LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON WORKING FAMILIES IN THE ACT

Members:

MR M GENTLEMAN (The Chair)
MS M PORTER (The Deputy Chair)
MRS J BURKE

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 15 FEBRUARY 2007

Secretary to the committee:
Ms G Concannon (Ph: 6205 0129)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry that have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

WITNESSES

The committee met at 2.00 pm.

SALTHOUSE, MS SUSAN MARGARET, Convener, Women with Disabilities ACT

THE CHAIR: Good afternoon. I declare open this public hearing of the inquiry by the Select Committee on Working Families in the ACT into the impact of commonwealth industrial legislation on ACT families. This afternoon we have before us Ms Sue Salthouse from Women with Disabilities Australia. Later, we will have Mr Scott Norris from the Norris Cleaning Company, Mrs Marie Coleman from the National Foundation for Australian Women and Ms Rosemary Budavari from the ACT Women's Legal Service.

Ms Salthouse, welcome to the committee meeting. Before we go ahead, I will read the parliamentary privileges card to you. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the resolution agreed by the Assembly on 7 March 2002 concerning the broadcasting of Assembly and committee proceedings.

Before the committee commences taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee in evidence given before it. Parliamentary privilege means special rights and immunities attach to parliament, its members and others, necessary to the discharge of functions of the Assembly without obstruction and without fear of prosecution.

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Ms Salthouse: Thank you very much. Yes, I would like to do that. I am here as convener of Women with Disabilities ACT, but I am also the national vice-president of Women with Disabilities Australia. I would like to say at the outset that, when we are considering WorkChoices, we cannot look at the disability sector without considering also the Welfare to Work changes which came in just three months after. I would like you also to consider that the work situation for women with disabilities was a parlous one before any of these legislative changes began.

To put it into perspective for you, participation rates for women with disabilities are sitting at 46.9 per cent, say 47 per cent. Men with disabilities have a participation rate which is 13 points higher. They are at 59 per cent. But neither of those genders is doing well compared with the able-bodied population, because the comparable figure for women is 72 per cent and for men it is 89 per cent. So you can see that the work situation was already terrible for women with disabilities and now we have put an

overlay onto it.

For women with disabilities the task of getting a job was always very hard, and when they get employment, especially those who have not got tertiary qualifications or greater than year 10 qualifications, they tend to be concentrated in four points—short-term, casual, part-time, low-paid jobs. That is where they are. Those are the jobs that are affected by WorkChoices. They are people who have low self-esteem, poor communication skills, poor negotiation skills. Any time they are faced with an Australian workplace agreement, they are way out of their depth.

In looking at this to talk to you today, in a way I have come under false pretences because we are only 10 months into this WorkChoices legislation and, in fact, the research, the information and the feedback are still being gathered, but I know that women with disabilities, whether they have tertiary qualifications or not, are under extreme stress in the workplace.

Recently, I conducted a focus group on behalf of the University of South Australia, which is doing research, and I had six women with disabilities there. The ones with degrees felt under incredible pressure that they had to keep getting qualifications because of the competition and the disadvantage that they experienced in the workplace. One was a hearing impaired person and one was visually impaired, so both of them were women without visible disability, but they had horrific tales of discrimination against them in the workplace. Another person who is a wheelchair user was told that she was not good enough for a job because she could not get around the corridors quickly enough. Those are the sorts of situations that exist.

I think that in looking at the work force situation we can see a rise in stress levels. My only contact with the Building and Construction Industry Improvement Act has been that it seems to give inquisitorial powers which are being misused by employers and people in the industry so that stress levels are being raised and workers are reporting that they are not getting a fair go in the industry. Of course, that has an immediate trickle down health and family effect.

There are lots of bits of information coming out about family studies. In the *Sydney Morning Herald* on Monday there was the Raising Children Network report which said that 75 per cent of parents had reported that they were too tired to do things with their families and 40 per cent said that jobs were too hard to enable them to be good parents. These are figures for able-bodied persons, but from whatever you look at for the able-bodied population you can extrapolate a worse situation for people with disabilities. All the time, women with disabilities are up against those twin discriminations of gender and disability.

Hard on the heels of that release on Monday by the Raising Children Network, I came across in my emails on Tuesday research by the Office for Women. They have been doing research into transition to retirement, so they are looking at the 45-plus age group. Women in that age group cite health and family as their reasons for getting out of the workplace or lowering the work hours that they do.

Again, on Monday of this week the Productivity Commission report about men in the work force came out. It said that there were eight million men in Australia and

30 per cent of them had disengaged from the work force. They have not yet done the study for women. We are talking about an Australia which is talked up to be fully employed, but we know when we look at statistics on people who are in the work force that you are able to count an hour of work per week. When you look at that many men unemployed, look at the cascade effect of stress on families. I am afraid that I can only point to that as a tangible way of saying that, of course, the health of women and families will be affected.

The Australian Women's Coalition did a study last year and its report came out last year. I have given quite a few details on that in the submission I wrote. I must admit that I was behind schedule in getting a submission done. At the weekend I had a look at material that had come across my desk and then on Monday more things came out. Negative effects for women were that worry and stress, health of themselves and their families and long work hours for themselves and their partners were affecting their work-life-family balance. What they reported as being positive effects were family wellbeing and having flexible, supportive work.

Look at what WorkChoices does to women! It takes away penalty rates, potentially, it takes away counting ordinary hours of work and it takes away the no disadvantage rule, so that as you move from job to job, as your registered collective agreement runs out and you have to take on a workplace agreement—the government estimates that in three to five years 85 per cent of people will be on those agreements—you are looking at a cascading effect that the more tenuous your job position is the more likely you will be to cycle through AWAs and the more likely you will be in successive AWAs to have worse work conditions. That is where my constituents sit—again, those low-paid, short-term, part-time, casual jobs.

I will not go into the effects. The feedback that I am getting from Disability Employment Services is that, as we predicted, the job capacity assessors cannot cope with the influx of people with disabilities. The employment networks were promised that by this time their referrals for the year through the job capacity assessment—this is Welfare to Work things—might be about 40, say—for one of the agencies that I have information from. At this stage in the year, when we have just a few months to go, they have had 14 referrals.

Again, it is early days. It is only six months under Welfare to Work. But the backlog of referrals is there! This affects only women with disabilities who are young—new into the system or women with acquired disabilities. They are fronting up at Centrelink and meeting people who do not know anything about disability, do not know much about their particular disability and do not know much about the rehabilitation they have been through. They are put into a competitive job market. They are never going to get the same support in looking for work as people who have worked or who have been assessed previously or people who have the disability support pension. That is really hard.

I would like to also draw your attention to research done at by David Peetz in the Griffith Business School department of industrial relations. He looked at AWAs at the outset. Of course, the coalition government information about AWAs was that they were much better for people, but they always included the information on wages from people on mining contracts in WA. David Peetz removed those and looked at

minimum wages and hourly rates. This is in my submission in much more detail. When you peel it back to the areas where women work, you see that AWAs were much worse for women than collective agreements, whether you are in full-time, part-time or casual work.

Just this week, David Peetz has had quite a lot of publicity because his current research is showing that, despite the Fair Pay Commission's ruling at the end of last year when minimum wages were moved up slightly, real wages have declined by one per cent and the percentage of AWAs which have poorer workplace conditions has risen markedly.

Once again, when I look at those results, I have that sinking feeling that, as the research comes in for women with disabilities and their ability to find and keep work in the workplace, they are being progressively disadvantaged under WorkChoices and we are seeing coming to fruition the predictions prior to the commencement of WorkChoices. I know that you have to look at health effects and effects on families. I can only reiterate that where stress levels rise and where there is job uncertainty—and this for fewer hours of work—there will be definite detrimental effects on both those aspects of women's lives.

THE CHAIR: Thank you very much for your presentation. I will begin with a couple of questions. Firstly, I note, for the benefit of you and other witnesses coming to the committee this afternoon, that the committee is due to report in October this year, so we still have some time to inquire into any changes that may come about and hear witness statements. If you feel a need to address the committee again, please do not hesitate. As you have said, we have seen only some 10 months or so of the legislation so there is still some time to look at responses. The committee is also interested in visiting workplaces and talking directly to employers and employees. We have had the opportunity to visit the Canberra Hospital and talk to cleaners there. We would like to get out and about a bit more.

