of her employment with the facility, she assisted fellow employees if they had a work problem. She was aware that 'the owner had reservations' about her union membership and activity.

When the non-union collective agreement for the facility came up for renewal, Jane obtained information from the union to help staff in their negotiations with management. The agreement as proposed by management offered reduced sick leave, removed the tea break, provided only four weeks leave for seven day workers, removed minimum hours provisions, contained no provision for work hand-over and had minimal wage increases over its four year term. Management refused to consider union suggestions and

staff were given only two weeks to decide on management's offer. Jane was critical of the offer and final agreement, which was noted by the owner:

...the owner was very aware that I was not happy with what we were given. It was a very, very poor deal. I had been very vocal about that and made some statements... And then I got accused of organising the PCAs of their agreement and giving them asked questions and that I wasn't allowed to do that and then it just went from then. It was only because it was Christmas I think that she didn't push me then.

In a meeting with the owner following the negotiations, Jane was told, 'right I'm watching you' and asked, when was she leaving? Her work performance was then targeted for monitoring:

And then I guess they started to watch me because we all make mistakes, I made a couple of minor mistakes and from then on anytime there was anything happening there was always somebody watching me and if I made a mistake they were right there ready to pick it up. And it just didn't matter what anybody else did they just kept focusing on my work skills. And I guess they needed a reason to get rid of me, they can't use the union and my involvement.

Jane began to feel harassed, and for the first time in her working life ceased to enjoy her work. She became stressed at work and at home:

...I just didn't want to go to work. I've never in 35 years of nursing ever got out of bed and thought I don't want to do this. I think that tension of going to work and thinking, I mean you became so paranoid because have I got the keys and oh have I done the drug chart? You were just continually with 55 other residents, plus your staff, plus their come and get me, X you need to look at, X I need to look at, things like that you were constantly forever stressing as to whether the boss was going to be behind... There was always that stress of was she watching me...

...I did not let that reflect on my work practice because that's not my way of working. I don't work like that. I still give my 110% when I go to work. But I guess my family may have suffered, I'm not game enough to ask them whether mum changed.

Jane was finally dismissed for leaving keys on a desk and not signing a medication chart following the dispensing of medicines. This occurred when she stopped what she was doing in order to intercept the relatives of a resident who had entered the facility without knowing that their relative had just passed away:

I had a family member who could have walked into that room and found a deceased person. What do I do? It's a rock and a hard place. And then after that at lunch time when the wife came in who again was not aware that her husband had since passed on because nobody could get in touch with her, I left the medication trolley, went down and dealt with her and the family, I said everything has been done I'll clean the trolley up when I'm finished...

Jane was then called into the owner's office and told that she was being dismissed for misconduct, namely leaving keys where they might be accessed and not signing medication charts. 'I was to hand in the keys at 3.00 o'clock that afternoon and was then forced off the premises'. She was given no opportunity to argue her case or to have someone with her.

Given the number of employees, Jane could not claim unfair dismissal. Her employer subsequently reported her to the Board for misconduct. Her inability to present a case for unfair dismissal has also weakened her capacity to argue her case before the Nurses Board. Proceedings will take much longer to come before the Board than would have been the case for unfair dismissal, thereby undermining Jane's chances of obtaining alternative employment.

Termination for personal reasons

Staff at the women's employment organisation noted with concern the appearance of enquiries relating to termination for personal reasons, including domestic violence, since March 2006. One staff member recounted her experience and attempted to understand it:

Staff member A: I've found an interesting phenomenon in people being terminated because of personal issues like domestic violence. I had a spate of calls where once the worker had disclosed that they were having an issue at home, like a domestic violence issue, they would just become terminated pretty, instantly. That's just something I hadn't noticed before the legislation, I'm not quite sure how to interpret it still.

Oh...in a couple of the cases they just blatantly said, we don't want to deal with this issue. And it's all a bit too hard you know I feel really sorry for you but the workplaces didn't want to have to deal with the additional problem of somebody's home life. Sometimes they fabricated some performance issues...it might have been somebody who'd worked there for nine years and never had a problem and suddenly they saw these performance issues when they disclosed domestic violence problems at home.

I think it's just the fear around domestic violence so it's just something that people are fearful of and don't want to get involved in and it was like the employer sort of didn't want to go there and didn't want to be involved in icky situations so therefore just get rid of a person.

Staff noted that women dismissed in these circumstances generally could not claim unlawful discrimination and if employed by an organisation with 100 employees or less, had no remedy for unfair dismissal.

Change in nature of contract

One interviewee was confronted with decreased job and income security by a threatened change to the nature of her employment contract. Her refusal to accept this change of contract led to her dismissal. She was given no choice. **Michelle** was 58 years old and had worked as a part-time sewing instructor for a retail sewing machine outlet for almost seven years before her employment was terminated. Her wages of \$16 per hour and conditions reflected the South Australian Shop Assistants Award. She and her husband were both low income earners. Her work involved making samples illustrating machine techniques and teaching purchasers of new machines.

In August 2006 she was approached by one of the two owners of the business and asked to go on an individual contract. She indicated that she was not happy with the proposal and asked for more information about what it would mean for her wages and conditions:

During the course of the conversation I said what option do I have and she said well either you do it or you don't do it at all, and so in other words I didn't have an option.

Michelle requested a copy of the proposed contract on several occasions to see what it actually contained. She was told verbally that she would be paid \$30 per hour to compensate for making samples at home rather than at the store. She would be paid only for the hours in which she taught. The number of hours was not stated.

After repeated requests for a copy of the contract, the firm's accountant finally sent it to her home. Michelle found that it was a contract for service and if accepted she would shift from an employee to an independent contractor as from 1 November 2006. Most employment and organisational responsibilities in relation to the work that she had been doing for nearly seven years were shifted to her alone. The contract gave no security of hours or income. The extent of the shift of costs from the employer to Michelle is evident in an extract from the contract:

As the contractor you will be required to negotiate a rate per class, namely the price for a 3 hour or 6 hour class etc. As the contractor you will be required to take out your own insurance and superannuation and you will no longer be covered by WorkCover policy or superannuation. As a

contractor you will need to supply a tax invoice for each class and we will pay you by cheque at the end of that class...teaching will be on a contract basis. As a contract tutor you will be required to have your own samples to display at the shop at the start of each of the new workshop planner and up to the completion of the class. X are not able to supply fabrics etc for your samples. For classes to go ahead we require a minimum 6 students...Feel confident that we will do everything in our power to promote these classes.

Michelle estimated that she would have to expend between \$160 and \$200 for sewing samples, out of her part-time income, four months before there was any chance of this cost being recouped, if at all.

There appeared to be no pressing financial necessity for this shift of costs to Michelle. The owners had commenced store renovations and a full-time worker had just been employed. She was the only worker amongst four to be targeted for a contract. The only distinguishing feature regarding herself that Michelle could identify was that she had been employed the longest and was about to accrue pro rata long service leave.

Michelle attempted to negotiate on the terms of the contract and made substantial concessions.

She proposed an arrangement whereby she would be a self-employed freelance tutor and would supply a weekly tax invoice for work performed. She would be responsible for WorkCover & superannuation. Public liability insurance would be the firms' responsibility. She would receive \$35 per hour for preparation and tutoring time. The cost of preparation would be paid on submitting samples and tutoring would be paid on completion of each class. Tutoring time would be specified in the contracted workshop plan. Samples and materials would remain company property. If these terms were not accepted she stated that she expected accrued long service leave, 'Given that I've worked without designated lunch breaks, given extra hours without pay on many occasions it would be only fair and reasonable that I receive this entitlement.'

Michelle received no reply to her proposal for three weeks. Then, at the end of a class, she was approached by the male owner and handed a letter, which stated that 'for genuine operational reasons' her employment was terminated. She was offered an ex gratia payment of \$2,000 for long service leave. Michelle requested further discussion, but the owner merely replied: 'You've heard about Electrolux haven't you'. She took this reference to the dismissal of employees by the Electrolux company to mean that the owner understood that he now had a right to terminate her employment and that there was nothing she could do about it.

Since March 2006 **the business advisory service** has noted an increase in enquiries regarding the right of business to dismiss employees and to shift them from employed to self-employed status.

A senior staff member of the service was concerned at the shift to 'self employment':

So what employers are doing is reassessing their employees and saying can we now palm this work out to a contractor rather than an employee and that way not worry about paying them Super, long service leave and also all their requirements. That's what employers are doing at the moment.

...there's no consideration in the fact that some of these people have been working for them for five, ten or fifteen years, that's not the consideration, the consideration is their accountant has told them [a] cost effective way...where they're not paying the 9% Super into a fund every month, so if they can actually get out of that sequence of events then that's what they'll do.

...so their motivation is dollars...they're not concerned about the loyalty of their workers, they're not concerned about what that worker can do for them in achieving sales and achieving loyalty to...market the firm's name, by the way that they're happy working for that organisation. All they see as an employer is how can we...save money...

He was particularly disturbed at the increase in enquiries from the parents of young workers who were being offered employment on the condition that they take out an ABN number and work as independent contractors. Companies reportedly making these offers were both large and small and the jobs were

predominantly in sales. The staff member was concerned at the insecurity of contracting. From his long-standing experience in business he also knew that the vast majority of independent contractors failed to make adequate provision for the various forms of leave, superannuation and all forms of insurance. He was worried at the implications of this for young workers and their future:

So if we're now doing this to nineteen, twenty year olds, unless they are very good at that progression of putting money away, we're actually going to have a group of individuals coming through in the next thirty years, where the country will find that they will not have the money to look after themselves.

Change in form of employment

Several study participants wanted greater security through a change in the form of their employment. However, they have found, contrary to promises of increased flexibility and choices under the new industrial regime, that it has not facilitated the type of change that they require. Rather, they are now less secure in their job, income and conditions and have less choice of alternative employment.

Accommodation worker Anne is employed as a casual on an AWA. She would much prefer to be employed on a permanent part-time basis, which would give her greater job security and access to leave for an annual holiday and to cover sickness. Prior to *WorkChoices* she would have been able to request to convert to permanent part-time status after 12 months in accordance with prevailing award provisions. This option is no longer available to her under the AWA. She believes that her chances of finding alternative employment on better conditions are severely limited by a previous work injury and her age of 57 years.

Sales assistant Wendy is trying to balance work and study. For two and a half years she has been working as a casual for three nights during the week, all day Saturday and four hours on Sunday. She desperately wants access to pro rata holidays and sick leave through conversion to permanent part-time status. She has not had a holiday in all this time and is very tired from studying all day and then doing paid work nights and weekends:

I don't wanna work five days but...it's kinda hard you get a whole day at uni, you go to work, go home, study, get back up, go to uni, go work, study, like that's what I do, that's my life...

Wendy requested a change in her form of employment and it was promised when she was shifted from one section of the workplace to another in September 2006. Six months later, despite repeated requests for conversion, she is still working as a casual and her sense of job insecurity is growing. Her scheduled hours are becoming more uncertain and she has observed increased insecurity amongst her fellow employees. Night staff in particular are being rostered on but then called at very short notice to say that they are not required. Workers previously employed on a full-time basis have had their hours cut to 30 or 32 hours per week. When asked how secure she now felt at work Wendy replied:

Not secure at all. But you know it's a matter of time before they think oh there's somebody cheaper out there or there's someone that will do...what she's doing and not complain about it and...I know that...if you say stuff they're gonna be like well we'll just cut her hours or just not put her on a contract, or we'll put her on a contract and she can do this.

After a three month probationary period **production assistant Sue** attempted to negotiate a change in her individual contract from full-time casual to permanent. However, the outcome for her was very unsatisfactory. She had been earning approximately \$1,500 for a working week of up to 50 hours on a casual loading. The contract offered to her was for a 40 hour week on a flat rate with an overtime loading to apply after 50 hours. It was only for three months and included sick leave but no other forms of leave. Even though she had served the required three months probation, her wage was kept at the probationary trainee rate. She had no option but to accept the new contract, which gave her guaranteed employment for just three months at the cost of a substantial cut in income.

Check out operator Ellen is very aware that she is now only one of two full-time employees left in her store. Although her form of employment is currently protected under the union collective agreement, she is feeling pressured by the erosion of her conditions and by changes to the terms and hours of other employees. Through 2006 she noted an accelerated shift within the company to highly casualised employment involving individual contracts of between three and twelve hours per week. Contract workers have complained to her that they are not getting enough hours, 'they really can't survive'.

