

## Protections for students in the workplace

*Many schoolkids are afraid of their bosses. I know I am, and I feel that a lot of local businesses are exploiting their younger/student employees. Until this year (I'm year 12 now), I was doing 3 shifts a week, often working until after midnight on a school night. Something needs to be done about this, as it is not just me. If we complain or leave on our rostered clock-off time, we get targeted.*

*– (Name withheld), student (NSW).*

*I get fairly good pay but many friends are getting **low wages** and sometimes **no breaks** for 9 hour shifts. Is there a policy for this? We need breaks and food.*

*– Margo, student (NSW).*

### Introduction

- 5.1 The experience of young people in the workplace can vary significantly from a very positive experience to one in which they can be exposed to mistreatment. Student workers can be particularly vulnerable because they often lack awareness of their employment rights and obligations, and their level of knowledge about pay and conditions places them at a distinct disadvantage when entering employment.<sup>1</sup> Young employees also lack external supports and self-confidence. As a result, they can be

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<sup>1</sup> Commission for Children and Young People WA, *Submission no. 40*, p. 3.

susceptible to exploitative conditions such as working long hours.<sup>2</sup> Consideration of the rights and opportunities of young workers can take on increased significance in the context of a tightening labour market.<sup>3</sup>

- 5.2 The NSW Teachers Federation noted that if a student's first experience of employment is a negative one, it can have a lasting effect on their view of the workplace.<sup>4</sup> The Queensland Commission for Children and Young People and Child Guardian added that:

Problems in the workplace can contribute to challenges students face with their personal, economic and social circumstances. These issues can create barriers to learning for some students.<sup>5</sup>

- 5.3 This chapter considers measures to assist students in the workplace, many of whom are experiencing their first taste of the work and yet who often lack information about their fundamental rights and obligations.

## **Flexibility provided by employers to assist students**

- 5.4 It was encouraging to note responses to the committee's student survey and student forums indicated that the great majority of employers appear to accommodate students' requests to take time off or reduce their working hours when they have a high work load or during exam periods, provided adequate notice is provided.
- 5.5 Of the 1,690 survey respondents who participate in some form of work, 1,153 (68 per cent) indicated that their employer provides flexibility to assist them to meet study requirements, for instance, when assignments are due or at exam time. Data from survey respondents suggested that students were more likely to receive flexibility from their employers if they were working less than 15 hours per week (69.2 per cent) than those working in excess of 15 hours per week (62.1 per cent). A selection of comments from students on this issue is included in Figure 5.1.
- 5.6 While smaller businesses are often unable to offer the same degree of flexibility as those with a large pool of employees to draw from, it is clear

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2 Queensland Commission for Children and Young People and Child Guardian, *Submission no. 46*, p. 2.

3 Commission for Children and Young People WA, *Submission no. 40*, p. 4.

4 NSW Teachers Federation, *Submission no. 22, Attachment B*, p. 13.

5 Queensland Commission for Children and Young People and Child Guardian, *Submission no. 46*, p. 2.

that, for the most part, employers really value young workers and do the right thing by them.

5.7 Nonetheless, reference was made to employers who believe they are doing the right thing by their young workers and have appropriate systems in place, but despite their best intentions, fail to provide adequate flexibility. Furthermore, employers often fail to communicate with their young workers to find out just how they are faring in the workplace. Of greatest concern are examples of employers who do not appear to take the interests and needs of students into consideration at all.

5.8 Maxine from Canberra Girls' Grammar School who works for a family business in a restaurant, suggested that there was little provision for flexibility within the hospitality industry:

I have no choice when I work.... [Management] want you to do these specific hours and if you can't do it they don't want you. It really depends where you work. If it is in hospitality I know they do not care about your outside life; it is whether you can work. If you are tired, that is not acceptable.<sup>6</sup>

5.9 The Australian National Schools Network emphasised the need for adequate protections for school-aged employees:

Students need to be *protected* against excessively long hours of work, against injury and abuse, and against employers who do not allow rostered time off for major assessments.<sup>7</sup>

Figure 5.1 Committee survey responses: Flexibility provided by employers to assist students

<p><b>Q. Does your employer provide flexibility to help you meet study requirements, for instance, when assignments are due or at exam time? If you answered yes, can you give examples of how your employer provides this flexibility?</b></p> <p><i>'Yes – They told me when I started that school was more important than work and that if I needed time off during exam time I just needed to give them two weeks notice and they would be fine with me having the time off.'</i> – Emily (ACT), 12-15 hrs per week.</p> <p><i>'No – if I don't tell them 3 weeks before hand, they roster me late shifts and they get angry if I chuck a sickie.'</i> – Adrienne (NSW), 15-20 hrs per week.</p> <p><i>'Yes – My employer understands that I am in upper high school so I can take as much time off work as I need to complete assignments etc.'</i> – Gabbi (WA), 15-20 hrs per week.</p> <p><i>'Yes – My employer lets me take hours off to complete important exam studies or assignments and calls other employees to swap shifts with me to suit my study requirements.'</i> – James (Qld), 15-20 hrs per week.</p> <p><i>'No. I get told to work and I work.'</i> – Anthony (WA), 9-12 hrs per week.</p>
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6 Maxine, student, Canberra Girls' Grammar School, *Transcript of Evidence*, 17 August 2009, p. 7.