Ms Salthouse: I understand that the ACT government has an initiative to get more people with disabilities into the work force. The two women that I used as exemplars before have entered the ACT work force through that government scheme. I will check with them. One of the things that are important for people with disabilities when they get into the work force is networking within the work force. I know that one of the women was a network coordinator for her particular disability in a number of government departments. I will make sure that you get information.

You would have information about the scheme, but it might be possible to talk to people like that who have used the government initiative. They were certainly ecstatic and appreciative about getting that work, but they had examples of where the workplace just did not understand their needs. There is always this situation of up-skilling being needed. The more we are out in the workplace the more people will understand and the more prejudice will be broken down. That could be an avenue for you to talk to people who are at the coalface.

THE CHAIR: Good.

Ms Salthouse: I will chase that up for you.

THE CHAIR: That is great. Let me go back to your submission and your presentation. You indicated that under the new legislation it is now more difficult for people with a disability, especially women, to get work in the work force.

Ms Salthouse: Yes.

THE CHAIR: Are you indicating that it was a safer position before, under award conditions?

Ms Salthouse: As I indicated before, there are no safe positions for people with disabilities, particularly for women with disabilities. But women with disabilities—people with disabilities—need those flexible work hours. They need the right boss, the right work, the right hours, the right access and the right transport, and they need flexibility.

MRS BURKE: It is all about matching, isn't it?

Ms Salthouse: It is.

MRS BURKE: A proper matching process.

Ms Salthouse: Yes. Under Welfare to Work, the matching and the support of people with disabilities once they get into the workplace is disappearing. There is no payment for it. The ranking that the government wants to impose on disability employment networks means that they have to work faster. You have to produce the numbers. Thirteen weeks you get paid for. That is not meaningful work for somebody with disabilities—someone who could have a degree and several certificates. Thirteen weeks worth of work is not work as far as I am concerned. We are looking at that situation.

Once again, I give you a difficult situation to consider, given your brief, because I cannot untangle WorkChoices and Welfare to Work. But, as I tried to point out, there is a coalition government drive for more people to move onto AWAs. Admittedly, my experience of how AWAs are being used by employers comes to me through the media, and they are not kidding us—the examples of where AWAs are working well. But we know, with the recent publicity about Tristar, that apparently those workers are faced with sitting doing nothing—not even in a workplace with machinery—until their current enterprise bargain runs out at the end of 2008, whereupon the conditions under WorkChoices mean that they can be paid off with 12 weeks redundancy rather than what they might have been due. I am hearing those sorts of things. As I said, what I hear in the media is not balanced, but it is not encouraging either.

THE CHAIR: You specifically referred to the ACT government's program, and the committee is quite interested in any submissions or ideas that witnesses can bring that we can recommend to our ACT government that may assist people—in your area, for example—if there are particular circumstances where you think we can make changes to legislation here in Canberra.

Ms Salthouse: Any initiatives that encourage employers would help because, even

though at a federal level there is the workplace modification scheme and the supported wages scheme, we know, not from Australian research but from American research where they have similar schemes, that it is still employer attitude that is the biggest discriminator—so any initiatives that a government can come up with that can help lower those barriers will be beneficial. They are real. We are not talking about a decade ago; we are talking about current circumstances.

You would know that in the Australian public service over the last decade the Public Service Commission report says that employment of people with disabilities has gone from 6.6 per cent to 3.8 per cent. Admittedly they are looking at initiatives. This government has taken initiatives and I think that leading by example in the public service is an excellent way to go. We need to find more meaningful positions for people because people with disabilities are sick of being underemployed as well.

MRS BURKE: There are a lot of parallel things running here. I can speak first-hand, as someone with a temporary disability, of some of the difficulties I am now experiencing in my employment, very on the periphery. I am just trying to say that I can put myself in somebody's shoes for a day, but what is concerning me is what you said about AWAs: it would appear that whilst we know there are some working really well there are some working really badly. People with a disability have always been behind the eight ball; I understand that.

In connection with the AWAs, is more advocacy needed? Tell us what is needed to make AWAs work. The complaint is that nobody is there to discuss AWAs with. Do you need somebody alongside? How can we do that?

Ms Salthouse: For people with disabilities there is always a need for information about things. There is the provision for bargaining agents when you are negotiating an AWA, but I do not think that facility is being used very much.

MRS BURKE: Why is that? Do you know?

Ms Salthouse: I think because you have to take the initiative to do it yourself, to find a bargaining agent yourself. We are looking at people who are desperate for work and who may have poor communication skills—may have no communication skills. Often as well when you have a disability you develop an attitude that makes it harder and harder for you to get work because you are so put down by knock-backs or a dismissal when you didn't deserve it—a dismissal when you were doing your best but the boss didn't understand that you were very slow at filing because your hands didn't work very well. We are talking about people who in general have very low self-esteem—even people with high qualifications—because they have had lots of knock-backs in their life; once they are in a job they are frightened to leave that job because they know how hard it is to get another. It is much harder for people with disabilities to take that step into the unknown to seek work than it is for an able-bodied person or an older person.

That is one of the things, Mary, you would know about. Again this week Grace rang me up and then I was bombarded with information about work situations. The Volunteering Australia report came out on 22 January. It says that to volunteer for a job it will cost you, after expenses are paid, about $690 a year, which is $13 a week

on average. If you are on Newstart and you are more than 55 years old you are allowed to use voluntary work to fulfil your mutual obligation in your activity requirements. You are on $210 a week—and you're going to pay about $13 a week just to get to and from your volunteering job. The initiative is on you to find the work. That is not easy for people with disabilities. It is not easy for young people with disabilities coming off the youth allowance. So those are compounding effects.

In the ACT situation employment services are no longer empowered to support people with disabilities to the extent that they have been doing. They have always supported them for 18 months; now they have to stop that support I think after 26 weeks.

MS PORTER: Is that mandated now—that they are only allowed to—

Ms Salthouse: I'm not sure whether it is 26 weeks—I am still getting a good handle on that—but it means that they cannot be supported in the workplace on a long-term basis as happens under the current system.

MS PORTER: You are saying they are overwhelmed anyway with the number of people they can—

Ms Salthouse: People have to go to Centrelink first and then they are referred to a job capacity assessor. If they are assessed as being capable of working for 15 hours or more on the minimum wage, they are into the system and they are on to the Newstart allowance rather than the disability support pension. So already, compared to people on the disability support pension, they have lost $46 a week, and there are more stringent income and asset tests for that as well. When we are talking about families, women with disabilities—the same with any parent—there is family tax benefit A and B and child support assistance, so it does bump up the living wage, but then you've got living expenses as well. So we are looking at situations of extreme poverty while people have extra expenses.

I recently had cause to look at my hospital visits over the past 10 years since I acquired my disability, and I have had 95 visits to hospital—and I'm a well person; they have occurred because of little glitches. Those are hospital visits, not visits to specialists or doctors. That put into perspective for me that when people have disabilities and we talk about interventions we are talking about people who have got to do a lot of running around to keep themselves going.

THE CHAIR: I guess that outside of the specifics of how people are employed there are other recommendations that the committee could make, especially with regard perhaps to transport services.

Ms Salthouse: Transport services are difficult. As you would know, if people are eligible for the mobility allowance it is $74 a fortnight and if they are looking for work it has increased to $104. I did a small exercise when I was working with Marie before this legislation came down and realised that in the ACT before I ran out of my new enlarged mobility allowance I could travel approximately 10 kilometres return to work. So transport support would be excellent, if you could work out any way of increasing support networks for people with disabilities within the work force.

This is commonwealth again, but Centrelink used to have excellent support networks and they employed a lot of people with disabilities, but they cut them out, so people feel unsupported. If you can have an empathetic understanding ear of somebody who has the same disability as you or understands that disability, it's great: you can have a good whinge and then go back and get on with things. If you can think of ways of putting support networks into place, if you can think of ways of supporting people with disabilities new into the work force, to take over what is being taken away from employment networks and what was never there with the job networks, that would be great.