Ellen and fellow workers are trying to find alternative employment with better security and conditions but are having great difficulty. For workers such as herself, employment options are constrained and finding a job with predictable hours and enough hours is not easy:

I've been for quite a few other jobs recently, one in the same company but a different branch and they promise a lot. A job I went for promised full-time and part-time positions and on the internet and then at the interviews the person interviewing stood up and said this job is 15 hours contract, there were a lot of people saying what, we were promised full-time or part-time positions, 15 hours is not going to cut it and we were all pretty shocked...one person stood up and said I've got a mortgage and she said I can't afford to do that, you promised us more hours, I went to the final two interviews and they said well you've got the choice of working 15 hours with us and maybe in six months time you might get more hours but we can't guarantee anything...I went for another job in a large corporation and they said casual and it was a similar industry to what I'm in now as a checkout operator and when I asked them how many hours a week, they said they couldn't give me an exact amount so I said well you know, really need to know how many hours they said oh it varies...

Despite record low official unemployment, some employees in areas where reductions in working conditions seem more common following *WorkChoices* – like retail – have considerable difficulty making a move to a better job with predictable hours.

Work processes

Job changes, work intensification and supervision

In the retail industry in particular, changes to employment standards were accompanied by changes in duties and the intensification of work.

For example, work has intensified at **sales assistant Wendy's** store in more ways than through the cut in breaks previously outlined. Staff absences are now less likely to be filled with remaining staff expected to take up their work:

...now if someone doesn't come in to work, like then, they're not gonna bother to cover their shift and you do two people's work. Like I go to work and I do two people's work, for about three or four of the shifts out of the five that I go to work and I just think it's unfair...I get paid \$15 an hour to do two people's jobs, to pull forward all the stuff, to do the facing tickets, to service the customers. I do that in three hours, and I think that's ridiculous to pay \$15 an hour to do that.

Others spoke of changes in the tone and nature of supervision. Interviewees in retail jobs also experienced intensified and less positive forms of supervision since March 2006.

For example, **Jeremy's distribution centre** management has changed its approach to supervision from one focusing on reinforcement of positive performance, i.e. through a productivity incentive scheme, to one orientated to monitoring and punishing individual behaviour. An annual review system is to be introduced that entails closer scrutiny of individual performance and productivity by a team manager. In addition, under the Greenfield agreement it will be easier for management to dismiss an employee:

The company has changed its behavioural standards to a system now where you have three warnings and you could be terminated after the third warning. Whereas before you would have three warnings on each issue.

Jeremy noted a shift in attitude to both the union and employees generally:

As the year progressed the attitude towards the union and delegates and also for the general workers went from being a happy productive workforce, to a very discontented, down and out type, I don't like to use the word mob of workers, but it seemed like that the company had little respect for us workers. They were always going out and trying to antagonise and bring up petty issues to the workers...just to antagonise them and bring the moral and productivity down.

Managerial prerogative: no negotiation, no discussion

The changes in employment experienced by interviewees, and the processes and timing of change show greatly enhanced managerial prerogative as a result of *WorkChoices*.

With the exception of production assistant Sue, all interviewees were the unwelcome recipients, rather than the initiators, of change. Changes were unilateral and instigated without meaningful consultation or negotiation. Change was generally sudden, giving workers little if any opportunity for discussion amongst themselves and formulation of their own demands or alternatives. Changes were intended solely for the benefit of the employer, not for mutual benefit. They did not entail workers trading off some entitlements in order to gain others. Employees experienced unambiguous losses in wages and conditions and in job security, including actual job loss for the majority in the interviewed group.

Before *WorkChoices*, industrial legislation and instruments provided protection against, and remedies for, the losses experienced by interviewees. A number of these protections and remedies have now been removed, accentuating an imbalance of power between employers and individual employees. Many interviewees could not counter the increased employer power created by the removal of unfair dismissal rights, removal of a comprehensive award-based safety net, non-union Greenfield agreements, the right to offer a minimal AWA as a condition of gaining employment and the secrecy of AWAs.

Personal characteristics and circumstances including youth, middle age, impaired health, and care responsibilities increased the vulnerability of some interviewees in the industrial climate established by *WorkChoices*.

The following case studies further illustrate the strengthening of managerial prerogative under *WorkChoices* at the expense of workers: at **Jeremy's** unionised workplace there was little opportunity for consultation and negotiation around changes put forward by the company. The newly acquired right of the employer to impose a non-union Greenfield agreement undermined the capacity of the workers to bargain:

The company involved the union to a point where they dictated the terms of the agreement to the union...the end result was an agreement which was far inferior to what we have been accustomed...I did have a meeting with executives the day it was signed by the company and union. Not a lot of time there, but I did have a short space of time where I could view the document and go over it with other delegates and the executive.

Was there a chance for you to consult with your members?

No.

At **John's bakery** the new set of 'rules' were imposed without warning, with no suggestion that they were for everyone's benefit or that they were open to negotiation. John and his fellow workers did not want them, but felt they had no choice but to accept them. Factors such as the removal of unfair dismissal rights, a minimal safety net, the state of the labour market and lack of job options for workers such as themselves, combined with personal factors such as age, gave the employer the upper hand:

Was there any questioning of him or challenging of him?

Yeah there was, yeah we asked about the over time and that, how come we weren't getting time and a half, he said he didn't have to pay it anymore, if we don't like it to yeah, pack our bags and head off, we didn't push the issue or anything because employment's very hard to find out there these days so

the bosses have got the right of way and you know, they can walk all over us until we can get another job.

Did you decide as a group or even talk as a group that you'd like to take it up collectively, you'd like to do something together about it?

No, no we don't because we don't want to lose our jobs...I wish I was 20 years younger and I would put up a bit of a fight for this but again I'm too long in the tooth and I can't afford to lose me job so whatever he says as far as I'm concerned is, that's it, regulations.

Accommodation worker Anne's options were also limited when she and her fellow workers were asked to sign an AWA. She and fellow employees felt they had no choice:

No, and apart from the fact at least 3 out of the 4 staff, I'm not sure about the fourth, but 3 of us are totally against *WorkChoices* and AWA's but we didn't have much choice. We didn't have a choice as to whether we wanted to sign it. We either signed it or we didn't work there.

Anne also believed that her age of 57 and previous work injury limited her capacity to find work elsewhere. She had no opportunity to find out at the time of signing, that the individual AWAs were different and that she would be financially disadvantaged as a result.

Prior to being made redundant, 58 year old **clerical worker Kate** was shifted to an AWA and then had her duties and responsibilities reduced without consultation or discussion. She also felt that she was 'over a barrel' and had no choice:

I guess I felt they had me pretty much over a barrel in that I was a sole income earner and relied on my job and my age I felt limited in being able to change positions and decided that I would just continue as was.

Wendy's large retail employer strongly supports *WorkChoices* and advertises its supposed benefits at the workplace:

They've said that these things make it more flexible for the company and more flexible for us workers and it's gonna benefit us, blah blah blah, about how good it is for all of us and it's gonna mean good changes for the workplace and that kinda stuff. Pretty much just talking it up and they've put up a couple of posters which [say] individual agreements, or whatever is good for everyone and stuff like that.

However, Wendy's experience of subsequent changes to her duties, employment conditions and hours of work belies the assertion of mutual benefit. Rather it shows a one-way flexibility in favour of the employer. The increased 'flexibility' in her working hours was not made at her instigation and threatens her capacity to combine work and study. Her objections to a change in duties were ignored and the promise of permanent part-time work has not eventuated.

Wendy has observed that changes are being imposed regardless of what employees want. She has also noted that the opportunity for workers to collectively discuss changes is being deliberately undermined by the individualisation of worker/employer relations. Prior to *WorkChoices*, changes were raised at general staff meetings where there was some opportunity for questions and discussion. Now they occur through individual meetings, making them much harder to challenge:

It's just you with maybe one or two members of management, sit down and it will be the store manager and your department manager who will be like now this is what's gonna happen. And I'm a fairly confident person but I think with two people standing there that are members of management, and people casual, they generally hold how many hours I'm gonna do a week and I don't generally go, well you know stick it where it fits. I'm just like okay, yeah sure.

Access to union

The experience of study participants suggests that employee access to a union has become more difficult and victimisation for union involvement easier to carry out under *WorkChoices*.

Aged care attendant Rebecca was expecting to be reprimanded or penalised in some way over the incident where she wet a resident. However, she was informed that as soon as her employer became aware that she had requested union assistance, she was targeted for dismissal. Following her termination the only other union member at the workplace resigned because of ‘fear and intimidation from management’.

Aged care nurse Jane was also successfully targeted for dismissal following her union involvement during negotiations over a collective agreement. Management was very careful to focus the dismissal on work performance over time and was able to disguise its apparent intentions in Jane’s view.

The employees at **storeperson and union delegate Jeremy’s** workplace faced the loss of their union collective agreement through a non-union Greenfield ‘agreement’ imposed against their wishes by their employer. Negotiations secured continuing union involvement, but at considerable cost to their wages and conditions; the new legal framework significantly undermined the workers’ bargaining position.

Interviewees John and Ruby were too afraid to join and call on a union for assistance in the current industrial climate. **John** was convinced that if he contacted a union he would be dismissed and would not be reinstated. No contact would ‘save losing me job’. **Secretary Ruby** did not think that a union could help anymore in small workplaces, ‘when you’re just a grain of sand...you’re a nobody really’.

Community worker Carol was aware that she had been disadvantaged by not having access to a union, but believed that she had no right to join or ask for help as, ‘they [the organisation] don’t allow a union or anything so I never knew my rights’.

While unionisation has never been free of potential repercussions for some workers, these comments suggest that a more insecure workplace climate, post-*WorkChoices*, makes it even more difficult for workers to seek union representation - or other forms of voice, including direct conversation with their employer. Greater employer power has wide effects. But it is especially obvious in relation to workers who are vulnerable, whether because of their low skill, age, family responsibilities, sole parenthood or the state of their occupational or regional labour markets.

ACTION TAKEN AND REMEDIES

In the face of their diverse experiences, interviewees had reacted in a range of ways that reveal weaknesses in the remedies now available to workers.

No action

Five interviewees decided to take no action in relation work changes and/or termination. All understood that there was nothing they could do to pursue their interests or argue unfair dismissal. Several had queried or raised objections to initial changes, but were too afraid to pursue matters further. **Rebecca** was frustrated by not having any options and by being afraid to challenge her dismissal and the way she had been treated:

I just wish I had the guts to stand up and tell the woman that she's a bully and that okay, abuse in the workplace can't, won't be tolerated, well neither will abuse from management and that the verbal and mental harassment is just as bad as anything physical. I just cannot believe that this woman can get away with so much and nobody has got the guts to stand up and say hang on a minute, because everyone's scared of the repercussions and who wouldn't be?

Pharmacy assistant Frances queried the cut in her wages, but her employer would not discuss the matter. She did not pursue it because she was pregnant and feared losing her job:

It affected me greatly at the time, I was really upset and angry but at the same time I didn't wanna make waves and upset my body. I couldn't let it effect me too much because of my baby, you know it took me two and a half years to fall pregnant so I wasn't gonna do anything to jeopardise any problems with having the baby, so I had to let it go basically because of the situation I was in. I didn't feel it was right to keep fighting it because I didn't want any animosity or I didn't want anything to arise before I actually left, in case my employers gave me a hard time or sacked me basically.

Frances does not want to return to this workplace after maternity leave. She is looking for another job. Workers at **Ellen's store** and at **John's bakery** are also looking for alternative employment, although their options are limited given factors such as their age and changes being replicated across their employment sector.

Negotiating without 'third parties'

Few study participants attempted to engage in open negotiation with their employer. Those that did found it very difficult and where negotiations were done individually, they were unsuccessful. Workers had much less bargaining power than their boss; they had less information about employment standards and the work organisation, less authority and time to obtain support within their organisation and most importantly did not have the power to hire and fire.

WorkChoices had further weakened their bargaining position by removing a broad wages and conditions safety net from which to commence negotiations, removing protection against unfair dismissal, making it harder to access a union, and making it harder to get information by keeping agreements secret.

Two interviewees in particular illustrate the negotiating obstacles faced by employees:

Production assistant Sue was the only interviewee to have initiated negotiations over her individual contract. She wanted to shift from a casual full-time to permanent full-time arrangement. She prepared beforehand by discussing it and obtaining support from a senior staff member. She also commenced with a clear idea of what she wanted. However, the CEO with whom she had to negotiate did not know her work and had other organisational priorities. Discussions went 'quite badly':

[H]e was quite patronising...he didn't have good rapport with the staff actually, in the office, and I don't think he'd ever actually noticed me before...

The CEO offered Sue a permanent full-time contract, but only on a trainee rate, with minimal conditions to offset the loss of casual loading and for only three months. She would still be expected to work long hours, but would not receive an overtime loading until after 50 hours per week. Sue calculated that on this basis she would lose between \$13,000 and \$17,000 per year. This was not acceptable and so she attempted to negotiate further:

He wasn't going to budge and I just said I needed time to think about it.

