

Women with Disabilities (ACT)

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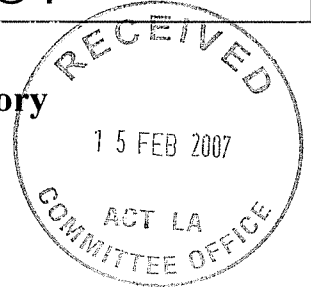
Select Committee for Working Families in the ACT

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Notes from the perspective of women with disabilities

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General Comments

On behalf of Women With Disabilities ACT (WWDACT) I thank you for the opportunity to speak today.

At the outset, although I have evidence about the changing situation for women with disabilities in the workplace, and its affect on their families, I am not sure that there is sufficient evidence, after just 10 months, to say that the changes are directly attributable to the affect of the Workplace Relations Amendment Act 2005 (WorkChoices) legislation on this group.

The work situation for women with disabilities is not good anyway. In the last publicly available major figures i.e. for 2003, the labour force participation rate for women with disabilities was 46.9%¹ compared to 59.3% for men with disabilities. This is a greater than 12 percentage points difference. We do want to work, and even this humble figure does mean that at any one time, there were nearly 350,000 of us either in waged positions or actively looking for work. There are approximately 22 thousand on Disability Support Pensions (DSPs) or Newstart Allowance (NSA)²

When we look at the nature of our employment we see marked differences for women with disabilities compared to their male. Twenty-one per cent of men with disabilities are in full time employment compared to 9% of women with disabilities. The situation is reversed when we look at part time employment with 11% of women with disabilities in this compared to 6% of men with disabilities. In any type of employment women with disabilities are already more likely to be in low paid, part time, short term casual jobs³

There are many forces at work which are affecting the workplace situation for women with disabilities. Certainly WorkChoices cannot be examined without also looking at the Welfare-to-Work⁴ changes which came into affect on 1 July 2006.

I do not have information which would enable me to comment on the Building and Construction Industry Improvement Act 2005. It would appear that this Act gives unbalanced inquisitorial

¹ Australian Bureau of Statistics *Disability, Ageing and Carers Australia, Catalogue 4430.0*. Canberra: Australian Bureau of Statistics

² Australian Government Disability Services Census 2002

³ WWDA 2004b use of disaggregated data tables from Australian Bureau of Statistics *Disability, Ageing and Carers: Summary of Findings* Australia, Cat. No.: 4430.0 2003 purchased from ABS

⁴ Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005

powers to the Australian Building and Construction Commission⁵ and that these powers are seemingly being used by officials in an overbearing way to deal with workers. My only comment is that authoritarian behaviour of employer to employee, or government/organisation official to employee, results in high stress levels for any worker, irrespective of their place in the family (parent or young working family member), and that this would impact on the family itself.

Uncertainty in employment also adds to stress levels and the WorkChoices legislation has certainly delivered that.

Erosion of working conditions such as the loss of real wages, or loss of holiday entitlement add to stress levels and the WorkChoices legislation has also delivered these.

We can add in the stresses put upon people with disabilities in entering the workforce, or being under threat of dismissal from it, and thence forced back into a cycle of Centrelink and Job Capacity intrusion, assessment, retraining and mutual obligations.

‘Stress’ is a recurring theme in what I can say about working women with disabilities.

I also reflect that my previous focus in the area of Industrial Relations and women with disabilities has been to look at single women rather than to analyse the implications of the legislation for families of working women with disabilities. From the general information available about working women, I believe it is possible to extrapolate. Gender and disability discrimination in any work/family situation are likely to have a compounding negative affect for women with disabilities. Therefore, whatever information you glean in the course of this hearing about men in the workplace, you can augment to some degree for women, and further augment for their sisters with disabilities.

There is certainly current focus on work/family balance. It was the topic for research in 2006 for the Australian Women’s Coalition⁶ (AWC) secretariat (one of the four women’s secretariats funded by the Australian Government Office for Women).

From the AWC report, I have highlighted here just the positive and negative factors affecting Life/Work /Family balance for the 578 women surveyed. Multiple responses were possible.