MRS BURKE: Sort of induction courses for employers and employees?

Ms Salthouse: Work-ready courses are there; people with disabilities often do three, four or five work-ready courses. They need support when they are in the work force—maybe an employer network for people who are employing those with disabilities. Some employers, like Koomarri and the University of Canberra, have business services—the Cut Cloth Shop, for example—where they have enclaves of people with disabilities and they specialise in that. But I am talking about the employer in Fyshwick who has just got someone disabled answering the phone—those sorts of private enterprise employers who have open minds.

The disability employment networks have ongoing programs of trying to engage and find more employers all the time. There are only eight specialised disability employment networks here in the ACT and it may be that they already do help employers to network, but going through them you may be able to find out ways where the government could assist in finding employers. The ACT government inclusion awards are a great way of recognising employers that are doing things; that is one incentive that is there. I use the world "recognise" rather than "award" because we should not need to be rewarded for doing the right thing!

I haven't talked at all about the What Women Want consortium and the research that is being done, because I know you are talking to Marie, but under that research she will be able to tell you that they are specifically including women with disabilities. So as the research results come back through that there will be reference to women with disabilities, and I think that will help you in your work as well.

THE CHAIR: Thanks, Ms Salthouse, for coming in and presenting to the committee. We will get a copy of or a link to the transcript to you as soon as we can. If there are any other comments you need to make, please do not hesitate to write back to the committee secretary.

Ms Salthouse: I shall do, and I will chase up those couple of things that I undertook to do as well. Thank you for your patient listening.

NORRIS, MR SCOTT ANDREW, General Manager, Norris Cleaning Co Pty Ltd
ROBINSON, MR MATTHEW, Norris Cleaning Co Pty Ltd

THE CHAIR: Thanks very much for coming along this afternoon. Before we go ahead, I will read the privileges card to you. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the resolution agreed by the Assembly on 7 March 2002 concerning the broadcasting of Assembly and committee proceedings.

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Mr Norris, we are pleased to have you here. Over the last year or so, we have written to many employers to try to get them to come to the committee and make submissions, but there has been a low response, so it is good to see you here.

Mr Norris: Thank you for that. We took the view that if we did not have something to say at this stage—we are the same as you; we do not think enough people have enough to say in business. I got a bit pushed, but decided that I would back up what I have been saying for years and come along and have a say. I think it is worth while. Without pushing the barrow of our particular industry, I think as an employer we are probably not heard enough in Canberra. That is why we thought it was an opportunity to come along. We appreciate being able to come and have our say—probably more than you appreciate us being here. It is good.

We are not going to quote statistics. I wrote a submission which has some facts in it, and a lot of it is related to our cleaning industry, because that is what we know, but a lot of it is broad based, and all the responses I got from people from a few letters I wrote in the paper were positive personally, with emails and people calling me. It gave me an indication, and that is what made me decide to come along and have a say.

THE CHAIR: Are there any further comments you would like to make regarding the submission you have put in?

Mr Norris: No. What I have to say will be very quick. It will just be reinforcing what I said in that. I probably drew a lot of that from material relating to cleaning. I get off on a tangent and get a bit carried away because I feel very strongly about not just our

industry but business in Canberra. I was born here. I have lived here for my whole life. Business in Canberra contributes a lot to the community. Without the business Canberra would not be the place that it is. A lot of the time employers are just passed over and seen as rich people who live in Red Hill, who exploit workers and who do not do the right thing. That is the general consensus. People say to me, "You're in business; you must be rich." That is just a culture that has always been around. As a young bloke I used to think the same thing, but it is not like that at all. Most of the people in our position are at risk all the time.

When an opportunity like this comes along with WorkChoices legislation, if everybody is sensible about it and people like you guys are aware of our concerns as businesspeople, maybe, if some of it gets heard, it might give you a different perspective on it when you change things or as you look at things down the track. There is an opportunity now. Now is the best time we can do it. It is in. We are all terrified of it. We need to put some things in place to start with so that we do not end up going down the track of industrial upheaval and the mess that we could end up with. We are as worried about it as everybody else. That is really where we are coming from and that is why we are here today. I just wanted to put those points across.

THE CHAIR: You reflect that in your submission. On page 2 you say that the WorkChoices legislation will almost certainly have an impact on your industry, the cleaning industry. Would you be able to highlight what sorts of impacts you think there are?

Mr Norris: Under an award system, pretty well everybody quotes on a level playing field. There have been situations in the past when companies have come in and used international awards and other state awards and it has caused trouble. Serco Sodexho is a prime example. They have come in and used some wishy-washy award. The unions really could not do anything about it. I think they tried. That hurts us. We do not like to see that happen either. A job that is worth $500,000 a year all of a sudden is worth $300,000 or whatever. It is just a loss to the economy. It is a loss of wages and a loss of everything for the people there. Most of the people who worked there would not stay. Why would they stay on less money? For any company following the award, which is most of us, there were across-the-board increases handed down and everybody benefited. The cleaners were terrified of what was going to happen. They said, "We heard we are going to get less money. We heard you can sack us any time you want." We said to them, "We're just as concerned about it as you are."

Let's be honest: there are plenty of unscrupulous operators out there. I have a huge issue with those. I have people who come into my office applying for work who are working for reputable national and local companies, many of them signatories to the code, who have been absolutely ripped off blind and exploited by their employer. Yet these companies are being endorsed by the LHMU. I do not know who else is involved in it. That is just wrong. Yet with a company like ours that refuses to sign it—and it is a matter of principle; I do not see why we should have to—people are being told that we are bad employers, because we will not sign the code, when we know that is not the case. We follow the award; we have 15 to 20 employees out of 120 who have served 10 years plus.

THE CHAIR: That is a pretty good record.

Mr Norris: We have an incredibly good retention rate. We have contracts we have had for over 30 years in Canberra—that we have retained year in, year out, because we provide a good service for the price. We like to think that we do the right thing. My father started the business. We can walk around this town with our heads held high and know that we have never succeeded on the back of doing the wrong thing by any of our employees. However, if you look at it from another perspective—and you will probably see it in my letters in there—we have had some absolutely terrible things done to us by employees, and we have no recourse whatsoever; we just have to put up with it.

So we get our backs up a bit when the union goes on about low-paid workers, the invisible cleaners at night and all this stuff. Half of them are better off than us. If we look at the experience the people have, the likelihood of them having any other sort of work—particularly a lot of people who do not have a very good education and cannot get work. There are people with minor criminal records—nothing too bad—who just cannot get a job in the government for that reason but who can still clean. They can do outside cleaning and stuff like that. There are a lot of people who fit the demographic for cleaning. You would be surprised at the people who do clean. We have had doctors, lawyers, accountants and public servants, particularly when interest rates were 18 per cent. We had people like that doing a second job. Even though a lot of them make a livelihood out of it—in fact, the majority make their livelihood out of it—it is often part of their family structure: one works at night because the other one can stay at home and look after the kids; the other one works during the day. It works like that, and it works out really well for them.

They are not underpaid. They are not low-paid workers. They are on $20-odd an hour for a casual night cleaner. It is quite good money for an unskilled job. It really annoys me when the union continues to call them low-paid workers when really, when you equate it to normal working hours, they are not at all; they are on quite a good wage.

THE CHAIR: Could I just touch on your comment about the employees being happy in their situation with your company. We had the same evidence presented when we went to visit the cleaners at the Canberra Hospital. They said that they thought they were in a happy position, but their concern was that, as this new legislation comes through—and I think you have touched on it too—as other companies come into the work force this will provide a lot of competition for the local companies.

Mr Norris: I think that this is where you guys come in as the government. I think that it needs to be regulated, it needs to be kept an eye on. Some of the worst cleaning jobs I have ever seen and the most ridiculous accepted prices have been from the government. The government are the ones most guilty of it. They are the ones that just look at the bottom line numbers. I was a contract officer in government and I know what they do. They take the cheapest, because if you do not you have to justify it.