A week later the CEO and a senior staff member took Sue aside and asked whether she was going to accept a new contract as offered. They were critical of her asking other workers about their pay and conditions, as contracts were confidential. She was asked to prove that she was worth higher pay and was then given work to do without the necessary information or support. Sue repeatedly requested required information, but it was not forthcoming. It appeared that she had been set up to fail. Given this undermining experience, she signed the new contract even though it significantly reduced her income:

I wasn't given any sign, indication or support. So I gave up.

Employees at **community worker Deborah's** workplace decided in August 2006 to negotiate a new enterprise agreement:

... we also decided to really kick start the enterprise bargaining agreement negotiations with management and so we sent a message to the chief executive to the board saying we really want to sort this out and have an agreement that covered all of us that was a collective agreement and that was at least the rate of the award in terms of conditions and wages.

The workers found the process of formulating demands and then negotiating them without outside representation 'very, very slow' and difficult. It ate into personal and work time:

What we do is we tack it on to the monthly staff meetings and we sort of sit there and we have our lunch and woof that down and try and work through different points and you know language that we've never worked with. It's an area that none of us have huge amounts of experience in, none of us have a union background or industrial relations background.

Deborah found that while *WorkChoices* was promoted as enabling employees to negotiate for themselves, no support was available to help them do this:

But we've had no support from the Government when we've tried to ask questions about what we are doing and there's no documentation that helps an employee to come up with an agreement that sets out conditions. Even the stuff that they have publicly said in the legislation...you are entitled to this many days holidays and sick leave and so on - where are the tools for us, the workers to be able to just take that along to our workplace and tweak it a little to suit our situations...They're not giving us choices they're leaving us in the lurch and having to create it all ourselves.

The varied duties and circumstances of workers have also made it very difficult for them to formulate common claims themselves and negotiate around them. It has undermined workplace relations:

...I think women in particular don't like talking about money and it's power and control and it's putting us up against each other, competing. We would hope not to do that ... but then when you get down to it you're putting us in situations where we're having to chose one thing or another against our work colleagues and it's turning great feelings of ill will...And I think women don't like those situations as well. I think we take it personally and it eats into our personal lives...

Deborah became frustrated by the slow and unhappy process of agreement making. She was also aggrieved by workers continuing to be employed on six monthly contracts, in spite of working with the organisation for, in her case, four years. She resigned at the end of 2006.

Remedies & effectiveness

There were no remedies available to 14 interviewees for the reduction in their wages and conditions or their termination. *WorkChoices* had removed their ability to claim unfair dismissal, to dispute their redundancy or to claim for the reinstatement of rates and conditions. One of these workers successfully claimed workers compensation for the effects of the accusations made against her and a lack of process in her termination. However, this did not provide a remedy for the actual job loss, and the health effects of her dismissal continue to prevent her from applying for other work.

Four participants took some other form of action following advice obtained from a union, community organisation, lawyer or government agency, including the South Australian Employee Ombudsman, SafeWork SA and the Commonwealth Office of Workplace Services (the OWS). They were no longer able to seek redress for their employment termination, but were advised to claim underpayment of wages.

This has not been an easy process. **Marketing manager Maggie** is claiming payment for four weeks notice. She is representing herself in a federal conciliation conference, a daunting prospect:

...I'm assuming that I can still handle that myself, but yeah that's another consideration isn't it? You have to weigh up what you're going to get out of it and you know what you're due and what it's going to cost you and also the stress of it all, you know it's frightening. I mean he's, he's a very powerful man from a very, very wealthy family here in X so, you know there are lots of connections, and that, that scares me a bit...I hope that he has a lawyer that will represent rather than having to see him. Yeah I don't particularly, not particularly looking forward to that.

Even with representation from a community organisation, **sales assistant Sarah** was unable to secure payments owing:

My previous employer straight away lawyered up, decided that he was going to fight it every bit and it's now in the hands of SafeWork SA who are following up the claim because they've looked into it and they've noticed a lot of things that weren't paid accurately as far as award rates goes.

The OWS has found that **bar manager Shannon** was being paid under the wrong award and not as a manager. The hotel owner has admitted underpayment on these grounds and she is awaiting an offer of settlement from him. However, she has been unable to claim for non-payment of overtime. She is hoping that OWS investigations will benefit workers that remain in his employment, as they are too afraid to speak up for themselves:

Well they were in the same boat as me, but they still work there, so they can't say anything because they'd lose their jobs. Hopefully Workplace Services can go through and see that he's not underpaying. Because he is underpaying them all, all the full-time workers, he's working them 50-60 hours a week and paying them for 38. They can't complain because they still work there. But Workplace Services can go through, I've asked them to go through and he can check all that out. At least they're getting paid properly, done them a favour as well.

Only two interviewees were advised that what had happened to them could be unlawful under *WorkChoices*.

The South Australian Employee Ombudsman determined that the company owning the store where **sales manager Elizabeth** had worked, employed more than 100 employees, thus enabling her to claim unfair dismissal. She would have found this very difficult to work out on her own. She then sought assistance from the Legal Services Commission and the Working Women's Centre to lodge a claim and argue her case. The Working Women's Centre helped her prepare for a federal conciliation conference at which her dismissal was changed to resignation and she was able to obtain a statement of service and four weeks pay in lieu of notice. Elizabeth felt somewhat vindicated by being able to argue her case and obtain some redress. However, her statement of service was qualified and she remained angry and concerned at the unfairness of what had been said and written about her. Her story illustrates the complexity involved in

individually navigating the 100 employees rule (size of workplace is far from always obvious) – and the importance of an opportunity for a hearing of the facts of a case – denied now in smaller workplaces.

Clinic secretary Ruby was advised that under the SA Clerks Award she should have been made permanent after 12 months. However, it was too late to take action in relation to permanency because of her dismissal. As she now had no right to claim unfair dismissal, she was advised to lodge a complaint of discrimination on the basis of parenting responsibilities with the Human Rights and Equal Opportunity Commission. This prompted the clinic to pay her the two weeks' notice that it had previously withheld. It was suggested that she should put aside her action, but Ruby persisted.

Six months after making her complaint, Ruby is still awaiting a conference on the matter. She has been advised by HREOC that her case could take 12 months to finalise and the outcome is unsure. If the right to take action for unfair dismissal had not been removed by *WorkChoices*, Ruby would have been able to put her case in the industrial jurisdiction and obtain a resolution within weeks. Dismissal for parenting responsibilities remains unlawful, but the avenues for a remedy are very slow. In the meantime single parent Ruby is unable, despite her best efforts, to obtain employment to fit her caring responsibilities.

Staff of the participating **employment organisations** were unanimous in their view that remedies for unfair and disadvantageous treatment were fewer and more difficult for workers to access under *WorkChoices*. The staff member from the **business advisory service** now finds the determining and giving of appropriate advice, for example in relation to industrial instruments, a more complex process. When he identifies a situation where prospective employees are required to take out an ABN number to get a job, or existing employees are shifted to self-employed status on a dubious basis, he notifies relevant government agencies so that they can check possible avoidance of workers compensation or superannuation obligations. In his experience it is very difficult for individual workers to take action:

So if you are not treated correctly, how many individuals would then say okay I'm actually gonna find out what the legal situation is here, who do I go to, how do I get assistance, battle this in the courts, are they the courts, are they the commissions that are set up, what organisations are there for me to actually battle this out? And how many individuals would do that and expose their family to that stressful situation which could take ten months, twelve months. And who pays for it? And if you are an ABN number that means you're self employed and if you take this action on and you employ a lawyer, that means you pay for it. So the abuse might have incurred from the employer but you're the one that has to go and get a lawyer and pay a lawyer to fight your issues in court...

Staff from the **women's employment service** were concerned by the growing number of enquiries from workers with legitimate work grievances for which there was now no remedy:

I've been swamped with people, especially people where there is no jurisdiction. Previously they would have had an unfair dismissal application.

The senior staff member from the employment service for young workers shared their concern:

Yeah definitely, again relating mainly to unfair dismissals...we see young workers and their stories where we know 18 months ago we would have been able to follow up an unfair dismissal claim, they would have had a particular strong case but we just can't do that because we don't have the jurisdiction anymore...

Staff from both organisations agreed that the avenue of unlawful termination was a very limited remedy and much more difficult to access than the previous avenue of unfair dismissal. The staff member from the employment service for young workers had found that the new system was a disincentive to seeking a remedy for dismissal:

I mean there is the argument that a lot of the termination is open to all employees regardless of their employment status, and regardless of the business and the size of the business. However, to follow up an unlawful termination after the conciliation process, the next step is to go to the Federal Court

and that's an incredibly expensive process...I think its quite clear that for a young worker who may have been casually employed or even part-time employed, even if they were full-time and working full-time hours to follow what they see as being an unlawful termination is that it's a huge decision for them to make and its very unlikely that they will be able to afford to follow through an unlawful termination action through the Federal Court regardless of it being very clear and straight forward a complaint. The process is a huge disincentive for anyone to have to go through and find a lawyer and pay the meeting fees, it's near impossible.

Is that having any effect on the conciliation process?

Yes...because most situations, the employer if they had representation they would definitely be advised of the process and of what is required to follow it up completely...especially if they know the situation the worker is in and they have just lost their job and they haven't found employment again or they are younger, I mean odds are, [the worker is] not going to take it any further. [the employer] won't really take part in conciliation...they are not going to be serious...

The financial assistance provided by the federal government was too restrictive to enable worker access to the remedy of unlawful termination:

...we've definitely explained what the option is to the worker but no one has taken it up. The money...is only for the advice. To get the representation will require a completely different legal practitioner or firm so while it's one thing to say, I think it's about \$4,000...for assistance in seeing if your claim has merits, well very good if they turn around and say yep you do, well you're going to have to then pay again to somebody else to make that same finding because you can't use that lawyer who has done the initial research and sorted through your claim...you need to go someone else and re-explain the case, so...you're going to actually have to, in the end foot your own legal costs.

The available remedy for unlawful termination was also much reduced. For example a worker could only claim two to four weeks' pay in lieu of notice, where previously it could be up to 26 weeks. This, staff from the women's organisation argued, was a further disincentive to take action:

And when you think about that when there's an employer breaching the Act, there's not any incentive at all for the employee to speak out about it because there's no compensation for them.

Staff of both organisations also found that the removal of the right to claim unfair dismissal limited the capacity of workers to obtain a remedy for discrimination. The remaining avenue of pursuing a complaint through the Human Rights and Equal Opportunity Commission took much longer and made it more difficult for workers to move on with their lives. The staff member from the service for young workers commented on the negative effects of delay:

When it takes a lot longer with the complaint process, parties can get impatient, they can get quite disheartened by the whole process. They don't want to be involved anymore. It consumes their life and they are never really able to move on from it until it's completely finished, which again can be six to nine months later, so that's, that is something that again would probably make people think: well do I really want to go through with it if it is going to take that long?

These cases clearly illustrate how practical avenues for redress in the event of perceived unfair treatment are very limited for many vulnerable workers. Many give up. However, the effects of their ill-treatment or loss of opportunity to put their case or defend themselves, has important long term effects. And its lessons are not lost on the many workers who witness such events – and remain in workplaces where the climate has changed and employer power is greater and/or exercised arbitrarily.

EFFECTS ON WORKERS

The kinds of changes documented in previous sections have important effects that can be broad and long lived. We now turn to some of these.

Finances

The financial impact of loss of job or reduction in conditions was considerable for interviewees, affecting daily living, capacity to pay bills, care of dependants, housing, transport and life planning. Negative effects were experienced across all ages, household arrangements and stages of life, although the nature of impacts varies by household type and age in particular.

Impact on sole parent

Sole parent Ruby had 'always worked' prior to her dismissal. She returned to work from maternity leave when her child was 11 months old in order to be independent and provide for her child. Although only working part-time, she managed to put money aside in a scholarship fund to enable him to go to university in the future and maintained private health insurance. She receives no income support. Without paid employment Ruby is now no longer able to plan and lives 'from pension to pension':

..if I need to go somewhere that's quite a distance I have to do it like the first two days of pension when I know I have lots of petrol in my car...everything revolves around the day you get the pension...the last three or four days before I get my pension I'm housebound.

She shares a house in order to minimise rent and other living expenses. However, trying to live on a pension is putting pressure on food and other basic costs:

...where before there was always things in the cupboard, you'd always feel like you were doing your share of putting food in the cupboard, where now it's oh look I bought that for my son please don't eat it, and I've never done that before. I don't have all this money just to be stocking up cupboards for you know their friends to come over and eat my food...And I've never ever bothered before because obviously I had the money to go and buy stuff where now, I don't buy me anything...I need a hair cut but it's not a priority...

