

“WORKCHOICES” AND HOMELESS PEOPLE

**Patricia Hewitson
Catholic Social Services Australia ***

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The new Federal industrial relations legislation which came into force on 27 March 2006 drastically changed the Australian industrial relations system. This section highlights some implications for homeless people of those industrial relations changes, which the Federal Government calls “WorkChoices”.

Removal of unfair dismissal protection

Where an organization employs fewer than 100 people, no claim will lie for unfair dismissal. The removal of unfair dismissal protection for many workers is likely to worsen the consequences for job security of homelessness and its associated stigma. There may be less chance of an employer showing understanding and support for an employee at a difficult time in his or her life. It is now easier for the employer to dismiss such an employee, because the employee will have no practicable way of seeking redress.

Eligibility for Newstart is also an issue. If person is regarded by Centrelink as having become unemployed by reason of either dismissal for misconduct or voluntarily leaving a job without good reason, this can result in an “activity test penalty” of either a 26-week reduction or an eight-week suspension of Newstart.¹ Centrelink figures indicate that, in the twelve months ending September 2005, 3,264 people were breached for having been dismissed for misconduct, while another 7,883 people were breached for having become voluntarily employed without good reason.² It is possible that more people will find themselves in this situation now that there is almost no legal redress against unfair dismissal as it could be difficult to challenge any alleged “misconduct” regarded by Centrelink as responsible for dismissal from employment. Also, under “WorkChoices” some employees may face a choice between accepting lower pay/conditions and resigning - and resigning under such circumstances may result in an “activity test penalty” of non-payment of Newstart for eight weeks. While an eight-week period without income would be highly stressful for most people, it involves a particularly high degree of hardship for homeless people.

Bargaining in the workplace

Under the new industrial relations system, there will be more and more cases where the only way to obtain a job is to agree to an individual employment agreement (rather than

* Catholic Social Services Australia - www.catholicsocialservices.org.au - provides support to over one million Australians each year

¹ See e.g. http://www.welfarerights.org.au/factsheets/retrenched_leaving_work.htm .

² Calculated from “Centrelink Quarterly Breach Data – Breaches: Total breaches by reason...” for the relevant quarters.

collectively bargained terms and conditions). Negotiating such individual agreements, called Australian Workplace Agreements (AWAs), pose challenges for any employee because of the disparity in bargaining power between employer and individual employee. In practice, there may be little or no opportunity for genuine bargaining: some employers may provide a standard form agreement, offering little more than basic conditions, on a "sign it or go elsewhere" approach. Negotiating assertively is likely to prove especially difficult for an individual whose life is affected by homelessness, domestic violence, mental illness, substance abuse problems, or acute phases of relationship breakdown. Such a person might feel that alternative employment will be too hard to get. Their individual circumstances may well prevent them from making the fullest possible use of what bargaining power they do possess in negotiating an AWA.

Impact of welfare-to-work package on bargaining power of prospective employees

Where a person is subject to workplace participation requirements, they may fear that declining a job - on almost any terms - could result in the loss of Newstart for eight weeks. Such a fear would further undermine the person's bargaining power when negotiating with a prospective employer. This is especially the case for a homeless person, who may lack financial resources to cushion the non-payment period and whose support network may already have been stretched to its limit.

New starters to feel full impact first

New starters in many jobs may be offered pay and conditions inferior to those applicable to other employees doing the same work for the same employer. Initially, this will mean disparities in pay and conditions applying to different colleagues doing the same work, depending on their date of commencement in the position. Over time, this effect will fade (as the number of post-"WorkChoices" starters grows as a proportion of the staff employed by a given employer). If homeless people tend to stay in jobs for shorter periods, they are likely to feel the full impact of "WorkChoices" sooner than most others in the workforce and may feel hard done by relative to their colleagues of longer standing.

Working poor and housing stress

Some commentators suggest that wages and conditions of low-paid workers may decline over time as the effects of the new industrial relations system play out, especially at the first sign of economic recession. Should this suggestion prove accurate, then a greater number of "working poor" people may face extreme housing stress and be at risk of homelessness.

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For more information on "WorkChoices" from the perspectives of the Federal Government and the ACTU respectively, see www.workchoices.gov.au and www.rightsatwork.com.au.