Cleaning contracts are complex things. You are not comparing apples with apples ever, and a lot of the time people will put in ridiculous prices and quote labour and then will not put the labour in and nobody every polices it, particularly the government. They are classics for it. The government do have a role to play in this

industry because there are so many government buildings. We do not do government work as a rule for that reason, because they will only accept the lowest tender generally and you cannot do it for the price. The only way you can do it for the price is if you do not work to the contract or you underpay your staff. That has always been a concern to us and we just dip out; we just do not do it. To be in Canberra for 40 years and not do any government work is very unusual. There are not too many that do not do it.

As you say, the cleaners at Canberra Hospital, that is another reputable Canberra company. They are another good company that generally does not get into trouble for doing the wrong thing, but there are tons of them out there that do and they just seem to get away with it and they pick up government contracts. There is a government department—the department of industrial relations, DEWR—investigating the practices of a security company on this arm and then on the other arm they picked up the security contract. That is a ridiculous situation that never should have been allowed to happen, but it did. It is just dumbfounding that those sorts of things can happen.

If you ring up and ask a carpet cleaner to quote for cleaning four rooms and a lounge room, how often do you ask them if the person who is going to come around is being paid award wages? Have they been inducted? Are they health and safety trained? Nobody ever asks.

THE CHAIR: I must say that I ask them every time, but that perhaps is just me.

Mr Norris: You would have to, though. People do not care. People want the cheapest price and they do not care if some poor bloke comes around that is getting $12 or $14 an hour to clean their carpets. They do not care. They want their carpets cleaned cheaply. As long as that goes on, that is always going to be the case, or they are working for cash and it goes on as well.

MS PORTER: Thanks for what you have just said. Obviously, it behoves us, as the ACT government, to make sure that we engage in fair practices. You have pointed out a commonwealth example.

Mr Norris: Yes, I know. I realise that.

MS PORTER: Thank you for giving us that example. My question is about people with disabilities. You did mention that you felt somewhat unsupported in that people with disabilities come to your workplace, and you would encourage that, but you say that you are not skilled necessarily in working with people with disabilities and you do not get additional training in that. Obviously, you would like to offer employment to people with disabilities where you are able to do that but you feel that the time that they are given in the workplace to be supported now is not sufficient.

Mr Norris: There is no support. Someone will bring somebody to you who has a disability. You will agree to take them on, you will take them on and that will be the last you will see of the person.

MS PORTER: Who are the people that are bringing them?

Mr Norris: There has been commonwealth rehabilitation. There has been a myriad of organisations over the years that we have engaged people with disabilities through. The majority of the people had a mental disability, some sort of schizophrenia or whatever. We have had a few deaf people and stuff like that. When we ran into trouble, there was just nowhere to turn to, and we had some absolutely shocking incidents with some of these people because they are working at night and they are working primarily alone. We had situations where we had supervisors that just did not know what to do, did not know how to handle it. They were individual cases.

It was said in the submission of the other people that people with disabilities do not get given a go or whatever, but it is really not an issue of people with disabilities not getting a go. It is an issue of people that are supposed to be placing them and looking after them being nowhere to be seen after they have placed them. They think that, having placed them, they have done their job, but that is not the case at all. I have had a lot to do with it over the years, but we just do not do it any more because we just cannot.

MS PORTER: In some instances, these are commonwealth rehabilitation people, but in other instances private providers are placing them, privately employed or privately contracted firms. Anyway, we can look into that.

Mr Norris: A lot of them now are employment agencies, but some of these things date back 10 years plus. As an employer, we had to make a decision not to do it any more because we just could not. We did not have the expertise or the time to put into it. We made a really big effort and we did put on lots of people with disabilities over a period of time, but it just caused us grief.

MS PORTER: My next question goes on from that. You make the statement on page 3 of your submission that you believe that the WorkChoices legislation will allow unhindered, mutually beneficial negotiations between employers and employees without the cloudy waters of an award that may not be able to be negotiated because you do not necessarily understand it or they may not understand it. In your experience of working with people with disabilities in particular and maybe young people who are first coming into the work force or people from culturally and linguistically diverse backgrounds, because you have mentioned, I think, that you do work with such people—

Mr Norris: We do. Obviously, as contract cleaners, we have people from all over the place.

MS PORTER: I am wondering whether you feel that those people, when they come to negotiate a mutually beneficial AWA, will have the skills and whether your staff also will have the skills to be able to cope with some of those people who may be starting behind the eight ball, if you understand what I mean.

Mr Norris: I think so. As employers, we know what our employees want because they tell us all the time: "I want to be casual. I don't want to be permanent because I have already got a day job. I want to be able to work two hours a night to supplement my income but the award says I have to work three." People will generally work with

what fits in with their families and the award does not allow that. A person with a disability may not be able to work three hours a night, but they have to under the award and you cannot change the rules of the award because someone has a disability. You can put something in your collective agreement that allows for that sort of thing. It gives us an opportunity to take a step back and say, "What is good for the employer, what is good for the employee, what is good for the client and what is something that everybody is going to be happy with?" I do not think that there is that much difference in the grounds. The thing that causes the gap between employers and employees is that stupid award, the award system. I do not know if you have ever had a look at our award, but the thing is just a dog's breakfast. It is unworkable.

MS PORTER: When it comes to the other organisations that you say are not such good employers, such as the ones you cited, including the commonwealth—

Mr Norris: As far as disabilities go, that was just one that came to mind.

MS PORTER: And you cited another cleaning firm. It sounds like your firm takes a lot of care in the way that it works with its employees. You have talked about giving them a good wage and you have talked about the fact that you felt that it was not wise to drive prices down because that affects the economy and affects the people who are earning the wages, as well as giving your firm a bad name et cetera. Obviously, you have thought a lot about the best way to approach this matter.

Mr Norris: Yes.

MS PORTER: But you have said here and in your submission that some employers do not necessarily follow the kind of approach that you follow.

Mr Norris: No.

MS PORTER: How are people with disabilities, people with mental illnesses and young people going to negotiate with that other kind of employer? That is my concern.

Mr Norris: That is why I said that it will have an impact on us. It does not matter what an agreement says anyway because the companies that do not do the right thing are not going to do the right thing whether they have an agreement or an ironclad document that says that they have got to do it. They do not do it anyway because they are just disreputable people. It will not matter. They do not follow the award now. They do not pay under the award. They do not pay people the right money. They pay them cash. They do not pay them penalties on weekends. They make them work ridiculous hours.

MS PORTER: So beforehand we had more activity, more involvement, by the union movement to come in and sort of negotiate on their behalf or do whatever; so who will replace that—

Mr Norris: We are still going to have a union. People will still be able to go to the union or the industrial relations commission if they have an issue with something to do with their pay and conditions. There are five rules under the WorkChoices legislation that are unbreakable. I do not think they went far enough; I think they

should have put a few more in there. Working with five rules makes it a lot easier, but it does leave us all a little bit wide open and I can see why the unions are concerned. But it may give them more members because people will be a little bit more concerned if they think their employers have a bit more freedom to exploit them.

As I said, the people that are engaged in companies that traditionally employ lower-paid workers or less-educated workers are really the key to it because they are the ones that have a responsibility to make sure that whoever they engage as staff, be it removalists, cleaners, tree surgeons or whatever, are being looked after. If they are not, they shouldn't use them. Governments, particularly the local government, have every right to practise what they preach, and that is something that we don't often see. We don't see that they are proactive in doing that, and that is a concern to us because it hurts us.

MRS BURKE: Thank you for coming this afternoon, Scott and Matthew. I am looking at page 2 of your submission. Let's start from this point of view: set aside some of the issues that you have just outlined with the union—that is disappointing because it is another stumbling block that the industry does not need—and I hope that those things can be resolved within the industry and with the union. Notwithstanding that, there is a lot of negativity about WorkChoices and a lot of confusion and a lot of people are frightened. However, you say that most employers you have spoken to "are also seeing it as an opportunity for a change for the better for employers and employees". How is that going to work? How do you see it working in the future that families will be better off?

Mr Norris: It is because it gives families the flexibility, lets people be flexible with their employer without having to work to a rigid award. I make the point there that somebody may want to work two hours a night; it gives them an extra couple of hundred dollars a week to work two hours a night. It would probably pay for their groceries for a fortnight. But the award says you can't do that: you have to work three hours. Three hours is a long shift for someone who is looking after kids all day or whatever. A lot of people might want to work for an hour or an hour and a half. They might want to do a little bank that is close to their house and that they can walk to.