Ruby has borrowed from her parents to cover some of her child's education expenses. She cannot afford to buy toys or treats for him anymore and he is finding the change of financial circumstances difficult:

Tough...he now wants me to work at McDonalds so I can get him free toys and give him a free hamburger. So he knows that I don't have all this money that I used to have...when he used to go to the shops and say oh can I have, he would normally get it because that's what why I was working was to give him the things...now it's no you can't have that, no don't ask...So it all just ends up revolving back around money, it's money that you just don't have coming in.

Ruby describes 'the worry and the stress' of trying to manage their daily lives.

Single, mature age women

Even without dependents, mature age women interviewees who rely solely on their wage found the financial effects of industrial change very difficult.

With no provision in her AWA for a wage increase to keep up with inflation, **accommodation worker Anne** is just able to manage because she owns her own home and does not have to pay rent. She is 57 and has been in paid work for a number of years. However, her low, unadjusted income does not enable her to plan for retirement and is only 'a bit better' than if she 'had to survive on the dole'.

Following her redundancy after 14½ years as a clerical worker in insurance, 58 year old **Kate** was forced to draw upon her superannuation to pay a personal loan and a loan on her car. She does not know how she is going to manage financially into the future:

I feel I'm in a semi retirement mode at the moment because of my situation. However I'm not even earning I guess what I would if I was retired. So yes my savings are dwindling away and it's very unsettling and I guess you'd wonder how you're going to survive and what you're going to do.

Kate lives in a 'village' in a country town, which requires her to pay weekly maintenance on her house:

I can see that as being a bit of a problem in trying to keep up with everything else and just your normal living expenses.

She has been a sole parent for over 20 years and she is relieved that she lost her job after her son completed his university studies and obtained employment, not before. However, being a single parent means that she is not able to provide for her own future. Loss of employment and her country location means that she will find it very difficult to improve her financial situation:

So I guess I haven't had any real plans of grandeur as far as what I was going to do in my retirement because I've never been in a position to accumulate money to think about taking extended holidays or anything like that so I guess my life would be seen as being rather ordinary and mundane.

Aged care worker Rebecca received just two weeks payment in lieu of notice on her sudden and unexpected dismissal. It took nine weeks for any government payments to come through and in the meantime she was only able to pay basic living expenses through a loan from her mother. She feels badly that this money was only available because of the death and legacy of her grandmother. Rebecca could not afford her mortgage repayments and was not able to get repayment insurance because of the unfavourable separation certificate provided by her ex-employer. She had to put her house up for sale and rent in a town 110 km away.

Young single women

Young **retail workers Sarah and Wendy** live with their parents, but were not immune from the negative financial effects of changes at work. Sara was in the process of putting a contract on a house, but had to relinquish it after she was pressured to resign. She was not eligible for immediate government assistance and had to use her savings to cover living expenses. With increasing uncertainty in her working hours, Wendy is very concerned that she will be forced to choose between work and study. She wants to be independent and does not expect her parents to support her:

I'm second year this year, but first year my books cost about a grand all up, a lot of money for a young person. I'm paying for a car and all that kinda stuff. And I just think where is that money gonna come from? I don't expect my parents to give it to me and I don't think they should have to and that's why I go to work, I go to work to pay for this stuff, I go to work to pay for the car, I go to work to pay for my uni books...how am I gonna afford to buy them?

Production assistant Sue incurred a substantial reduction in pay under her new contract and has only three months guaranteed income. She is 'very careful' in her expenditure and is not able to save. She is not hopeful of either a wage rise or ongoing employment with this company. This was her first job after graduating from university and she had been very keen. She is now disillusioned and unsure about the future.

The **employment service for young workers** confirmed that the financial impacts felt by Sara, Wendy and Sue are not unique. Young workers inexperienced in the world of work and in relation to financial obligations are particularly vulnerable to the financial repercussions of change:

...a lot of the people we come across now have loans, whether that's car loans, they've got to be paying off, for example their credit card debt which is obviously affecting a lot of people, so there's always a financial impact if they have just lost their job. There's rent having to be paid as well. I don't think anyone's really immune to these types of financial obligations and the loss of income when it is quite immediate ...when they don't see it coming or if there aren't reasons given and they are not sort of clued up well if I don't get my act together then I might lose my job then these types of

warnings are not given before someone is terminated then it has a devastating impact because they just don't have that backup and that support...

Couple & dual income households

When **retail worker Lily** was made redundant, she and her husband and baby daughter had just moved into a new house. The sudden loss of income put a great strain on their capacity to meet expenses and causes continuing anxiety. They have had to curb expenditure, 'basically we're just paying bills, paying mortgage, feeding our children, clothing our children'.

Receptionist Mary and her husband had also just taken out a loan for house extensions when she was dismissed. They had to wait six weeks for Centrelink payments and four months for workers compensation payments to be made. While they were waiting for payment, they survived financially by drawing down on their housing loan. As the workers compensation was backdated, they had to repay Centrelink. They also had to pay a lawyer's bill of \$2,500 incurred in obtaining advice about the accusations of theft and assistance in relation to other entitlements. Due to ongoing health problems arising from her dismissal, Mary is still unable to work and the lack of two incomes means that the family is 'still struggling'.

Baker John and his partner are reliant on his wage. The cuts to penalty rates and loadings at his workplace have reduced his income by 13 per cent. Previously he would have been able to pay bills all at once. Now, if he receives more than one at a time, he pays in instalments. It is harder to pay the mortgage and John no longer has any spare cash with which to buy something for his partner:

Yeah, like overtime and the loading and that, it used to help pay the house payment and where I'd have a little bit of cash left over to maybe buy a bunch of flowers for a day like today [valentines day] but, yeah, the lady's missed out this time around.

Some workers meet hardship by taking greater personal risks. For example, John will occasionally drive the car unregistered. He feels he has little choice as it is his only means to get to work: 'I can't afford to register it so risks like that we have to take and yeah, you know it's a worry but again what can I do, I don't want to lose my job'.

The non-renewal of **community worker Carol's** contract put considerable pressure on her family. They had great difficulty meeting loan repayments and were forced to sell some things. Education and entertainment for the children has also been cut back:

We had to take them out of music lessons that they had, we couldn't go out like we used to, they basically had to just stay home and play X-Box games or card games or just veg out because we couldn't do anything, we had too many bills and yeah, not enough money.

Carol and her partner separated as a result of the strains surrounding her 'whistleblowing' and loss of contract. She and the two children continue to live in a Housing Trust house, and its rent has been reduced to take into account her current circumstances. To save money, Carol has not re-registered her car and uses public transport.

Sewing instructor Michelle's dismissal has put great strain on family finances. Both she and her husband were low income earners and her pay was essential to cover basic expenses:

Well it's still having an effect because I haven't got anything to replace it. That was what was allowing us to eat so we've had to go into our savings, so you know, it's a huge impact.

They were counting on her husband being able to pick up more work to help offset her loss of income, but drought makes this prospect unlikely and they are anxious:

...he's in an industry where the rain is of paramount importance, that is having a huge effect with us as well because he initially said oh well maybe he could do a few extra jobs but with the season as it is we're just a bit worried come January that he might not have as many jobs to do as well...

Family is very important to **aged care nurse Jane** and to her identity, and she is upset that since her dismissal she is no longer able to buy things for her children and grand children:

The things that I won't be able to do for my children which I do because I work and the grand kids, you know all those little things that you just take for granted because you've got an income. Then you stop and think hell if I go down the shop now I won't buy that extra thing, so all the things that I've just done in my life, because I've worked all my life, have come to a crashing halt.

Staff at the **women's employment organisation** noted a broadening and exacerbation of financial impacts of change since March 2006.

I think we've always been really vigilant in our referrals and trying to look at our client's lives holistically when problems occur at work. But definitely it's becoming more and more dire I think. I've had two people last week [and] sent them to St Vincent De Paul to get food vouchers. And there's people who had double income families working thirty-eight hours a week, they've all got car loans and bought plasma screen TVs and renting houses for three hundred bucks a week and suddenly find themselves with no job. So it's a really big jump from living quite a comfortable middle class existence to suddenly being in poverty and needing to rely on charity.

The staff stressed the impact of a woman losing her job on the capacity of individuals and families to meet mortgage repayments:

...they found themselves in very difficult [situations], they all have mortgages. If they have partners they are not entitled to any benefits so their power of paying the mortgage decreases.

Insecurity, fear & uncertainty

Study participants noted the growing sense of fear and uncertainty arising from the increased power of employers under *WorkChoices* to unilaterally reduce pay and conditions and terminate employment. This insecurity had the effect of discouraging discussion and silencing disagreement on employer decisions. Employees were more afraid to complain. **Bar manager Shannon** emphasised this in her statement that her action on wages underpayment from outside of the workplace was helping remaining employees because 'they can't say anything because they'd lose their jobs'. **Storeperson Jeremy** also observed that workers at his workplace were less willing to speak up:

A lot of people fear that if they speak up that they will get a mark against their name and X is a company that does adopt that system which is a bit unfortunate. And it might be the people that do speak up that are singled out..., and sometimes they are forced to be quiet, I suppose for want of a better word.

Other interviewees commented on the negative effects of increased insecurity on work harmony as well as on the capacity of workers to express their views. **Check-out operator Ellen** observed:

Morale's gone down...like we're worried that if we speak up too much we'll lose our jobs...Yeah, people have been more worried, you can see people are looking around more, looking stressed and there's less harmony in the workplace than what there was.

And **community worker Deborah** also noted an increased sense of insecurity and its negative effects on workplace relations:

Everyone is well aware that we're a small organization and less than 100 employees and that unfair dismissal doesn't apply to us anymore and we have seen some staff members pretty much have contracts not renewed or operate as casuals. There's no sort of job security given to them, they're kept guessing I guess...We know that we are not necessarily on any solid ground if we are unfairly dismissed. And that has created tensions in the work place...I think a lot of us have found that we're just in a position where we don't feel protected with work place rights.

Sales manager Lily was concerned that the new industrial climate created by *WorkChoices* where employees could be more easily dismissed, encouraged employers to be impatient and less willing to train employees. This new climate was unreasonable, less caring and generated further anxiety amongst workers:

Yeah, I think it's very much now, I'll give you three months, if you can't do the job then see you later. You've got to produce results, now, now, now, now, and it's just impossible for people to work under that kind of pressure and to actually, what's the word I'm looking for, perform under that kind of pressure... People should be trained, and given time to perform to the best ability. Just the panic stations out there... if you don't perform, well you're out of here... we don't care about you, whether you're family or what. Nobody looks after each other, I think.

Dismissed **aged care nurse Jane** was worried about the flow-on effects and longer term implications of increased uncertainty on job recruitment, families and the broader community:

And I think sadly, people will not take... jobs with responsibilities know[ing] that the tenure is too fragile... that the whim of the boss who doesn't like you or decides she wants to make a bigger profit then "click" you're gone. It is a very, very scary world. I've got a 30 year old daughter with a mortgage and three kids what is her future? And that scares me. Her husband works in a position with four other people, if his job was suddenly like sorry we don't need you... anymore "click" he's gone again with 3 children and a wife. And then there's the whole snowball effect because she pays the child care workers and she loses her job you know, they lose their house, then we'd have to support them I guess as a parent you would help your children so then our money then goes... So it's a whole big picture out there, ugly. If you want to paint one it would be a very ugly picture. Somebody's got to be woken up and just shown a picture of... the whole thing because I'm not going to go out and spend money. So you know this thing affects my superannuation, so whose going to pay... I would have been a self funded retiree where do I go now, I'll be a pensioner.

Internalising new workplace norms

A further effect of fear and insecurity is the creation of an industrial climate where reduced standards and a lack of discussion at the workplace become the norm. **Baker John** described this effect when he stated that there was no point in discussion: he and his fellow workers had no choice but to work under reduced conditions.

Senior staff at the **employment service for young workers** fear the internalisation of the new employment environment, with its inferior rights and entitlements, as the norm:

...especially for the younger workers that we see, they are either in their first job or maybe been in the workforce for a couple of years, but they are still at a time where their opinions and attitudes are being formed by their employment. I'm concerned that if this is to continue that the expectations of young workers will just decrease dramatically. I'm concerned that they will believe that they are not worth anything more than what's being given to them and that they will just have to accept the way that they are treated and say well this is how it is, you know, this is what it's like to work and they won't say anything, they will think they can be treated poorly...

Job Satisfaction

For a number of interviewees, changes to the wages, conditions and the organisation of work subsequent to *WorkChoices* have markedly decreased the job satisfaction of those study participants still in employment.