The negative factors cited were:

Negative Factors Affecting Life/work/family Balance	No.
Competing demands, feeling torn, juggling work/home issues/pressures/deadlines, not enough time, long/inflexible work hours, tiredness (due to factors listed here).	336
Cost of living (including childcare, petrol, travel/”running around”, financial concerns/pressure, distance to work.	111
Health concerns (self and family members) including physical, mental and emotional health issues.	106
Lack of support, help, recognition	90
Feelings of worry, stress, guilt, pressure	36
Distance from family	33
Husband/partner’s long work hours, travelling for work, time away from family	32

⁵ Siewert, R (2005) *Exposing the Building Industry Star Chamber* accessed online at: http://www.rachelsiewert.org.au/500_parliament_sub.php?deptItemID=28

⁶ Bennett, E (2006) *Second Key Issues Consultation Report: The Impact of Life/Work/Family Balance Issues on Women’s Health and Vice Versa* Final Report, Australian Women’s Coalition 2006, accessed online at <http://www.awcaus.org.au/content/2nd%20Key%20Issues%20Final%20Report.doc>

Unhappy relationships	29
Neighbourhood, community problems including social isolation	18
Family members with special needs, disabilities	17
Concerns about ageing (self and family members)	15
Difficult children	10
Home/garden maintenance	6
Drought, environmental issues	5
Unemployment	3
Negative media, technology	2
Things that waste time	2
Loss/death of partner	1

It can be seen that feelings of worry and stress; health concerns for herself or a family member; and her partner's long work hours, all had a significant negative affect on women.

The positive factors cited were:

Positive Factors Affecting Life/work/family Balance	No.
Loving, happy family	177
Family support, help	119
Flexible and/or part time work hours, supportive workplace	109
Good friends	88
Interests, hobbies, sport/fitness activities	85
Financial security, income	78
Interesting/rewarding job, work environment	68
Helping others (including family and via community work etc)	67
Place of living, local community/environment	52
Good health	38
Independence, own choices	29
Being organised	19
Good/positive attitude	11
No dependents	6
Govt support, services	4

Here it can be seen that family wellbeing and support were the most significant positive factors. They were underpinned by the significance of a supportive workplace.

I conclude that any negative changes in work conditions will therefore have a marked affect on working women, their families and the health of all concerned. Unfortunately, I believe that the long term affects of WorkChoices will be to diminish the POSITIVE FACTORS whilst making the

NEGATIVE FACTORS more erratic and more suited to the employer rather than the employee. When this is coupled with loss of loadings, any area of positivity may gradually disappear.

Further, in the Sydney Morning Herald for Monday 12 February 2007, a page 2 News Focus article states that in a Raising Children Network survey about the work pressures of 520 parents, 75% report being too tired after work to do some of the things they would like to do. Forty percent report that their job makes it hard for them to be the type of parent they want to be. (A search of <http://raisingchildren.net.au/> failed to find the report and an email enquiry has been made via the URL link.)

In January, the Australian Government Office for Women published their report on women's transition to and experience of retirement⁷. It looks only at women 45 years and over. However health and family are cited as the most common reasons for women reducing work hours or ceasing work altogether. Those with low levels of education and part time workers retire at an earlier age. (The report of the subsequent experience of partially or fully retired people of both genders is not negative on the whole.)

In complete contrast with this, the Productivity Commission has released a daunting report this week, on 'Men not at work'⁸. The report is one of a series of looking at the consequences of an ageing population. It found that there are currently 8 million adult men in Australia. Thirty percent of these are not in the workforce i.e. all engagement with the labour market has ceased. There are large increases in their number on DSP (28% are not in market, 4% are unemployed, and 68% employed [even though this latter figure masks unknown levels of underemployment]). For males from 1981-2001, the percentage **not engaged** in the workforce has risen from 20 – 28%, whilst for females it has fallen from 55 - 42%. An analysis of the situation for women is still to be published. Since many believe that the WorkChoices legislation was introduced partly in response to what the government saw as a dramatic rise in the numbers of people on DSP. It will be interesting to see what amendments are made in response to this trend reported by the Productivity Commission.

WorkChoices and Health

I believe it is impossible to look only at the affect in the workplace of the WorkChoices legislation. There have been other laws passed which have had the affect of making the workplace less safe and therefore less healthy. The Australian Workplace Safety Standards Bill 2005 and the National Occupational Health and Safety Commission (Repeal, Consequential and Transitional Provisions) Bill 2005 were made by the government without parliamentary scrutiny at the end of 2005. One of the consequences of this legislation was the downgrading of the National Occupational Health and Safety Commission (NOHSC) to the Australian Safety and Compensation Council (ASCC). This is an advisory body created administratively rather than being underpinned by legislation. The ASCC does not have legislative powers and responsibilities; it is limited to what is essentially a toothless advisory role⁹. I am concerned about lack of safety in a workplace, because this has particular negative implications for people with disabilities. Lack of safety has an impact on workplace productivity. It costs an estimated \$20 billion a year and affects 4,900 Australian families who lose a loved one in work-related deaths each year. Many more workers are seriously incapacitated and there is an ongoing affect on all their families.