There are so many restraints within the award that we want to get rid of. For example, if you work on a weekend you get penalties that relate to what you earn during the week. So why would you give to someone who is a part-time night cleaner during the week double time and a half on a public holiday—double time and a half at the much higher night rate—when you could be paying a full-time day person at 30 per cent less with the penalty attached to it? So it affects a lot of those people. We don't care; if someone wants to work a weekend, whoever is suitable for the job gets it. But you can see why a lot of these other companies are likely not to give the part-timers weekend shifts, because the penalties are higher. It all feeds off the rate that they get during the week. That is just a nonsense. That was changed when they stripped down the award, when we supposedly had an agreement with the union, and that was snuck in later on. It is just silly because it does affect working families. A bloke or a woman wants to work on Saturday to make some extra money but the employer will not let them because it is going to cost him 15 or 20 per cent more to employ him or her.

MRS BURKE: I am mindful of our time. But won't they be exploited, though, under

the WorkChoices legislation? Isn't there room for exploitation?

Mr Norris: I don't think so. You might be right there because it takes away penalties for weekends, but as far as we are concerned all our contracts allow for penalties for weekend work—and they will stay. We will keep penalties because no-one will work weekends if there are no penalties.

MRS BURKE: I suppose that is true.

THE CHAIR: Congratulations on that.

MRS BURKE: That is true. Why would you get rid of good people? Why would you decrease their standard of work, pay and conditions?

Mr Norris: If we decrease anyone's wage, they will walk out the door. We can't get people to work for us. The last thing we want them to do is leave.

THE CHAIR: Can I go back to your comparison to the awards and the flexibility that we have just touched on there. Is Norris Cleaning a party to the award in the ACT?

Mr Norris: Yes.

THE CHAIR: The other parties are listed, aren't they? So the unions are one party, then the employers and of course the employees.

Mr Norris: There is a list of respondents on the back.

THE CHAIR: I haven't downloaded it yet.

Mr Norris: Have a squiz at it; do some light reading.

THE CHAIR: Being a party do you not have an opportunity to make submissions to change the award?

Mr Norris: I was directly involved in the stripping down of the award some time ago with the union—and some other parties were involved—and, to be honest, it was a really pointless exercise. We had an agreement, the agreement was reneged on and we ended up being trapped into an ongoing set increase every year, which was probably better than getting eight separate increases a year, which we got in some years. It did make it a little bit better but—

THE CHAIR: Increases in wages, you mean?

Mr Norris: Yes, just a set CPI pay increase. We have no issue with that; we go to our clients and get increases and none of them ever argue about it. I think a lot of the time people will use a pay rise as an excuse to get an increase from their clients and they don't pass them on. You get this sort of thing going on a bit. But I learned a long time ago that you cannot negotiate with a union if you are an employer. I wish we could, because we used to have a fantastic relationship with unions. But they are struggling for members and have all sorts of issues with people not needing them as much

because there is not much unemployment and people are not getting the sack because employers need them and it is probably causing a bit of a rift between employers and the unions. They will pick on a company and single them out.

Gil Anderson from the LHMU said to me, "Whoever doesn't sign the code of best practice we will make an example of one of them—and don't let it be you," or words to that effect. Two weeks later they protested outside of a building that we clean—made a racket with buckets and carried on like a bunch of idiots. It was absolutely childish, ridiculous behaviour. I am not going to give the union a copy of my payroll every fortnight. Why should I? They can come in and look at anything they want any time they want and they know they can—but they don't.

THE CHAIR: The question, though, was more about the award and how parties are able to make submissions to the commission when the awards are either being drafted or renewed, as I think was the case every few years normally or, as you said, whenever there was a pay rise. Parties to the award were able to make submissions to the commission. Did you make a few of those, especially in regard to the flexible hours—the three hours?

Mr Norris: No. All they look at are the wage rates when they do the review. They don't look at any of the guts of the award. They did when we did the stripping down—I think it was in 1996 or 1997—of the award and they took things out like the fly cover over your horse and buggy and just stuff that was completely irrelevant. It was 1920 stuff, a really old award, and it was just so full of irrelevant stuff. So they got rid of a lot of that; that is why they call it the stripping down of the award. And they reduced the minimum from four hours to three; we always wanted two. They made some changes that were for the better, that made it easier to run our business; but the award is still very convoluted, very hard to interpret. It is very hard to know if you are doing the right thing. I could give a scenario to the union, to the Confederation of ACT Industry and to another cleaning company and say, "You tell me what the wages should be for this particular position," and they would all come back with something different, and they would all be correct under the award, because it is just so difficult to interpret.

THE CHAIR: Can you give us an example there—a cause or—

Mr Norris: Relating to weekend shifts, for starters: you can't price a job if you don't know how much you are going to have to pay your employee on the weekend. Split shifts, broken shift allowances and car allowances—there are all these things where you can do one but not the other. But if you pay them at a higher rate, say you pay them part time instead of full time and they do two separate part-time jobs, it is two separate engagements so they have to pay double tax on the second job, even though they are working for the same employer. Otherwise you could pay them full time—

THE CHAIR: Taxation isn't in the award, though.

Mr Norris: No, it isn't, but the award says there has to be a second engagement, and as soon as you run a second engagement taxation comes into it. So again it impedes someone's ability to earn a living. They may want to work four hours in Civic in the afternoon because it suits them and because they live in Belconnen might want to do a

two-hour job in Belconnen on the way home, but they are two engagements with double tax on the second job with a higher rate of tax. Or you can pay them full time and give them eight hours a night and then you have to pay them travel and petrol and that is just so complicated that no-one ever does it. You are better off just saying, "I'll give you an extra hour a night or something because you have to drive from here to there." We tend to leave it part time because the allowance for that is loaded into the shift. The shift allowance allows for the fact that they have to drive home or to another job or whatever.

Another thing is when a person goes past a certain time on a shift. Say you work past midnight on a Friday night until, say, three minutes past 12—the whole shift has to be paid at a Saturday rate. It is silly. Most people would expect to be paid, as they work into a different shift, that rate for that shift. But, no, not with our award: you get paid for the whole lot. However, if you work on a Sunday night until one minute past midnight on the Monday morning you don't get paid all at the Monday shift rate.

THE CHAIR: From memory it normally allocates to the highest payment, doesn't it, so if you are working into the Saturday you receive the shift at the highest payment and if you're working from the Sunday into the Monday it's at the highest payment.

Mr Norris: It is very difficult with cleaning because a lot of cleaning runs around the clock.

THE CHAIR: It must make it hard to then calculate, and how do you budget your tender—

Mr Norris: If a job doesn't have specific coverage, you might decide to pay two part-timers so that they can finish before midnight instead of giving one person a good-quality full-time job. You may choose to put part-timers in it because you don't have to go past midnight and pay the higher shift.

THE CHAIR: Because it would be less expensive.

Mr Norris: It would be less expensive, and obviously when you are pricing something you need to know. If you are trying to be competitive you are going to price it based on the fact that you are going to put two part-timers on it and run on the cheaper scenario. But it is not always possible to do that; sometimes you have to put someone in. We are forever manipulating hours and things around because people say they are struggling a bit and need a few extra hours and we have to try to fit it in within the award structure and it is very difficult. Sometimes I will say, "This breaches the award to a degree because you're working more than eight hours. We are just going to have to live with that. I am prepared to take the risk if that is what you want to do." And we do that. A couple of times we have spoken to the union and said, "This person is going to be working outside of the parameters of the award but there is nothing that we can do about it; that is the way the job is and they want to do it." They always say that if the worker wants to do it that is fine. But what is the point of having an award if that is the case? Why not just spell it out?

THE CHAIR: Doesn't the award say that if you are working over the normal hours you receive an overtime payment?

Mr Norris: This is the thing: no, it can be a second engagement. You could work a full-time day job for us and then you might do a four-hour-a-night part-time job but the four-hour-a-night part-time job becomes pointless because you have to pay extra tax on it. So then what do people do? They work in someone else's name; they work for cash; they do everything they can to avoid paying that higher tax rate. They don't do it for us. People come in and say, "Do you pay cash?" What is cash? We don't see it. I don't know what it is. We don't see cash. No-one pays cash to us and we do not pay anyone cash. That is mainly because of insurance; that is the main reason that you would never do it. But so many people do it.