Sales assistant Wendy for example, has lost her enjoyment of work. She and her fellow employees are looking for other work:

I'm ready to quit, actually ready to quit. I've started looking for another job, I just want out... I used to love going to work, I loved the people I worked with... I'm good friends with the work girls and stuff... everyone's looking for a new job.

Wendy is aware that she at least has study to compensate and can look forward to a better employment future. Other employees are not so lucky:

I'm not one of those people that gets stressed out at work, I'm just oh well bad luck, but for other people they take it really personally...you're stuck here for the rest of your life, I don't have to work here for the rest of my life

Baker John and the other workers at his workplace have stopped talking about the new work 'rules'. There doesn't seem to be much point, as they feel they have no choice. They just work so that they can finish as soon as they can. They are no longer willing to put in extra effort and avoid being available for overtime:

...we're getting used to it now so there's not that much discussion about it, we just get on with our work, we can't afford to you know, talk that much about it now because if we do we're stuck there at the end of the day at the same rate of pay so we just buckle down, get into it and get the hell out of the place.

Only financial necessity now keeps **check-out operator Ellen** at her workplace

Sheer desperation, the mortgage... otherwise I would have walked out...because I absolutely hate it but yeah, it's just the mortgage, the answer is feeling scared because there's not many jobs out there and you know that...you've got to keep going in the job that you've got because there's not much out there especially full-time.

She is desperate to find other work, but her options are limited:

I'm actually trying to get out of what I'm doing but I'm finding it quite stressful and trying to find something completely different, I'm actually thinking of relocating and moving away from the area where I am and selling up my house. It is, yeah it's very hard, a lot of people at my work are thinking the same thing.

Life planning and independence

The changes imposed on interviewees has undermined rather than enhanced their capacity to plan their lives and gain financial independence.

For **single women without dependents** such as **Sarah and Deborah**, changes have affected their ability to secure independent living arrangements. Sara had to cancel a contract for a house after she was pressured to resign and continues to live with her parents. Deborah could not obtain a home loan while her employment contract was only for six monthly periods:

...it has affected my plans for my life. I mean the fact that I was on short term contract means that I could not apply for home loans and things like that. So that sort of sits there in the back of your mind and it's quite an insecure mode to operate and that affects your life choices and what you want to do in future planning for the longer term.

Continuing uncertainty regarding job tenure and conditions of work prompted Deborah to resign. She continues to share accommodation and is considering a complete change of employment in order to obtain some greater control over her life.

Loss of employment has set back the timing and terms of retirement for **older workers Michelle and Kate**. As previously noted, in spite of working hard as a sole parent for much of her life, Kate now looks forward to an enforced early retirement with little financial security. She has limited expectations for her future, seeing her life as 'ordinary and mundane'. Michelle had planned to work for her previous employer until retirement, which was some time away given her low income. She finds her current unemployment 'stressful and disappointing'. She is also uncertain about what the future might hold.

'Whistleblower' and now **sole parent Carol** has given up planning, following her traumatic employment experience:

I don't because every time I get forward I get kicked down so there's no point in having any dreams when somebody always breaks them for me. So I just take one day at a time.

Aged care nurse Jane has the means to live, but she is worried that she has lost her independence with her dismissal:

Oh we can survive on my husband's wage, I'm not arguing that, but what I had was my independence. My mother always said I had to have run away money and so I was saving so I could run away one day. So it's my independence and that security that I've had money...

She is also concerned at the longer term impact of her job loss. Prior plans are now in disarray:

But then I did start to think about the long term issues with this, I didn't want to be unemployed at 53, I had been planning on working until I was about 56 when [her husband] finished work. You know we just sort of live off my superannuation, my long term financial benefits are suddenly not there.

Health and stress

The changes to working lives enabled by *WorkChoices* and as described in this report were accompanied by both short term and significant longer term health effects. As noted in previous sections, increased insecurity and loss of conditions involving a cut in income are causing ongoing stress and anxiety amongst study participants. Actual loss of employment magnified stress and health impacts.

For some interviewees such as **marketing manager Maggie** effects were short term:

Yeah really distressing, worrying, a lot of anxiety, I did sort of visit the doctor a few times...I'm not an unhealthy person and not one that sort of takes medication or anything, but I think more just to talk you know. But I've got a really supportive family, my husband and my kids so, I think that was the saving grace...

However, those participants that had been dismissed or resigned in circumstances involving accusations of theft or misconduct, and who had lost the opportunity of presenting their side of the story with the onset of *WorkChoices*, experienced significant ongoing health problems. For example, **receptionist Mary** was deemed medically unfit to work after experiencing severe anxiety over allegations of theft:

I drove home and I was in a complete mess, distraught, humiliated, and just completely anxious, I had anxiety. I came home and spoke to my husband, I couldn't talk for a while, I was a mess, I had to go to the doctor because I was suffering anxiety at a heightened, like I'd never experienced before, I was put on a sickness certificate.

She became agoraphobic and continues to suffer from depression:

A lot, I have a lot of depression, I can't believe that my bosses don't believe that I didn't take the jacket, a lot of humiliation, withdrew, a lot of withdrawn sort of feelings, it really put me under a lot of anxiety and stress, confidence levels plummeted to nil. I found myself not even to be able to go shopping, I would hide from people that I knew and changed my whole personality.

Mary successfully claimed workers compensation. She is recovering, but as yet is not well enough to obtain other work.

Aged care worker Rebecca was suicidal after her dismissal. The emotional effects of the loss of work that she loved were compounded by her fatigue, genuine regret at her inappropriate behaviour towards a resident and a further accusation of assault, which she strongly denied:

And then I came home, and pretty much decided that my life wasn't worth living, oh here we go again [*crying*].

If it wasn't for a very good friend of mine, I wouldn't be here, my next door neighbour was totally worried about me, she could hear me sobbing and carrying on and she said, if I'm like that that I was actually on the phone to a doctor at the time and they were going to take me into hospital because I was hyperventilating and everything. I somehow managed to straighten myself up with probably a few smacks around the head, I don't know and I went to the doctors on the Monday because this was on the Friday late, and on the Monday I booked myself into the doctors, they doubled my anti-depressants which the boss knew I was on, then, because I hadn't been sleeping, they put me on relaxants to make me sleep because I was getting two, maybe two and a half hours a sleep per night, that improved me to four hours sleep. I was told not to drive my car for a fortnight for fear that I would do something crazy to myself. I was asked did I have any guns or instruments that I could do extreme damage to myself...my sister was told she had to keep 24 hours care of me until she felt that I was comfortable enough to basically breathe on my own, oh, can't even think of what else happened, but yeah, then I told my parents and they broke down.

Rebecca's health improved sufficiently after 10 weeks for her to obtain aged care work in another town. However, this job is now threatened because her previous employer has rung the CEO of her new workplace, maintaining that she should not be employed. Even though her new boss has informed her of this contact and reassured her that her work performance is good, Rebecca's anxiety has been renewed. She was distressed during much of the interview:

..now she's back haunting me again. She's, sorry, she's rung up another hospital and told them I am to be dismissed because I assaulted a resident so now I am possibly going to have to go again.

The long term effects of dismissal without the opportunity for worker voice and just process are especially devastating. Their loss for so many workers, based on the arbitrary basis of the size of the employer, strikes many interviewees as very unjust.

Aged care nurse Jane had only been unemployed for two weeks and is managing her emotional health. However, she has suffered from mental illness in the past and is worried that it may recur if she cannot get another job.

At the moment I guess because it's only two weeks I think it's no different to being on holidays. I guess if it becomes long term then again I hate being home, there's that chance, I've had one nervous breakdown many years ago, I don't want to be there again, which I can see myself quite easily doing. Again with that lack of being in the community, that lack of being needed. You know suddenly I'm not needed, well that's what I feel. I mean that I'm not needed, hey somebody doesn't see me as being worthwhile anymore, it would be very easy to get myself back into a position where I didn't leave home again. Where would I end up? Back where I was 10 years ago or whatever fighting a nervous breakdown.

Jane's anxiety about ongoing employment is fuelled by her termination without the capacity to argue unfair dismissal, a complaint to the Nurses Board by her previous employer (which she is contesting) and her age of 53.

The circumstances surrounding **community worker Carol's** 'whistleblowing', particularly the aggressive and threatening behaviour of her supervisor, undermined her health and exacerbated a previous injury. She was hospitalised prior to the completion of her contract:

Well the contract ended in June...but due to poor health and me being hospitalised by what my boss did...I ended up leaving a couple of months earlier...Yeah, end of April, beginning of May especially when I found out that no-one could help me so there was no point hanging around and getting sicker.

Carol became severely depressed with the loss of employment and exacerbation of prior tinnitus and musculo-skeletal injury. She is now awaiting surgery and supports herself and two children on sickness benefits.

Staff of the **women's employment organisation** confirmed the exacerbation of the health effects of dismissal when it was for reasons that reflected badly on an individual, who was then unable to counter accusations in unfair dismissal proceedings:

I think on the emotional level, especially if they were accused of stealing or something, whereby now there's no need to go through a fair process and you know have any procedural fairness, if there's any allegation of stealing people just tend to be terminated straightaway and it's really heartbreaking for people to be terminated for stealing when they feel they didn't do it, or they know they didn't do it and there's just nothing they can do even if it's not about money or anything it's a position of ethics I suppose and people just aren't getting past it emotionally, really unable to get past it.

Alternate avenues to unfair dismissal, such as a discrimination complaint, could delay recovery or increase an injury due to the time taken to resolve the matter:

Yeah the thing about cases taking so long and people not being able to move on it's increasing people's injury, like it's meaning they're ending up really sick and unwell because they can't move on.

Finding another job

Previous sections described the difficulties interviewees have in locating alternative employment when they are unhappy with changes made to their wages and conditions. Those from the retail industry in particular are finding it harder to secure full-time employment or work with enough regular hours to guarantee a living wage. The capacity of participants to find another job once unemployed was affected by a range of factors including caring responsibilities, age, marketable skills, reason for termination and ongoing disputation.

Workers with caring responsibilities

Participants who had lost their job and who also had dependent children faced additional hurdles to finding another one. **Mary** was most anxious about her chances of getting work that would accommodate her caring responsibilities:

...it took me so long to organise those hours that fit in with my family, it took years actually to find hours I could work during the day and not night and that was good that I could drop them off at school and sort of be home for them when they got home from school.

Ruby is trying to get back into office work, but is hampered by the lack of permanent part-time work with hours that match available after school care in her locality. She is frustrated by jobs being advertised as part-time, when the employer really wants a full-time worker:

... I'm trying now to get back into working in an office, and it's just really hard now because even when it says three days' a week, but must be willing to cover sick and annual leave. That's exactly why I lost my job in the first place, was because I couldn't cover the sick and annual leave...I'm not afraid of working but I can't get X into after school care on Monday and Tuesday, their waiting list is so long anyway, and I'm paying for him to go to after school care Wednesday Thursday Friday even though I'm not working because it is too hard if I take him off that list to get him back on that list to get days. So I'm also paying for after school care that I don't need, but I need to be able to go into a job or an interview and say I have after school care booked Wednesday Thursday Fridays. Because I know Monday is a seven month waiting list...I applied for another job and they rang me on Monday and they wanted 8 til 5 Monday to Friday, but the job advertised as part-time...how can 8 til 5 Monday to Friday be part-time.

Older workers

Older participants such as **Maggie**, were concerned that their age would make it more difficult to find work:

...that was another concern because I'm 52, it's not like you're 35 and sought after, you know you do have a use by date sometimes, particularly with some employers, not that they are allowed to ask you your age or anything, but it's often obvious from your resume that you've been around a fair while.

Maggie was fortunate in that her skills and experience as a marketing manager enabled her to obtain a similar job to the one she had lost within two months. She is employed on an individual contract, but it is common to other employees and is far more comprehensive than the previous one.

Sewing instructor Michelle is also worried about the impact of her age on getting another job:

...while I am confident that I have done the job well and I can do whatever I put my mind to, you know at 58 there's not too many people that would be prepared to employ you so I have my doubts whether I'll get another job.

However, Michelle is less fortunate than **Maggie**, in that her skills and experience are much less in demand. There are a limited number of businesses in Adelaide doing the same work and they know one another. She has applied for another job and has done seasonal work for the Melbourne and Adelaide Cups but, 'it's seasonal, it certainly doesn't have enough income to last the whole year. I need another job'.

Workers dismissed for misconduct

Interviewees who were dismissed or had resigned because of accusations of some form of misconduct, and who now had no readily available avenue to contest such accusations, were particularly disadvantaged in finding another job.