⁷ Warren, D (2007) *Aspects of Retirement for Older Women* Melbourne Institute of Applied Economic and Social Research (University of Melbourne, Australian Government Office for Women) ISBN: 19211 30 253 2007, accessed online at www.ofw.gov.au

⁸ Lattimore, R (2007) *Men Not at Work: An analysis of Men Outside the Labour Force* Staff Working Paper, Productivity Commission, Commonwealth of Australia 2007, ISBN: 978-1-74037-221-3, accessed online at www.pc.gov.au

⁹ Siewert, R (2007) *Safety in the Workplace* accessed online at http://www.rachelsiewert.org.au/500_parliament_sub.php?deptItemID=27

However, I am sure that this Committee wants more direct evidence of health affects on individuals rather and OH&S affects. Unfortunately, I do not have specific figures on the health affects on women with disabilities of the changes brought about in their working lives as a direct affect of the WorkChoices legislation. It is still early days for research, monitoring and collation of feedback.

WorkChoices and Research

You may know that a consortium of more than 60 women's organisations and individuals, under the name of What Women Want, have commissioned research into the affects on women of the Work Choices legislation. Women With Disabilities Australia (WWDA) has contributed to the funding the research which is being overseen by the National Foundation For Australian Women (NFAW). The first phase of the research was also funded by the Human Rights and Equal Opportunities Commission (HREOC) and the Women's Electoral Lobby (WEL). A report¹⁰ - Women's Employment Status Key Indicators (WESKI) on this phase was published in 2006. The research found that a common characteristic of five particular industries is that they have relatively high proportions of women employees, high levels of award only coverage, high levels of part time work and low levels of hourly earnings. These conditions are all vulnerable under the WorkChoices legislation and there is potential for severe erosion of working conditions for the women in these industries. They include:

- Accommodation, cafes and restaurants;
- Cultural and recreational services;
- Health and community services;
- Personal and other services;
- Retail trade.

The second phase of the research is currently under way. The above categories were narrowed to look at a particular selection of workplaces from the above industries and will concentrate on:

- Cafes, restaurants
- Child-care
- Cleaning
- Retail trade (shop assistants)
- Aged care

The WESKI report acknowledged that the workplace situation for women with disabilities was already poorer than for their able bodied counterparts. Females with a reported disability have a workforce participation rate of 46.9 per cent, compared to 72.2 per cent for females with no reported disability (the comparable rates for males are 59.3 per cent and 88.9 per cent). Having a disability affects the number of hours you can work. You also need to have work with flexibility to arrange time off for disability related medical interventions and for recovery time¹¹. Any workplace regulations which restrict this flexibility will be detrimental to women with disabilities. It is excellent that they will be specifically included where possible in the second phase of this research.

WorkChoices and Australian Workplace Agreements

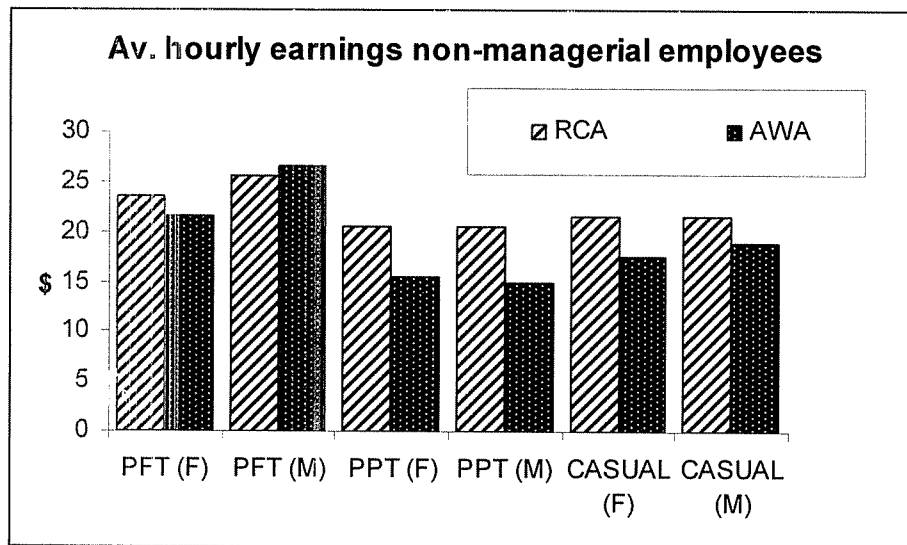
A major impact of the WorkChoices legislation on women with disabilities is the need negotiate Australian Workplace Agreements (AWAs). This is a difficult job for workers with low self esteem, or low levels of education, or poor communications skills. Government statistics about AWAs give