MRS BURKE: The inference of that is no tax—when they say cash.

Mr Norris: Yes, so the bloke pays him $10 an hour. He pays no payroll tax; he pays no workers comp; he pays no superannuation. He pays nothing. The poor person is not insured. If they break their neck and they are not covered, what do they do? They go to their primary employer and pretend they hurt themselves there.

MRS BURKE: I wonder if Mr Robinson wants to add anything. He is being very patient.

Mr Robinson: I've tried a couple of times.

Mr Norris: He can't get in.

MRS BURKE: You would see it from a different perspective, I expect.

Mr Robinson: Scott is across the ins and outs of the award more than I am. I have been in the cleaning industry for nearly 4½ years; cleaning is not my background. Just going back to the issue of employing people with disabilities, I have had a bit to do with that. In one instance it was a not-for-profit organisation that specialised in placing people with needs and disabilities. I placed a couple of deaf people and had a lot to do with supervising them directly and helping them out. I used to say to people, "Look, they're deaf; they're not stupid." Things were going well, but then I started to have a few issues and I was concerned about their health and welfare at work. I went back to the agency and they started to inform me of all my responsibilities—"Don't you have an interpreter in place? Don't you have the sorts of telephones that you can communicate with?" All of a sudden I am responsible and way out there on a limb. I had to get rid of them.

THE CHAIR: Were you acting as a supervisor?

Mr Robinson: I was directly supervising those employees. Essentially I had to get rid of them because I was way overexposed. I tried to do the right thing. That is just another example of trying to employ people with disabilities. Some people have disabilities. There is no reason why they cannot work. There is just not the support there.

MRS BURKE: Good point. Thank you.

THE CHAIR: Thank you very much for coming in. As I mentioned to the previous witnesses, the committee is keen to go out and visit workplaces to talk to people and employers in the workplace. If there is a time that is convenient, please let us know.

Mr Norris: That would be good. We would like to be involved and we would like to be heard as employers. It is important.

MRS BURKE: Thank you very much.

Mr Norris: We will see what happens. I think it will be for the best. Maybe people are jumping at shadows. A lot of our staff talked of nothing but WorkChoices up until it happened, and since it has happened they are all as happy as anything. They have more money, for starters, and they have no devaluation of conditions. They are all happy. I do not think it is going to be a bad thing. As long as you guys get behind it, it will be okay.

MRS BURKE: It is federal legislation. We do not really have jurisdiction.

Mr Norris: I know that, but you guys still have a fair bit to do with it.

MRS BURKE: But we can push.

THE CHAIR: We can keep an eye on it, as you say.

Mr Norris: You have a fair bit to do with it locally so we will see how we go. Thanks for the opportunity; we appreciate it.

COLEMAN, MRS MARIE YVONNE, National Foundation for Australian Women

THE CHAIR: Mrs Coleman, were you here earlier when I read out the privileges statement?

Mrs Coleman: Yes.

THE CHAIR: So you are aware of that.

Mrs Coleman: Indeed.

THE CHAIR: Thanks for coming in and for your briefing a little while ago. Would you like to make some comments to the committee?

Mrs Coleman: Perhaps I could move on from some of that. As the committee knows, we commissioned research to assist us in looking at the impacts of WorkChoices. The first part of that was the report on the database "Women's Employment Status Key Indicators", WESKI, which became available in September last year and which I think you have been provided with.

One of the things that that report identified was that there were a lot of problems about adequate monitoring data for women in the current work force statistics collections, apart from the fact that a lot of those data collections were predicated on centralised wage fixing and therefore were not necessarily going to capture appropriate data under a more decentralised system. We are very conscious that there is a whole body of earlier research which suggests significant links between the size of the gender pay gap and particular wage setting arrangements. Centralised wage systems have typically been associated with smaller gender gaps. This is one of the reasons why we thought it was very important to monitor the effects of a more individualised system.

In the last few days there has been a lot of controversy over a paper given at a conference in New Zealand by Professor David Peetz of Griffith University. I think you have a copy of that paper. I emailed it to the committee secretary yesterday. It is not appropriate for me to be the person who defends or attacks Dr Peetz beyond saying that one of the things which has had little public notice is that, because the Western Australian government, under the previous Liberal administration, had already moved to a system of individual AWAs as far as state employees were concerned, there is now a set of data—at the moment we have data from 2002 to 2004 from Western Australia—which enables us to test how accurate these predictions are about changes in the gender wage gap under a decentralised, as contrasted with a centralised, wage-fixing system.

Another paper which I mailed to your secretary yesterday is from Dr Alison Preston of Curtin, who has shown that the biggest losers in the pre-WorkChoices system of individual bargaining were women non-managerial employees on AWAs. She says that between 2002 and 2004 the gender wage gap among non-managerial employees on AWAs deteriorated by 19.6 percentage points, to 79.6, and was larger than the observed gender gap among non-managerial employees on collective federally registered agreements, equal to 87.5 per cent. That is to say—surprise, surprise!—

even in a state which was in boom conditions the gender wage gap worsened.

Dr Preston's research also found that the data produced on AWAs in 2002 by the Commonwealth Office of the Employment Advocate was inaccurate. It overstated very significantly any accrued benefits to women who were on AWAs. She says that the apparent earning advantages accruing to women were about half what the Office of the Employment Advocate claimed. That was in part, again, because of the old problem of statistical attributions. The Office of the Employment Advocate, she says, have been less than careful in their reporting of non-managerial earnings and included a number of managerial workers in their estimates, thus inflating the figures. That just goes to show: there are lies, damn lies and official statistics.

My point really is that the findings from Professor Preston's very recently published study absolutely support the findings by Dr Peetz about the first few months of the operation of WorkChoices. People can fulminate as much as they like, but the facts are there: women, particularly women clustered in the low-paid, low-skilled jobs, are doing worse.

Of course, we simply do not have data systems which will adequately capture what women are trading off to get their new AWAs. If they hold their income position, for example, which they may not do, they may be trading off other things which were about flexibility.

We wrote to all of the relevant Commonwealth agencies after we had the WESKI report in last September and finally, two weeks ago, received the Australian government response, which basically suggested that they saw no need to change any of the existing data sets. We were unsurprised by that response.

As I forecast to you on a previous occasion, we have also now commissioned the qualitative research with unskilled women—what we are calling vulnerable workers—where WorkChoices is in place. I should tell you, in case nobody else has told you this so far, that the ACT government, of course, did decide prior to Christmas that it would participate in that research. The researchers advised me this morning that last evening they began with the first rounding up of ACT participants. I cannot forecast how long it is going to take them to finish; I can only tell you that fortunately they are now in the field in the ACT, so we can look forward to some results.

Because they have only just started, I do not have any of what we might call the informed gossip part of the stuff, but I have been very interested in participating in the networking that is going on between the researchers in the individual states where they are talking about some of the things they are finding. That will eventually become part of the writing up.

But let me mention the sorts of examples we are getting. A particular researcher was saying that, after careful questioning, some of the changes have turned out not to be lawful under WorkChoices. We are looking at these in terms of whether WorkChoices has generated unintended changes. For example, a woman was dismissed on her employer's understanding that, as an organisation with under 100 workers, he could do so with impunity. But the dismissal involved parenting responsibilities, so the woman has lodged a discrimination complaint. Those complaints take much longer to

resolve than the old unfair dismissal arrangements used to, so she has lost her job and income and must wait longer to obtain some form of remedy.

This is the sort of qualitative information that we will pick up. It is very interesting that there does seem to be a situation becoming evident where quite a lot of these workers in the five areas that the WESKI report identified—low pay, low skill, retail, cafes, hotels, childcare, aged care—are working for employers who are already acting unlawfully.

I suppose the classic example of that that everybody in the ACT understands is the issue which arose about workers in restaurants and cafes. It emerged that, for a variety of reasons—whether because small employers did not understand the complexity of the legislation or whatever the reason—there were a lot of people in that industry who were employed under conditions which were not lawful.