Staff of the **women's employment organisation** emphasised that unchallenged misconduct allegations could threaten a person's capacity to work in an industry where a licence or vetting is required, such as in nursing, child care or hospitality. This requirement threatened **Jane's** ability to obtain any form of qualified nursing work in the future.

Staff also recounted instances of employers vindictively pursuing ex-employees by contacting other employers in the industry, thus undermining their chances of obtaining work. This was the experience of **Rebecca**. Her ex-employer knew alternative sources of employment in the surrounding country area and could contact other employers easily. The only remedy now available for workers in this situation such as Rebecca, was to take action for defamation, 'which is so expensive and frustrating'.

Sales manager Elizabeth is more fortunate in that she has found that she can challenge her termination for alleged fraud because the company in total employs more than 100. This changed her termination to resignation to the benefit of her future employment prospects. She has obtained permanent work with a rival company. She is employed on a collective agreement and earns both a higher base rate and higher commission.

Ongoing disputation

Loss of employment and subsequent fight with her ex-employer over entitlements has affected young **sales assistant Sarah's** capacity to obtain and hold down a position:

...after I left that job I went somewhere else and I've recently left there because of the ongoing tug of war that I'm having with him has affected my ability to work at such a level that I would like to. And I think it was a knock for me to have given that much to a business from such an early age to be treated that way in the end. It hurt.

In an attempt to avoid the negative associations of her previous job, she is attempting to get work in another field. This is not easy given her limited employment experience and the refusal of her previous employer to give her a reference:

I'm getting there I suppose. I'm trying to stay clear of retail. Trying to go more into office work so I'm having a few hassles there because I've only done typical retail even though I do a lot of just running for him. My title was still retail sales assistant.

Workers in rural/regional areas

For some, the effects of industrial change are exacerbated in rural and regional areas. The loss of employment by workers living in such areas might require them to leave a home, family and friends in order to find other work or condemn them to unemployment if unable to change location. Three study participants have had to deal with these dilemmas.

Since being made redundant, 58 year old **Kate** has completed a work skills course and entered into a Centrelink contract to do voluntary work for two days each week. She continues to apply for any work within travelling distance for which she is qualified, but her regional location gives her few options:

Unfortunately the area I live in is not a place where there is a lot of employment I guess, but somebody my age as well, and also in just recent times one of the factories down here closed which also put another I think 60 – 80 people on the unemployment list, so the situation down here is not ideal for finding jobs.

Kate is now concerned that she will be trapped in unemployment until retirement age.

Sole parent Shannon shifted from one small country town to another in order to obtain work. This move disrupted the lives of her two children. Jobs in the surrounding area were very few and when she was dismissed for refusing to work unreasonable hours they were faced with the prospect of having to shift again:

Well I wasn't sure if I had to leave you know, the kids didn't want to go again, I'd already moved them once and I thought well if I can't get another job here, I'm going to have to leave because I was renting the house here and I couldn't afford it, so yeah, they were pretty upset.

Aged care attendant Rebecca could no longer afford to pay her mortgage when she was dismissed and was forced to sell her house. To obtain somewhere to rent and alternative employment, she had to move 110 km to another country town. In so doing she had to leave behind close family and friends at a time when she was both physically and mentally unwell. Being in a completely new location makes it more difficult for her to get support and regain her confidence:

...I'm here and I'm at work and in my unit and that's it. I don't know any other part of the town, I just know 700-800 metres from here to work and that's all I know.

Intersection of *WorkChoices* with Welfare to Work

For **sole parent Ruby** the intersection of *WorkChoices* with 'welfare to work' requirements generated additional anxiety regarding her finding part-time work that matched her caring responsibilities. She felt pressured to accept work that did not meet her needs. Ruby experienced a contradiction between government advertisements supportive of family and the threat of loss of 'pension' if suitable work was not accepted:

...I don't understand the new laws that have been brought in...when it happened to me it was the big Welfare ads on TV, you know the I'm a working Mum and my kids will come first, but then you have to work twelve hours to be able to keep your pension you know it all contradicts itself. There aren't these twelve hour jobs out there a week to go and get, and if you don't sign a contract then you don't have a job, and if you sign these contracts then you still have to be prepared to work full-time hours anyway, so what's the point of the contracts? They just seem to contradict themselves in everything they're saying and doing in relation to these new workplace laws and the parenting payment plan...

Staff at the **women's employment organisation** reported that pressures for women to stay in employment and accept offers arising from the 'welfare to work' program further weakened the bargaining power of women workers already vulnerable under *WorkChoices*:

Certainly women who contact our organisation [are] finding themselves in even less powerful bargaining position than they already were in terms of AWAs if they've got to get the fifteen hours a week that Welfare to Work requires, because not signing AWAs is not a good enough reason not to accept the job. So the government's managed to get the two bits of legislation that put women in this position where they're stuck between a rock and a hard place. They either accept their contracts or lose their welfare...

EFFECTS ON COLLEAGUES & THE WORKPLACE

The effects of changes brought on by *WorkChoices* have been felt by work colleagues and in the workplace more generally, as well as by individual interviewees. This part examines the broader employment effects of legislative change as evident from the case studies in relation to pay equity, team work and co-operation, training, occupational health, safety and welfare, staff turnover and productivity.

Pay equity

The potential for the development of pay inequity under *WorkChoices* is illustrated by the experience of **accommodation worker Anne**. She was performing the same work as her fellow workers, but unlike them, had no provision for a pay increase during the life of her AWA. No reason was given by management for the consequent difference in pay rates and an attempt by Anne negotiate as recommended by OWS was unsuccessful. She had no other remedy to rectify the inequity. The provision for AWAs to be confidential enabled her employer to reproach her for raising the inequity and undermined her capacity to obtain ongoing comparative information on rates applying in the workplace. This case study raises a serious problem of how workers are to negotiate wage increases as individuals and maintain a semblance of equity if they are prevented by law from obtaining and using comparative data.

The threat of widening rather than closing the gender pay equity gap under *WorkChoices* is also apparent in the legislation's focus on obtaining conditions required to balance work and caring responsibilities by trading off employment provisions, rather than setting new labour force-wide standards. This problem was emphasised by staff of the **women's employment organisation**. They feared a growing gender pay gap as individual contracts came up for renegotiation and women traded away pay to get provisions that supported care responsibilities:

...it's something that I've seen and fear that it's going to increase, is women having to negotiate other things out of their contracts to get parenting flexibility or to get family friendly provisions in contracts. I fear that we're going to end up having even more problems with the pay gap if women are having to reduce pay or whatever else over time so that they can get some flexibility around parenting. I don't think men are going to have to do that as often in their negotiating. So that's something we've started to see and fear will happen more as more contracts are being negotiated and other ones run out.

Team work & cooperation

Team work and co-operative workplace relations were also affected by the increasingly individualised and unequal industrial climate described by participants.

At **Wendy's** store, the shift in the implementation of changes from group meetings to individual meetings with one or two managers was matched by a discouragement of group feeling on the job. This was experienced as part of a broad change of atmosphere from co-operation to division and hostility:

Pretty hostile to be honest. Like it's pretty much management against staff, all the staff are kinda like we wanna quit...it's not a good atmosphere, you try and make the best out of it, the worst thing I think was I was told at work, when I was in [X section], I was like, we're keen, if anyone gets stuck we can all help each other out, like stock one night, and I said yeah like how awesome is this team in [X section]. The store manager turns around and goes, there's no team, you're all individuals.

Management/staff relations and relations between workers were further undermined by a capacity of managers or owners to bully workers in the knowledge that remedies for constructive dismissal had been removed.

Marketing manager Maggie was actively discouraged from talking to and supporting other workers affected by her boss's bullying behaviour:

No, no we were definitely not allowed to. I vividly remember the lady that started the same day as me, he'd really got stuck into her and she was sitting at her desk sobbing and shaking and I went out to her ...and I put my hands on her shoulders and I said look you know come down to the ladies and get a drink of water, and talk about it. I'd heard him yelling but I didn't really know what it was about, so we went down and she was filling me in. In that meantime he obviously noticed that I wasn't in my office and she was not at her desk and I had two missed calls on my mobile and he called me in after that and sat me down and absolutely ripped shreds off me and said that we would not get on if I was going to take sides and support other staff. That was not what he wanted from me, and that that would certainly not [be] allowed to continue, that I needed to support him in every way.

Relations between **pharmacy assistant Frances** and her employer soured following his unilateral cut in her pay rate and dismissal without notice of several women who had worked for more than a year on a casual basis. Frances was appalled by his actions and by his unpleasant response to her questioning of her pay cut:

It affected my relationship with, with my boss, yes 'cause I didn't speak to him after that, didn't wanna speak to him after that, I didn't speak unless I was spoken to, so in that respect it affected that relationship.

Training & productivity

A reduction in the wages and conditions of study participants was accompanied by an undermining of workplace productivity and efficiency through less investment in employees and lowering of morale.

Wendy's capacity to efficiently carry out her retail sales job was affected by her being shifted into a product area that she knew nothing about without the necessary training. Her confidence in and commitment to her job suffered as a result.

Storeperson Jeremy noted a decline in employer/employee relations from March 2006 and less dedication to work shown by employees:

As the year progressed the attitude towards the union and delegates and also for the general workers went from being a happy productive workforce, to a very discontented, down and out type, I don't like to use the word mob of workers, but it seemed like that the company had little respect for us workers. They were always going out and trying to antagonise and bring up petty issues to the workers...just to antagonise them and bring the moral and productivity down.

Probably, put them all together, just the general nature of the workers now. They are very despondent, very, what is the word I am thinking of, I don't know, no dedication any more. It is very soul destroying sometimes.

Occupational health, safety & welfare

The change in workplace climate and shift in the balance of power away from employees to employers described in preceding sections were reflected in less attention to occupational health, safety and welfare practices in the workplaces of several participants. The following reports of interviewees raise health and welfare issues in addition to those previously noted instances of long hours of work and loss of employment in circumstances involving bullying and intimidation.

The health of **bar manager Shannon** was compromised not only by her being required to work very long hours without appropriate breaks, but also by the fear of dismissal without remedy. This discouraged her from seeking medical advice, taking time off work and claiming compensation following a work injury. Knowledge that a worker could not be dismissed for claiming compensation did little to reassure Shannon. She believed that her employer would dismiss her later on, without her being able to do anything about it and she would have less chance of getting another job:

They [not employer] said go to the doctor and I said, no, no, no I'd lose my job so I had to work with one knee all swollen, it was still swollen for about two months...he did mention when I did it, he said oh we don't have workers compo here, you just find another job...

Yeah, he said that to anybody who got injured. He said well we don't have workers compo here, you just find yourself another job.

Were people aware that when someone's on Workers Compensation, they can't be dismissed?

Yeah, but he would just find a way around it, wouldn't it? Yeah they find a way around it, he'd just wait until I came back and sack me. So that's why I didn't want to do that plus being on workers compo stops you from getting jobs in other places, people don't like it if you've been on compo.

Retail workers Wendy and Ellen noted a lowering of compliance with occupational health and safety requirements.

Wendy observed that a reduction in staff numbers, less emphasis on training and a less supportive workplace climate encouraged non-compliance with regulations regarding for example, not driving a fork lift without a licence. Local management were directly involved in the breaking of such regulations as they tried to manage with fewer trained staff.

Check out operator Ellen's health has been detrimentally affected by reduced breaks and less job rotation. She is too afraid to claim worker's compensation:

...you know we get taught occupational health and safety when we first start but then a lot of the things that we're supposed to be doing aren't being done.

Rotating our checkout operators, we're not getting rotated as we should be...we're supposed to not stand in one position for more than two hours, it isn't happening, we're continuously having to speak up and say look we need to change sides or we need to go on a different checkout because there's more chance of back injury and there's more chance of general sprains or strains...

It makes you very tired, it makes you grumpy because you need to sit down because you're standing on your feet eight or nine hours a day, you also find that you can't just be off and go to the toilet if you need to so that causes problems. And the lack of moving around also like it infringes upon your health such as like varicose veins and just general leg aches and pains and back aches.

...I had a back strain two months ago, that's not being rotated because when you're on one side for too long, it strains your back, I didn't have to go through WorkCover because everyone's basically too scared to go through WorkCover because they're worried that you might not end up with a job, if you ever go for another job you know, you'll have basically no chances...

Staff turnover

A consequence of the erosion of employment standards and workplace climate was increased staff turnover. With higher turnover employers lost experienced employees and workers had a reduced capacity to accumulate benefits such as leave.