¹⁰ Preston, A et al (2006) *Women's Pay and Conditions in an Era of Changing Workplace Relations: Towards a 'Women's Employment Status Key Indicators' (WESKI) Database* Women in Economic & Social Research (WiSER) Curtin University of Technology 2006

¹¹ Australian Bureau of Statistics *Disability, Ageing and Carers Australia, Catalogue 4430.0*. Canberra: Australian Bureau of Statistics.

skewed results because they include the mining industries¹² which have extremely high wage levels. When comparisons are done for employment at the current minimum wage and figures calculated on an hourly, rather than weekly basis, a different assessment emerges. (It should be remembered that this is the area of employment in which women predominate.) Then it can be seen that, whether in permanent full time, permanent part time or casual employment women are better off on Registered Collective Agreements (RCAs) than AWAs [men are also better off except for permanent part time work where the AWA is marginally better]. Similarly, women are getting 70% of male wage on an AWA compared to 80% on an RCA.

Figure 1: Comparison of the Average Hourly Earnings of non-managerial employees on Registered Collective Agreements (RCAs) versus Australian workplace Agreements (AWAs)



PFT = Permanent Full Time PPT = Permanent Part Time

Source: ABS Cat. N. 6306.0

The new AWAs system will be phased in over the next 3 to 5 years. By then it is estimated that 85% of workers will be covered by the federal laws. In fact the workforce is increasingly forced to AWAs especially where their use is tied to the allocation of Commonwealth/State/Territory funding as in the higher education sector.

For individuals, their transition to AWAs is faster where people are recycled through jobs at a fast rate. This applies to women with disabilities, and women with poor education, who may have only a tenuous hold on any job. The transition to ever lower conditions may come with each successive change of job.

The first Australian Fair Pay Commission judgement on the minimum wage in October last year delivered slight increases in superficial terms. However just yesterday, David Peetz from Griffith University released further findings on AWAs under the WorkChoices Legislation. Research is showing that in retail and hospitality real wages have diminished by 1% in the time since the introduction of WorkChoices, and that the percentage of AWAs which have poorer workplace conditions has risen markedly.

¹² Peetz, D *The Impact on workers of Australian Workplace Agreements and the abolition of the 'no disadvantage' test* Department of Industrial Relations, Griffith University 2005, accessed online at: http://www.qieu.asn.au/Paper2-D_1_.Peetz.pdf

Changes to “ordinary hours” of work are important, because they are now less distinctly defined and can be stretched over a number of days and are less predictable, so that the maximum 38 hours of work per week for a full time position loses its meaning.

The sting in the tail of AWAs is the removal of the ‘no disadvantage’ clause under Work Choices. This means that there is no guarantee that an employer replacing an RCA with an AWA has to preserve conditions. This has the long term affect of driving down employment conditions. Those people in casual, short term, part time, low paid jobs, who recycle frequently through the system, are most likely to be affected by this rule.

I worry when I look at employer websites with respect to WorkChoices and AWAs, and find that they encourage the use of 5-year AWAs so that they become shielded from AFPC decisions. I worry when it is reported that a company such as TriStar will keep its employer sitting idle for nearly two years so that they can take advantage of an amendment to work choices which will enable them to pay a maximum of 12 weeks severance pay at the expiration of an AWA, rather than the pro rata number to which long term employees might formerly have been entitled.

Women can be disadvantaged in any bargaining situation because of the power imbalance between employer and employee. This applies particularly to women with disabilities who are amongst the most disempowered. On the whole, women do tend to undervalue themselves in the workplace.

An Australian Institute of Family Studies survey of 2405 mothers in 2005 found that most women had unrealistic and negative expectations of their earning capacity. More than 70% who nominated a wage they thought was reasonable stipulated a sum below what their skills would probably command in the labour market. Almost one third did not know what a reasonable wage would be for their abilities.