The stuff which is emerging from the researchers so far—and I stress that this is not written up publicly; it is the chat that is going on between them—is that again there are issues because unions are no longer allowed into workplaces to give advice to workers. I am being told that in another state some people with longstanding work cover—workers comp type claims—are being dismissed or being treated poorly because of that. In one case it turned out that, because the union was no longer allowed to attend the workplace without the written permission of the employer, the woman was forced to do duties that she was really unable to do. This led to considerable time off with loss of pay and penalties. It is this issue of having somebody who is able to be in the workplace assisting people to make appropriate decisions.

I have noticed also from the chat that, although HREOC was given an additional sum of several million dollars to deal with anticipated antidiscrimination claims, apparently that growth of antidiscrimination claims at the national level has not been as great as was expected. At the moment people are wondering whether it is because some of the workers feel too vulnerable to even begin to lodge antidiscrimination claims.

I think I shared with you the information that we were also beginning the process of consultations with women's organisations around the states. We have had the ones here in the ACT and in Brisbane. I sent you a media statement yesterday. We have three of these upcoming. The one in Western Australia is on 2 March. The one in Darwin is on 6 March. With the one in Darwin, we have the Northern Territory Workplace Advocate, a researcher and the Northern Territory Anti-Discrimination Commissioner. They are the main speakers. We are bringing together some quite interesting expert speakers to explore issues with the women and their organisations.

We are moving down the track where we anticipate that by about May or June we should have a national report on these consultations as well as having the national report of the research into vulnerable workers and WorkChoices. That is our hoped-for timetable at this stage. Things are moving. It is nicer than being at a point where you say, "This is what we plan to do." We have these things beginning to actually happen.

That is about the state of play, as I heard Sue mention to you. We are working closely with quite a lot of women's organisations in this. Among the women's groups there is a high level of interest in just what the implications are. It is not about a politically partisan position; people are just interested to know what the outcomes are for women. Growth in a gender wage gap is something that most people are pretty upset about. If we can get better documentation, information about disadvantaging women through less flexibility—having the need to trade off working conditions—is also going to be very important information to get.

I am not surprised, although I am saddened, that the Australian government does not see the need to do anything much in terms of data beyond telling us that the Office of the Employment Advocate is collecting data. But when we see from Alison Preston's work that it has overstated the benefits to women, we are suspicious that the data sets are not going to really reflect precisely what is happening.

That is basically the summary. I know you are strapped for time, but if you have questions you want to ask me or if I can flesh out any answers I am only too happy to do so.

THE CHAIR: Firstly, when those reports come through in May-June, do you think that you will be able to come back to the committee?

Mrs Coleman: Very happily, yes. We will be very willing to do that and we will certainly make them available to you.

THE CHAIR: From my viewpoint, it is distressing to see the gap widening. I think that it would be good for this committee to be able to make recommendations to our government on how to be able to get past those sorts of issues.

Mrs Coleman: One of the things I hope to know more about by the time we finish this round Australia jaunt is what the different state antidiscrimination laws are doing in terms of allowing particular local responses. I do not know enough at the moment to be able to talk to you sensibly about that, but I have noticed that the Victorian equal opportunities commissioner, for example, has set up a special group within the office which is monitoring what is happening in terms of wages and conditions under WorkChoices. There may be things like that which are different in various states, but there is potential, I think, at the territory level for some recommendations to arise about the role of our own antidiscrimination commissioner as well as working on the area of industrial relations, even though this territory, of course, is completely subject to federal legislation.

THE CHAIR: Ms Porter, do you have a question?

MS PORTER: No, I am going to wait for the results to come back. We have had from the previous witnesses a divergence of opinion between one end of the stick and the other. Being able to get some hard data like that is going to be really good. It is going to help us focus a little bit better, otherwise it is like playing tennis in some ways.

Mrs Coleman: That is the reason for trying to commission the research. It is to get to

the extent that we can something that we used to whimsically call in the commonwealth “agreed facts”.

MS PORTER: I look forward to getting the agreed facts.

THE CHAIR: I thank you once again for coming.

BUDAVARI, **Ms Rosemary**, Coordinator and Principal Solicitor, Women's Legal Centre

THE CHAIR: Good afternoon and welcome to the inquiry of the Select Committee on Working Families into the impacts of federal legislation on working families in the ACT. I welcome Ms Rosemary Budavari from the ACT Women's Legal Centre. Before we start, I need to read to you this statement. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the resolution agreed by the Assembly on 7 March 2002 concerning the broadcasting of Assembly and committee proceedings.

Before the committee commences taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee in evidence given before it. Parliamentary privilege means special rights and immunities attach to parliament, its members and others, necessary to the discharge of functions of the Assembly without obstruction and without fear of prosecution.

While the committee prefers to hear all evidence in public, if the committee accedes to such a request, the committee will take evidence in camera and record that evidence. Should the committee take evidence in this manner, I remind the committee and those present that it is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly. I should add that any decision regarding publication of in camera evidence or confidential submissions will not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

Would you like to make an opening statement to the committee, Ms Budavari?

Ms Budavari: Our centre would like to thank the committee for, firstly, accepting a late submission from us and, secondly, giving us the opportunity to come and address the committee. By way of overview, as set out in our submission we help approximately 1,000 women a year in the ACT with about 3,000 instances of legal advice and information. We do practise in the area of employment and discrimination law and sometimes those areas cross over. We have certainly noticed a significant trend since the WorkChoices legislation took effect, particularly in relation to employees in businesses with less than 100 employees. It is quite dramatic that prior to 26 March 2006 those employees could claim unfair dismissal if they were terminated in a harsh, unjust and unreasonable manner. Since that date, if they are in a business with less than 100 employees they can no longer claim that relatively simple, quick and economical remedy if they did suffer such treatment, and that is really the essence of the matters we wanted to address in our submission to the committee.

We have set out four examples of clients that we have dealt with in the last three months, and it is interesting to observe that those clients were all from an older age group. We often get feedback that for those workers it is difficult then to find other employment if they are terminated. Some of those workers were terminated after substantial periods of time with the same employer and without having been given reasons, which has not only an economic impact on those employees but also quite a traumatic emotional impact when they come into our office and say, "What did I do

wrong? I was loyal to that employer. Simply because that workplace has less than 100 employees why can I now not do anything about this situation?"

The other main point I wanted to make by way of opening was what we then go on to discuss in the submission—and I did not pick out particular cases of this—in that we are observing a definite shift in the power relationship between employers and employees. Our observation is that employers now feel that they can get away with more in terms of not paying out notice periods and not paying out all entitlements when they terminate an employee. There has been a definite increase in the number of advices we have been giving in those sorts of areas about people's rights to be paid out notice periods unless a summary termination was justified, which is normally only for serious misconduct, and also assisting employees to obtain their outstanding annual leave, long service leave if applicable and superannuation that has not been paid.

They are really the two major areas: the employers with less than 100 employees and the shift in the industrial relations environment which appears to be leading to employers not paying out full entitlements. I am happy to take questions.

THE CHAIR: Since the WorkChoices legislation came in, has your organisation been adversely affected in its ability to help your clients? You have given us some ideas, but if that is so can you explain why?

Ms Budavari: I guess because some remedies have been cut off to them. With the simple unfair dismissal action in the Industrial Relations Commission, which, I might say, never ended up with anyone getting enormous amounts of monetary compensation, what would usually happen with that type of legal action was that the employee would lodge an unfair dismissal claim, it would be served on the employer and the first commission event would be a conciliation conference between the employer and the employee. Usually at that conference there would be some sort of resolution, with the employee being paid maybe a few weeks wages and obtaining a reference if indeed there was any substance to the harsh, unjust and unreasonable side to the termination. That was fairly simple for employees to go through that process and we would generally just advise them about that and they would do it themselves.

Since WorkChoices has cut off that avenue for quite a few employees we have had to think strategically about possibly running common law actions for negligence or for breach of contract. We have not done any of those yet but we have certainly got that in mind in the appropriate case. Those sorts of actions are more difficult; if it is under $50,000 it can go through the Magistrates Court but generally speaking you would have to file in the Supreme Court, and the legal arguments are much more complex. So it has affected us adversely in that sense in that we have to say to people, "You no longer have that right to make an unfair dismissal claim. You possibly have some of the other rights, which will involve court proceedings, statements of claim, affidavits and quite a complicated legal process." Most people do not want to do that; they just want to move on—get some kind of resolution with the previous employer but move on to other employment.