The specialist skills and experience of **pharmacy assistant Frances** are likely to be lost to her employer because she does not want to return to that workplace after maternity leave considering the way she and fellow employees were treated:

When I first started there four and a half years ago it was a lovely, lovely place to work, beautiful girls, beautiful atmosphere, very nice, easy going, nice and relaxed, everyone loved coming to work. By the end of last year everyone just wanted to leave and get out of there, myself included, which is why the manager left, she just wasn't happy with the atmosphere and the way it was going and I suppose there were things that she was being told to do which would cut back hours,...and we were always on skeleton staff so that creates a stressful environment for you as an employee to deal with...and having lots of people to deal with all at once, where once upon a time there was more

staff to go around to help the people. So yeah it changed dramatically which is why I don't wanna go back there.

Bullying and intimidation at **Maggie's** workplace was going unchallenged because employees lacked the right to claim constructive dismissal. This behaviour resulted in several workers leaving in three months.

I had witnessed four people come and go in the three months and a bit that I was there, three of them ladies, one of them a gentleman in the administration, just through being bullied and intimidated.

Deborah's community organisation is experiencing high staff turnover as a result of increased workplace tension and insecurity:

There's been quite a few staff members, we've actually had a really high turn over of staff members in a very small community organization. This past year we've lost 13 staff members and I'm one of them that I've quit...

Workers at **Wendy** and **Jeremy's** retail establishments are looking for alternative employment in order to obtain greater certainty in their hours and income.

IMPACTS ON HOUSEHOLD & COMMUNITY

The effects of changes to income, hours and conditions, and processes of change flowed on to the households of interviewees and the communities in which they lived.

Flexibility & caring responsibilities

WorkChoices has been promoted as giving workers greater employment flexibility making it easier to balance work and caring responsibilities. However, the experience of interviewees is quite the reverse. They are finding it harder to combine work and caring in an industrial environment where there are fewer checks on management prerogative.

Sales worker Lily was made redundant after maternity leave and return to work with a sick child. The minimal standards and protections provided under *WorkChoices* did not assist her to negotiate suitable arrangements with which to manage her caring responsibilities and demands of work. Rather, they made it easier for her employer to get rid of a worker with dependent care needs.

Management at **secretary Ruby's** workplace came away from training on the implementation of *WorkChoices* with understandings of greater employer capacity to change working hours and forms of employment as it wished without heed to their impact on the caring responsibilities of employees. Ruby lost her job because she was unwilling to work full time. While she has subsequently lodged a discrimination complaint, she has been unable to find alternate work that enables her to meet her parenting needs. The outcome of her complaint is unsure and complaint processes far from finalised.

Storeperson Jeremy is responsible for the after school care of his twins. He has been able to provide this care by working a Monday to Friday morning shift that finishes at 2.30pm. Unilateral changes by his employer to hours and shift patterns and allocation of public holidays will make it very difficult for him to match paid work with future requirements for after school and public holiday care. As his family has no other care options, changes could force him out of his job of 14 years, 'It would probably make it unworkable'. He concluded:

We have gone from a fairly family friendly company, to a company which is now focussing on becoming a world leader in its field and adopting world best practices and we believe that family life and quality of family life will suffer as a consequence.

Relationship pressures

The relationships of study participants with their children, partners and broader family have been negatively affected by changes in their employment. For some, impacts were short term, but others are experiencing continuing difficulties.

Relationships with children

Marketing manager Maggie had been successfully employed for many years before resigning to take up the position from which she was bullied into resigning. Her children were used to seeing her happily employed and were upset both by her unemployment and emotional state:

Oh just that it was a really trying time, I think my children were quite upset about it and seeing me so distressed after being in a job for a long time where it was you know, there were no problems.

Ruby is most concerned at the ongoing social as well as financial effects of her unemployment as a sole parent on her child:

Oh there's lots because, oh I'm gonna cry. Because I, you know I'm a single Mum, you're trying to set a great example for my son and then it's oh you're not going to work today Mum, no not today mate.

Relationships with partners

Loss of employment put particular pressure on relationships with partners.

The stress surrounding **'whistleblower' Carol's** employment and non-renewal of contract led to the breakdown of her relationship with her partner, who moved out. She connects this to the financial strain that they were under and to the accompanying deterioration of her physical and mental health:

I guess the whole ambience of the house changed as I changed...I just felt like I'd been destroyed and I think I took it, I don't know whether I took it too hard or not, it I guess it changed me a lot...

Sales assistant Sarah was most distressed following the loss of her job and with this the opportunity of purchasing a house. This put considerable pressure on her relationship with her boyfriend:

At the beginning yes, with my boyfriend it did. I was very difficult to be around, I cried, I screamed, I was angry, it was very difficult but I'm getting there.

Baker John became moody and withdrew emotionally from his partner following his boss's announcement of a reduction in his conditions of employment. He was worried about the long-term financial implications, as well as upset about his inability to provide for occasions such as Christmas:

Just that it has affected me, well it affected the whole family really, I'd come home, I was a bit down and a bit upset about it, my girlfriend didn't like it, yeah you know it does affect the family.

...I was a bit of a grump there at times for awhile and me girlfriend kept out of me way instead of you know, being together to help solve the problem out with me, she had a rough idea of what was going on so she just you know, stood back out of the way and let me handle it.

John is also aware that the families of his fellow workers have been affected financially and socially by the changes made unilaterally by their employer:

Yes, in the same sort of way like they can't take the kids out to the cinema as much and just much presents or pay lump sum in bills and things like that, things like that have to be paid off and you know, kids, one bloke said he had just outright [to] say no, we can't go to the cinema this week because you can't afford it.

Lily has found being unemployed and without her well paid job stressful. She is concerned at the strains that being reliant on a single wage are placing on her relationship with her partner:

Quite stressful. For me, it was really mentally and emotionally stressful at first because I've always been a wage earner. And I just felt I wasn't doing my bit, bringing my bit in, even though I was at home bringing my daughter up...That I'm not actually bringing money into the home. In terms of relationship between my husband and myself, it's been quite stressful, because obviously you're counting every penny, and there's been instances where you know, I basically have the purse, he has his wage, and I hold the purse strings, because any other way it just wouldn't work, which means he's affected emotionally because he doesn't have that freedom...And I feel awful because I have to take all the money and because I haven't left anything in his pocket.

Broader family relationships

Loss of employment and a less hospitable working environment has also affected interviewees' relations with their broader families.

The stress of the dismissal and subsequent relocation of **aged care attendant Rebecca** was heightened by its implications for her family:

I feel like a failure. I feel like I'm, yeah they are let down, I've let them down. They've told me that I haven't, but...I just still feel like I'm a failure to them and my little niece and nephew, they are devastated because I've had to move and they are only six and three and they just adore me because I'm a fun loving Aunt and I don't see them very often.

And **aged care nurse Jane** still hasn't told her father of her dismissal:

And my dad I haven't had the guts to tell. I just cannot, I told dad that I resigned because I didn't feel that at 80 years of age he needed to know that his daughter got the sack. That's my protection to him. I think he doesn't need the stresses of knowing.

Check out operator **Ellen** is too tired from her extended hours of work, increasingly performed without breaks and job rotation, to maintain family contact:

It's pretty hard because of the hours that we do because there's a lot of early starts, I'm getting up fairly early to start work because I've got days six o'clock I don't live that close to my work so I've got to drive to half an hours sort of thing so I might be getting up at four thirty to start at six. My family lives a long way away from me so I don't ever get to see them so and you find you come home and you're just so tired from standing all day.

Maintaining friends & community

Interviewees found it difficult to maintain friend and social connections following loss of employment or cuts in their income.

For participants who had lost their job through accusations of misconduct or other traumatic circumstances, and who no longer had any accessible avenue to present their side of events, socialising became both emotionally and financially difficult.

Mary, who resigned over an accusation of theft, has withdrawn from friends and from participation in the wider community:

I found myself in very much up and down mode, I would be very short and then other times be very down and not really care too much about what was going on...

Changed, I actually don't socialise with anybody really outside of my family life, and I was actually just pondering that last night how I really don't feel like any friends and feel that it's completely changed the course of our life.

With her dismissal, **Rebecca** lost confidence in herself and in other people. Her experience has damaged her ability to develop social relationships. Her social isolation is compounded by her moving to a new town to obtain work:

I lost confidence in myself, I feel that people judge me even though they don't know me. I used to be very much a people person, now I'm a people person but a very guarded people person you know. I enjoy my own company because I can only trust myself and very wary of people who are nice to me because it's kind of they are trying to find out a reason, why I'm trying to find out why they are being nice to me, what's the ulterior motive? I throw myself into my work wholly and solely which is a good and a bad thing because I forget that it's home time and I'll still be there later or I go to work earlier and I forget that there is time for me.

Community worker Carol lost confidence in her work and social abilities after the non-renewal of her contract. She had obtained her previous job through volunteering with a community organisation. But her negative experience with that organisation as an employer discouraged her from doing voluntary work again:

For awhile...I became very introverted...because it shattered me so much, I guess I lost all confidence in wanting to go out and try again...it really killed me for awhile there until one day I woke up and I thought you SOB, you're not going to get to me anymore and tried to make it better.

I don't really go out much, we just stay at home basically, I decided [not] to volunteer anymore anywhere because I used to be a volunteer.

Interviewees such as Sara, Kate, Lily and Ruby were limited in their capacity to maintain social connections with their loss of their wage.

Lily had few opportunities for socialising and her days were largely restricted to the at home care of her young daughter:

I'm in the house 24-7. I mean I obviously take her out for walks and take her to play group and things like that, but in terms of being able to socialise, we just don't do it. There's just no way. In fact, we were actually going to put a Boxing Day meal on at home, and we can't do it because, yeah, can't do it, can't find the money to be able to do that. It's quite upsetting and stressful really...

Ruby has little capacity to go out as a sole parent without a paid income:

...you can't go out. I, you're having to say I can't go out tonight, no I can't, you know, we're going to the movies and out for tea, yeah good hope you have a nice time, cause I don't have sixty dollars to go out for tea and, and go to the movies and pay for parking tickets and. I just, so, eventually they stop asking, because what's the point in asking me when all I do is say no anyway.

Then it, then it still affects the social life because without money you don't have a social life...

Kate is also unable to keep up relations with family and friends through going out:

I have to think twice about whether I can perhaps socialise at times whether I can afford to, like out to dinners or things like that and so yes I'm certainly having to be very careful as to what I do.

However, she is maintaining community contacts and friendships through living in a 'village' arrangement and doing voluntary work:

That's perhaps one of the good sides. Because I'm working on a voluntary basis only two days a week, where I am working I've met a lot of new people and made new friends and I live in a village situation which also organise a lot of activities so I am able to participate more in that because I'm not working full time so that's been an upside to it in that regard. I've got a lot of support from friends and neighbours since I've been retrenched and that so yes that side of my life has probably taken a turn for the better.

Young worker **Sara** has had to curtail her socialising:

I noticed that I entertain more at my house now. We don't really go out. I just feel if I'm at home there's food here and it's generally cheaper like here rather than go out. Like our friends go to dinner and then they go to a movie and then they'll go clubbing. I'll only choose 1 of those because I can't justify spending that much money when I don't know that I can replace it. So yeah it has. I mean I try not to let it get to me. I have the friends over and that sort of thing so I compensate in that area but yeah it has definitely.

John is still in employment, but his reduced weekly wage has also put further restrictions on the already modest social life on his family's social life. He is resentful that after years of hard work, they can afford little in the way of entertainment:

Yeah, don't go out on Saturday nights anymore...I haven't been out for weeks and weeks...We miss it but there's nothing we can do about it but accept it.

A night out now's going down the video and getting a \$2 video instead of going into town and spending you know, \$50, \$70 having a pretty good time and now we got to sit at home, spend \$2 and call that a good time which is a hell of a kick in the bum.

OVERVIEW & CONCLUSION

Participants in this study have experienced significant negative changes to their employment income, hours of work, working conditions and job security since the introduction of *WorkChoices* in March 2006. These changes were made unilaterally by their employers, without consultation and with little, if any, negotiation. They did not involve trade offs for mutual benefit, but were intended for employer benefit only. They illustrate greatly enhanced managerial prerogative under the legislation.

No participants reported increases in their take home pay. Rather, their employers took advantage of the opportunity presented by *WorkChoices* to reduce wages costs by cutting loadings, penalty rates, allowances or hourly rates, or by delaying wage increases. These reductions were not matched by improvements in other provisions. Different pay provisions between AWAs for workers doing exactly the same work, raises the prospect of growing pay inequity.

Interviewees experienced imposed changes to the number, pattern and predictability of their working hours. Changes did not give interviewees increased flexibility to combine work and caring or work and study. Rather, they made it harder to meet parenting and educational needs. A reduction in detailed industrial protections regarding working hours and a lessening of constraints on forms of employment, in combination with a 'freeing up' of the employment climate enabled employers to gain increased flexibility at the expense of employees.