Women with disabilities re-entering the workforce

The situation for women with acquired disabilities entering the workforce is extremely stressful. I cite this group because they are likely to be new applicants for the Disability Support Pension (DSP). Under Welfare-to-Work their experience at Centrelink will be quite different from that prior to 1 July 2006. It is most likely that they will get Newstart Allowance (NSA) rather than the DSP. The differential between the DSP and NSA is significant at \$45.60 per week less on NSA for a single person. This is close to the \$46 per week highlighted in the NATSEM study on Welfare to Work and people with disabilities undertaken in 2005¹³.

Mutual Obligation and activity requirements in job seeking under NSA take little account of the extra expenses incurred when you have a disability or the additional energy expended to get through a day. The work capacity assessment now done by the Job Capacity Assessors is extremely stressful. To date, as predicted prior to the commencement of the system, there are insufficient assessors; they are insufficiently trained for people with disabilities. Disability Employment Network (DEN) services in the ACT stand ready to accept referrals from Centrelink through the JCA system, but are waiting for bottlenecks of assessments to be cleared. All this is extremely stressful for family women with disabilities who are trying to re-enter the workforce. Of course, once an assessment is approved they do not have to use the DENs but may compete with the able bodied for work through a Job Network provider.

Women who are over 55 may use volunteer work to fulfil mutual obligation requirements, and those younger may use it in partial fulfilment. Where people are on such low levels of support payment, it worries me that the costs of volunteering continue to rise. It is a required activity, but incurs a cost and no compensation for this is given. Volunteering Australia released a report on the cost of

¹³ Harding, A et al (2005) *The Distributional Impacts of the Welfare-to-Work Reforms upon Australians with Disabilities*, NATSEM University of Canberra 2005

volunteering on 22 January¹⁴. On average; volunteers with net expenses were out-of-pocket by \$693 for the year, an average of \$13 per week. This is a significant amount for someone on NSA of \$210 basic per week.

I would also like to comment on the *Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2006* because I believe it will particularly affect women with disabilities. The current *Safety, Rehabilitation and Compensation Act 2004* applies to cases in which employment is found to have a causal impact on a person developing a condition or aggravating an existing condition. The new act could have negative consequences for people with disabilities in the workplace who have existing conditions as it will be much harder to argue that the condition has been aggravated by the work situation. Workers compensation schemes are an incentive for employers to maintain safer workplaces. The tightening of the aggravation rules could mean that employers will relax their vigilance.

In addition the Act widens the definition of places where injury arising from reasonable disciplines is excluded. This may open the way for victimisation/discrimination against people with disabilities, e.g. when stress in the workplace results from 'counselling' etc. refusal to allow higher duties, etc.

If the situation arises where a person is actually out of work as a result of workplace injury the new act will be detrimental to people with disabilities. Currently, the level of weekly incapacity payments is calculated taking into account an individual's capacity to obtain suitable work within the Commonwealth public sector. This is to be widened to include whole of the public sector for comparison and to include 'potential earnings'. Because of the low employment rate of people with disabilities (49% compared to 77%¹⁵) their 'potential earnings' are severely restricted because they cannot get jobs. In addition you must also consider the decline in Australian Public Service employment over last decade from 5.4% to 3.8%¹⁶. People with disabilities are also 60% more likely to be retrenched¹⁷. If you leave the workforce because of a disability you are very unlikely to be reemployed.

The bill also jeopardises any payment of compensation for injuries sustained to and from work.

Conclusion

I apologise that, for someone who has no direct evidence to present you with, that I have found so much peripheral evidence that conditions in the workplace are deteriorating for women with disabilities.

I will be pleased to forward you more concrete information as it comes to hand, and as I get feedback from women with disabilities in the ACT, or from other places in Australia.

I thank the ACT government for its commitment and contribution to the ongoing. What Women Want research project, and look forward to sharing this information also.

¹⁴ Volunteering Australia (2007) accessed online at

<http://www.volunteeringaustralia.org/files/G0V4LO2CTG/Costs%20of%20Volunteering%20Report%20-%20final.pdf>

¹⁵ Australian Bureau of Statistics (2003), *Disability, Ageing and Carers Survey*, Catalogue No. 4430.0, Table 8

¹⁶ Management Advisory Committee (2006), *Employment of People with Disability in the APS*, Commonwealth of Australia, page 54.

¹⁷ Australian Public Service Commission (2005), *State of the Service Report 2004-05*, Chapter 9, <http://www.apsc.gov.au/stateoftheservice/0405/>