What we have also been doing, and I guess this is addressed later in our submission as well and seems to echo some of the suggestions from ACTCOSS and the Human

Rights Commission, is if there is some kind of discrimination aspect to the termination of employment it is now much easier for people to pursue a complaint of discrimination rather than an unfair dismissal claim or a common law negligence or breach of contract claim. So we are seeing more people filing those kind of complaints. Fortunately the ACT legislation is quite strong in terms of discrimination, so if someone can establish some type of family responsibilities discrimination—for example a worker who is a single parent but who has been asked to do shifts when they need to be at home caring for their children—we now advise those people to make a complaint of discrimination in relation to the termination having been made on that basis.

We are certainly doing more work in that area, and I think that ACTCOSS in their submission have suggested that this committee look at recommendations to strengthen our discrimination legislation in relation to family responsibilities and also at possibly strengthening the Human Rights Act to pick up economic, social and cultural rights, because that legislation is currently restricted to civil and political rights and it is arguable that another avenue for employees who have been terminated harshly and unjustly would be if they could claim that that is some sort of infringement of an economic or social right. We would certainly support both of those as alternative avenues to the dilemma we find ourselves in because of WorkChoices.

It is interesting to note that in today's or yesterday's newspaper there is a report of some local government employees in New South Wales trying to argue that they should remain in the New South Wales system because of that connection to local government which New South Wales has responsibility over rather than the commonwealth. They do not want to move into the federal system because, I think, the New South Wales system for local government workers guarantees them nine weeks paid maternity leave whereas once they go onto WorkChoices and sign workplace agreements there is no guarantee. They can certainly try and negotiate something with the employers but that is not an award condition that they are any longer going to be able to rely on. So I guess in the post-WorkChoices era we need to look at different strategies to try and protect workers' rights which are not connected with the commonwealth's exercise of power.

THE CHAIR: Going back to your discussion on remedies for unfair, unjust or unreasonable dismissal, you said that you could look at common law actions.

Ms Budavari: Yes.

THE CHAIR: What is the difference in time lines from the old work in the commission, for example, and having to work through the Magistrates Court?

Ms Budavari: In the commission, you would typically get a conciliation for a client within a matter of weeks. When you are looking at court proceedings, you are looking at months, if not years, so there is a quite dramatic difference in terms of time lines.

THE CHAIR: Is there any difference in application costs?

Ms Budavari: Yes. In the commission there is, I think, a $52.50 filing fee, with some provision for exemptions. If you are looking at a Supreme Court action, you have a

$500-plus filing fee. I am not sure what the Magistrates Court filing fee is at the moment, but with small claims matters, which are probably comparable, you are certainly looking at close to $100 for a claim under $2,000. If it is over that, you are looking at maybe $150 or $200. For a person who had just lost their job, that would be an enormous economic burden.

MS PORTER: You said that you had helped almost 1,000 women and you had provided 2,700 instances of legal advice in 2005-06, a number of which were complex. I want to ask about a comparison between that year and the year before, prior to WorkChoices being introduced.

Ms Budavari: I did not put that in the submission, but I ran a quick report before I came. It just goes through the number of advices we gave. I ran it for the period from 1 April 2006 to 31 December 2006, which is the WorkChoices period, to guarantee that we are up to date with that. We are a little way through February, but we probably have not entered all of our January data yet. I did a comparison with the same period—1 April 2005 to 31 December 2005—and we did 348 employment advices in 2006 and 322 in 2005, so there has been a small increase. We did not see the direct impact of WorkChoices initially. I think that it took a little while for the system to settle down. Anecdotally, we have found a lot of the problems with WorkChoices emerging in the last three to six months.

MS PORTER: It would be interesting for this committee to get some ongoing data, if you were able to give it to us.

Ms Budavari: Sure.

MS PORTER: You talked about the complexity of cases. Do you have some kind of scale of complexity that you use as a measure?

Ms Budavari: Yes. From recollection, our cases run on a scale of zero to five hours work, six to 20 hours work, and then over 20 hours work. Most of these employment cases would have fallen into at least six to 20 hours, if not over 20 hours.

MS PORTER: Do you anticipate that the service is going to keep on going up, that the graph is going to keep rising? If so, do you think that the organisation will be able to cope with the demand?

Ms Budavari: I think that two things could happen. The problems are certainly out there and, if people find us and feel confident about pursuing it, our numbers will rise in these areas of advice. What we are also seeing is that some workers that we are giving advice to are saying that it is all too hard to take on the employer and they do not want to get a bad name in the industry, particularly if they are working in a reasonably narrow field. Those workers might come in for initial advice and we never see them again. It could go two ways. The industrial relations climate could become so negative and so harsh that workers will just say that that is just what they have to put up with and not take a stand because they do not want to jeopardise their prospects with future employers or people will be dissatisfied with their treatment and pursue it. It is probably a bit difficult to say at this stage. All I can say is that we are seeing a small increase at the moment.

MS PORTER: Will your organisation be able to cope with the demand if there is an exponential growth?

Ms Budavari: Probably barely. I should have said that one of the financial impacts of WorkChoices on our organisation is that we used to receive some funding through the Office of the Employment Advocate. That program terminated in November last year because, as part of the whole WorkChoices package, there is a new scheme called the unlawful termination assistance scheme whereby the commonwealth government will pay for $4,000 of legal advice once a worker has been through the Industrial Relations Commission process and has a certificate from them saying that it is unable to be conciliated and they have to go to arbitration or to the court.

The reason for discontinuing the funding of the program for community legal centres to give people legal advice was that there was this new unlawful termination assistance scheme, but it is actually quite limited in its scope. We used to get $13,500, not a large amount of money, under the Office of the Employment Advocate scheme which has now gone. Fortunately, we were able to make up the shortfall through an increase in a grant from the ACT law society which gets signed off by the ACT Attorney-General. We met with Mr Corbell earlier last year, 2006, and the increase in that grant has managed to offset the loss of the Office of the Employment Advocate funding, but we are barely keeping our heads above water in terms of being able to deliver the service.

THE CHAIR: As to the new program whereby funding is provided if you obtain a certificate from the commission, that cannot occur if you are an employee of a company with under 100 employees, can it?

Ms Budavari: That is exactly correct, yes.

MS PORTER: Are you saying that they cannot get that assistance then?

Ms Budavari: No, they only get the assistance once they have reached a point in the commission. The register of providers is all private legal practitioners and the average charge-out rate of those practitioners is probably $300 to $400 an hour. Effectively, a worker may only be getting 10 hours worth of advice and assistance under that scheme which, if you are going to arbitration or a court hearing, is not really enough. The scheme is quite limited.

THE CHAIR: Is there any data that the centre has been able to gather on the social impact of dismissal in this situation or other factors under the legislation for working families?

Ms Budavari: As a legal centre, it is not something that we would collect. Anecdotally, I can tell the committee that we have had a number of women in our office who have been clearly emotionally distressed by the situation in which they have found themselves, particularly older women who had been with an employer for a long time and were terminated without that employer giving them any reasons. It is enormously difficult emotionally for someone to come to terms with that. We tend to refer them to counselling services to assist them with that. I am not sure if those

services would be able to provide you with that sort of data. For example, we often refer people to women's health services, Relationships Australia, the Conflict Resolution Service and community health centres. We have certainly had lots of distressed women in these situations. In fact, for each of the four stories outlined in the submission, those women presented as incredibly distressed.

MS PORTER: Is there a waiting time for them to be seen? Maybe you do not know whether they have been successful in obtaining an appointment after you have referred them.

Ms Budavari: No, we do not generally get that feedback.

THE CHAIR: Thank you very much for coming in this afternoon to make your presentation and for providing your submission. We will get a copy of the transcript to you as soon as we can. Please keep in contact with the committee. We would like to see data from you in the future. We are due to report in October of this year and we will be looking to finalise the report by about September, I imagine.

The committee adjourned at 4.23 pm.