Participants reported a reduction in breaks, sick leave provisions and specific carers leave. Medical certificates were required for shorter absences and staff of the women's health service noted a greater requirement for specification of medical condition on medical certificates. This was of concern to them as it was a deterrent to women undergoing preventative health checks. They also noted that clients were finding it harder to attend appointments during working hours and for their partners to accompany them for day surgery.

Increased job insecurity was a major concern of interviewees. Their fear and anxiety were exacerbated by the removal of unfair dismissal rights for workplaces with 100 workers or less, a weakening of redundancy procedures and entitlements, and a shrinking choice of forms of employment and types of contract within the labour market. Twelve participants had lost their job in circumstances that could have been challenged under unfair dismissal provisions prior to *WorkChoices*. Several wanted greater security through a shift to permanent status, but it was not granted and they could not find alternative work on that basis in their industry sector.

Changes detrimentally affected the finances, job satisfaction, housing and retirement planning, health, and immediate and longer term security of interviewees. The impacts on individual workers flowed on to their households and communities, putting pressure on family and broader social relationships. Negative effects of change were exacerbated by regional location and intersection with 'welfare to work' requirements.

Within workplaces, changes undermined pay equity, team work and co-operation, training and productivity, occupational health, safety and welfare, and staff turnover.

The experience of participants in this study contradict assertions regarding the potential of the industrial framework established by *WorkChoices* to deliver more flexibility for employees; to increase their capacity to balance work and life; to enable them to negotiate more effectively without the use of third parties; to obtain better individual outcomes by allowing them to trade off provisions; or to secure greater job certainty. None of these assertions are confirmed by the changes, processes of change and outcomes experienced by interviewees.

Neither was the industrial system encountered by participants simpler and easier to use. Many were unclear as to the instrument governing their employment and their rights under it. It could be difficult to determine who their employer was for unfair dismissal purposes and what pay and conditions applied. Speedy and relatively inexpensive remedies for unfair treatment leading to dismissal or constructive dismissal had been

largely removed. Discrimination procedures did not cover most situations of job loss experienced by interviewees and in any case involved long delays.

The combined effects of a minimal wages and conditions safety net and loss of unfair dismissal remedies generated an employment climate uncondusive to participants asserting their employment needs and priorities. They perceived that they had little option but to accept imposed changes or a lack of proper implementation of existing conditions. Reference to practices such as pressure to accept changes, or discrimination on the basis of union contact being unlawful, did not reassure interviewees. They firmly believed that their employer would find ways to disadvantage or dismiss them in a way that would disguise unlawful acts.

It is questionable as to whether recent amendments to *WorkChoices* for a stronger safety net would have prevented the negative changes and effects experienced by study participants. Their growing fear and insecurity, and actual loss of employment in unfair circumstances, would have proceeded unchecked. These vulnerable workers had little to trade away and it is difficult to envisage what would effectively compensate for the disadvantageous changes made.

REFERENCES

- A Group of 151 Australian Industrial Relations, Labour Market, and Legal Academics 2005, 'Research Evidence About the Effects of the 'Work Choices' Bill', Submission to the Inquiry in to the *Workplace Relations Amendment (Work Choices) Bill 2005*.
- ABS Cat No 6342.0 November 2006.
- Edgar D. 2005, *Family Impact Statement: On - 'WorkChoices'- the proposed new Industrial Relations Regime*, Report for Unions NSW, November.
- Gahan, P. 2006, *WorkChoices and workplace rights in Victoria: Evidence from the Workplace Rights Information Line*, report to the Office of the Workplace Rights Advocate, 25 September.
- Hockey, J. 28th February 2007 'Speech to the National Press Club', Canberra, National Press Club.
- Hockey, J. 27 March 2007, 'Statement' Reported in *Workplace Express*, 27th March, 2007, <http://www.workplaceexpress.com.au> 27th March 2007.
- Masterman-Smith, H. and Elton, J. 2007, 'Cheap labour: The Australian way', *Diverging employment relations patterns in Australia and New Zealand? 21st AIRAANZ conference*, Association of Industrial Relations Academics of Australia and New Zealand, Auckland, 7-9 February.
- McIlwain, P. 2006, *Estimates bearing*, Senate Employment, Workplace Relations and Education Legislation Committee, Canberra, 29 May.
- Peetz, D. 2007a, 'Brave New Work Choices: What is the story so far', *Diverging employment relations patterns in Australia and New Zealand? 21st AIRAANZ conference*, Association of Industrial Relations Academics of Australia and New Zealand, Auckland, 7-9 February.
- Peetz, D. 2007b, 'Collateral damage: Women and the *WorkChoices* battlefield', *Diverging employment relations patterns in Australia and New Zealand? 21st AIRAANZ conference*, Association of Industrial Relations Academics of Australia and New Zealand, Auckland, 7-9 February.
- Peetz, D. 2007c, *Assessing the impact of 'WorkChoices' – One year on*, Report to Department of Innovation, Industry and Regional Development, Victoria, 19 March.
- Plowman, D.H. & Preston, A.C., 'The New Industrial Relations: Portents for the Lowly Paid', *Journal of Australian Political Economy*, December, 2005, pp. 224-247.
- Pocock 2005, 'The Impact of the *Workplace Relations Amendment (Work Choices) Bill 2005* on Australian Working Families', paper prepared for *Industrial Relations Victoria*, November 2005.
- Pocock, B. & Masterman-Smith, H. 2006, *Early signs: The impact of WorkChoices on work and family*, to Industrial Relations Victoria, October.
- Queensland Industrial Relations Commission 2007, *Final report: Inquiry into the impact of Work Choices on Queensland workplaces, employees and employers*, vol. 2, 29 January.
- WiSER, Women in Social and Economic Research, *Women's pay and conditions in an era of changing workplace regulations: Towards a 'Women's Employment Status Key Indicators' (WESKI) database*, September 2006.

APPENDIX 1: PROJECT PUBLICITY

IMPACT OF CHANGES IN NATIONAL WORK REGULATION PROJECT

Have you been affected by recent changes in Australia's workplace laws?

If so, we'd like to hear from you.

Our research team at the University of South Australia invites you to take part in a confidential interview conducted over the telephone or in person.

We are studying how changes in Australia's workplace laws are affecting workers.

Please call **1800 067 281** for further details and to discuss the possibilities of participation.

Or contact:- Jude Elton at the Centre, ph: 08 83024198
email: judith.elton@unisa.edu.au

A \$25 gift voucher (Coles/Myer/Kmart/Target/Bi-Lo) will be sent to all participants who complete an interview.

More information

This project is part of a national study being conducted by a team of researchers from the University of South Australia, Curtin University, University of Sydney, RMIT, and the University of Queensland.

The project is funded by State Governments and community organisations including the National Foundation for Australian Women, the Young Women's Christian Association and the Women's Electoral Lobby.

Interviews take between 30 minutes and an hour to complete. You may stop the interview at any point for any reason.

We would like your permission to record the interview to make sure everything is noted accurately. These records will be transcribed later, but throughout this process your identity remains confidential.

We will ask you to give your verbal consent to participate in the project at the beginning of the interview.

The results of the study will be published in a report to the organisations involved in the project and in academic journals. However your identity will remain confidential.

On completion of the interview we will ask for your postal address so that we can send you a summary of the final research report in 2007.

We would appreciate your involvement and are happy to explain the project further to you or a friend or family member

LOCAL PRESS ADVERTISEMENTS

Research study.

Have you been affected by recent changes in Australia's workplace laws?

If so, we'd like to hear from you. Our research team at the University of South Australia invites you to take part in a confidential telephone interview. We are studying how changes in Australia's workplace laws are affecting workers. Please call **1800 067 281** for further details and to discuss the possibilities of participation.

A \$25 gift voucher (Coles/Myer/Kmart/Target/Bi-Lo) will be sent to all participants who complete an interview.

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UNIVERSITY OF SOUTH AUSTRALIA

APPENDIX 2: INTERVIEW SCHEDULES

BACKGROUND INFORMATION SHEET

Your name _____ Contact number _____

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

Please tick the appropriate box.

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 (eg. superannuation)

Residential Postcode: _____

Work Postcodes: _____

INTERVIEW SCHEDULE

Chosen Pseudonym.....Real first name.....

Interview No.DSS file name.....(as emailed to www.outscribe.com.au)

Date of interview.....Interviewer:.....

Interview Questions and Notes (*these are guidelines only; pursue interesting issues where they arise. Skip questions already covered in earlier answers.*)

Introduction:

1. Read out information sheet about project.
2. Do you have any questions about the research?
3. Read consent form – yes or no: clear recorded response required.
4. This can take from 30 minutes to an hour – is that OK? Please feel free to stop the interview at any time if you need to, for any reason at all.
5. Would you like to choose another name so that we can use it in place of your real name which we want to keep confidential?

Interview questions

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:-

a. 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?

b. 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

c. 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

d. Changes to security of employment

Has your job security been affected by changes in your -

- Required notice of termination
- Workplace location

e. 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?

f. 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?*

7a *Did you try and do anything about the change before or after it was made?*

7b *What happened?*

7c *Were any internal or external remedies available?*

7d *How effective were they?*

8. What effects have these changes had on you?

(allow participant to tell her/his 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 religious 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?.....

17. We would like to speak to more people about these issues, would you be happy to pass on our contact details to others who might be interested?

INTERVIEW SCHEDULE

For participant who has lost her/his job since 31 March 2006

Chosen Pseudonym.....Real first name.....

Interview No.DSS file name.....(as emailed to www.outscribe.com.au)

Date of interview.....Interviewer:.....

Interview Questions and Notes (*these are guidelines only; pursue interesting issues where they arise. Skip questions already covered in earlier answers.*)

Introduction:

6. Read out information sheet about project.
7. Do you have any questions about the research?
8. Read consent form – yes or no: clear recorded response required.
9. This can take from 30 minutes to an hour – is that OK? Please feel free to stop the interview at any time if you need to, for any reason at all.
10. Would you like to choose another name so that we can use it in place of your real name which we want to keep confidential?

Interview questions

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

(allow participant to tell her/his 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/his own story)

In exploring effects check/elaborate on the following:-

How has it affected your:-

- 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?.....

18. We would like to speak to more people about these issues, would you be happy to pass on our contact details to others who might be interested?

APPENDIX 3: INFORMATION SHEET & CONSENT FORM

IMPACT OF CHANGES IN NATIONAL WORK REGULATION PROJECT **Information Sheet for Interviewee**

The aim of this project is to better understand the impact of changes in Australia's workplace regulation on workers.

We are conducting around 100 interviews with workers across Australia.

The project is being conducted in 2006-7 by a team of researchers from the University of South Australia, Curtin University, University of Sydney, RMIT, and the University of Queensland.

The project is funded by State Governments and various community organisations including the National Foundation for Australian Women and the Women's Electoral Lobby.

We would like to invite you to participate in a voluntary interview. It will take between 30 minutes and an hour to complete and will be conducted over the telephone. You may stop the interview at any point for any reason.

We would like your permission to record the interview to make sure everything is noted accurately. These records will be transcribed later, but throughout this process your identity will remain confidential.

We will ask you to give your verbal consent to participate in the project at the beginning of the interview.

The results of the study will be published in a report to the organisations involved in the project and in academic journals. However your identity will remain confidential. All records will be securely stored for seven years.

We will organise a \$25 shopping voucher to be sent to you following the interview, to compensate for the time spent.

On completion of the interview we will ask for your postal address so that we can send you the voucher and a summary of the final research report in 2007.

If you have any questions about the project, including later on after the interview, please contact:

Jude Elton (Research Fellow)
Centre For Work + Life
University of South Australia
GPO Box 2471
Adelaide SA 5001
Email: judith.elton@unisa.edu.au
Phone: 08 83024198

INTERVIEW CONSENT FORM

Researcher's name:.....

- The nature and the purpose of the research project has been explained to me. I understand and agree to take part.
- I understand that I may not directly benefit from taking part in the project.
- I understand that I can withdraw from the study at any stage and that this will not affect my status now or in the future.
- I confirm that I am over 18 years of age.
- I understand that my interview will be recorded
- I understand that the record will be securely stored in a locked cabinet in the researcher's office for seven years. Only the chief investigators and researchers on this project will have access to the data for reporting purposes.
- I understand that while information gained during the study will be published, I will not be identified and my personal information will remain confidential.

Name of participant:.....

**Yes I agree (ON TAPE) or
No I do not agree**

I have explained the study to subject and consider that he/she understands what is involved.

Researcher's signature and date:.....