7 Australian National Schools Network, *Submission no. 13*, p. 2.

*'Yes – My employer tries not to roster me on during weeknights only when absolutely necessary to give me adequate time to complete my school studies.'* – Gabe (NSW), 6-9 hrs per week.

*'Each of the casuals have set shifts to do. If for instance, I had an exam that I needed to study for, I would offer around my shift for others to cover for me. If it's not covered and I physically can't do it, my employer would understand because my schooling is crucial at this age.'* – Cherie (ACT), 12-15 hrs per week.

*'My employer is good and understands that I have other commitments and allow me to take time off if needed, or work less shifts.'* – Gabrielle (ACT), 6-9 hrs per week.

*'Yes – she says that study is more important so she limits junior's shifts so we can only do so many a week.'* – Casey (NSW), 9-12 hrs per week.

*'Yes – He just understands the needs of school children and when I need time off he will give it.'* – Bridget (NSW), 6-9 hrs per week.

*'No – My Manager/Boss said she doesn't control my school work and that I can't take a day off without filling it out later.'* – Isaac (NSW), 9-12 hrs per week.

*'Yes – My employer provides flexibility for me by allowing me to change my availability when I need to revise for a test or exam.'* – Natasha (WA), 3-6hrs per week.

*'Yes – They want me to do well at school and get the grades I need for medicine. They are very kind to me and don't make me work set hours. Some weeks when I have a lot of exams I don't have to work as they let me study.'* – Angharad (ACT), 6-9 hrs per week.

*'Yes – I'm pretty lucky to have employers who allow flexibility throughout my employment. They are very aware that year 12 is a big year in terms of school and study. If I need time off during exams or if I have a big assessment they happily give it to me.'* – Emma (NSW), (6-9 hrs per week)

*'(My employer) gives me any hours I need off and has a good relationship where he is generally interested in my wellbeing.'* – Emily Louise (WA), 9-12 hrs per week.

*'No – not usually, but if they do they seem annoyed and aggravated by the fact that I am unable to work. In saying that they sometimes give me the hours I want, depending on which supervisor is on the shift.'* – Lauren (NSW), 9-12 hrs per week.

*'Yes – there is an unavailability book. If an assessment is coming up I can notify my manager that I will not be able to work certain days by placing my name in the book. Also, because I am a casual it is already perceived that I may be unable to work some days, it is not a big issue.'* – Lani (NSW), 3-6 hrs per week.

*'Yes – I have given my boss a roster of when I have a lot of assignments due and all the dates of exam weeks and she has said it is up to me whether or not I want to work around those times.'* – Madeline (NSW), 3-6 hrs per week.

*'Yes – if I ask for time off I can generally get it but they never are happy about this.'* – Tyler (NSW), 12-15 hrs per week.

*'No – they expect that school work is needed to be done over working, however I need to work to give support to my single mother.'* – Jessica (NSW), 12-15 hrs per week.

*'No – they don't because they believe school work/your education is more important than having an income at this stage of life.'* – Katie (NSW), 9-12 hrs per week.

*'Jobs that allow for school expectations are difficult to find.'* – Kate (NSW), 12-15 hrs per week.

5.10 The Queensland Commission for Children and Young People and Child Guardian noted that 'adequate protections for young people in the workplace can assist students to enjoy the independence they gain from

part-time work as well as assisting them to get on with the job of learning.<sup>8</sup>

- 5.11 A traineeship manager from a fast-food chain presented evidence about the policies and practices in place to accommodate students' school-work balance needs:

As an employer of high school students, [we are] flexible about the study requirements of our employees and we understand the importance of balancing the demands of work and study. Parents of students are required to sign employment application forms and agree to the shift availability stated on this form. This assures the manager that the student has parent consent to work these hours whilst studying. During exam time throughout the school year, student employees may request to reduce their shift availability due to their increased study load...being a large employer with an average of 55 staff members per store, can easily accommodate these requests for reduced hours because we have enough staff to cover the students' shifts. Our peak business is over the school holidays and many of our employees who are high school students enjoy working extra shifts and earning more money during that period. We believe it is good business sense to be flexible to the needs of our employees, to maintain a positive work environment, to increase retention rates and to reduce the costs associated with staff turnover.<sup>9</sup>

- 5.12 While it was clear that employers are concerned to ensure there are policies in place to help students balance the demands of combining school and work, evidence from student workers suggested that such policies do not always translate into best practice at the coalface. Alex from Leeming Senior High School, stated:

You need to have a large availability so that they can drop shifts on you and so that you can do backups. Earlier this morning somebody was referring to having to stay behind late and having to do extra hours that they were not rostered on to do. That used to happen a lot when I worked [in the fast food industry]. If a lot of people come in to buy fast food you have to accommodate them. On school nights I have had to stay back an hour or a couple

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8 Queensland Commission for Children and Young People and Child Guardian, *Submission no. 46*, p. 2.

9 *Transcript of Evidence*, 8 April 2009, p. 4.

of hours... I have had to send my parents home and they have had to come back later. It is a pain for them.<sup>10</sup>

5.13 A major obstacle to clear communication was that young workers can often be supervised by other school-aged employees. For example, Fiona, a student from Melba Copland Secondary School in Canberra, explained that within nine months of working at a fast food restaurant as a 15 year-old, she was given responsibility supervising people aged 18 or 19.<sup>11</sup>

5.14 One employer group of a large number of school-age students in the fast food industry indicated a number of processes the organisation had in place in support of young managers:

There are many up and coming talented young managers in our system ... the maturity level varies, as does the educational background. There is a point of reference or a mentor in every store. It is usually the restaurant manager or the district manager. They provide support to the young managers and crew members of the store. It would be expected that if the young manager is confronted with issues that they perhaps do not have the skills to handle, they would know whom they need to refer that situation to. There are open lines of communication between the restaurant manager and their young assistant managers in the stores.<sup>12</sup>

5.15 However, evidence from students suggested that policies for young managers either were not in place in a range of organisations, or where they were, did not always translate into practice at ground level. Trent, from Reece High School in Devonport, stated:

A friend of mine who is the same age as me...works seven days a week religiously, over and over again. She is a supervisor. She trains other people. I do not think she is qualified in health and safety and she trains people who have to work there.<sup>13</sup>

5.16 As discussed in chapter two, where students have responsibilities for closing up a business at the end of a shift, this can also impact on their working hours.

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10 Alex, student, Leeming Senior High School, *Transcript of Evidence*, 8 April 2009, p. 41.

11 Fiona, student, Melba Copland Secondary School, *Transcript of Evidence*, 17 August 2009, p. 11.

12 *Transcript of Evidence*, 8 April 2009, p. 17.

13 Trent, student, Reece High School, *Transcript of Evidence*, 21 April 2009, p. 61.

## Negotiating with employers

5.17 Young people can be taken advantage of, not necessarily due to a lack of awareness about their rights, but because they lack the skills and confidence to be assertive in negotiating with employers. Numerous examples were given by students who find it difficult to approach their employers about taking time off, or saying 'no' when contacted to cover a shift at short notice. As a result, students often find themselves consistently 'on-call' and are unable to work to a study plan. Some students reported having to keep their mobile phones turned on at school in case they are called in to work. James, a student from Edmund Rice College in Wollongong, explained:

You never know when they are going to call you. They could call me now and I would have to go to work this afternoon.<sup>14</sup>

5.18 Jaison, also a student at Edmund Rice College, stated that he recently had a three-hour shift one week and then it turned into 16.<sup>15</sup>

5.19 A common response from students was that they were made to feel guilty if they tried to say 'no' and therefore often found themselves doing longer hours and more shifts than desired. The following comments from students illustrate young workers' vulnerability when negotiating with employers:

**Owen:** I do struggle a bit saying no because they try to use some sort of guilt trip on you. They ring you up and say, 'Oh, can you work? We really need you. We could really use you,' and all that stuff. Then you just give in: 'Yeah, I'll come and work.' You fall behind in your studies quite a bit, but I have the support of my teachers to just kick back into gear.<sup>16</sup>

**Adam:** At a previous job, I was working six till five. I was getting pressured into working those hours – they made me feel bad if I did not...it was a guilt thing. They said, 'If you don't work, you just let everybody else down.'<sup>17</sup>

**Lauren:** I think that I do know my rights, but I have been pressured into working when maybe I did not want to or should not have. Even though I do realise that it is my right to say no, I do

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14 James C, student, Edmund Rice College, *Transcript of Evidence*, 30 April 2009, p. 40.

15 Jaison, student, Edmund Rice College, *Transcript of Evidence*, 30 April 2009, p. 43.

16 Owen, student, Craigmore High School, *Transcript of Evidence*, 7 April 2009, p. 34.

17 Adam, student, Australian Technical College North Brisbane, *Transcript of Evidence*, 29 April 2009, p. 50.

feel pressure from the workplace to work when I am not available.<sup>18</sup>

**Amber:** Our old manager, if I rang up and said that I could not come in, would guilt trip me over the phone. I came into work one day really sick; she said I had to come and I was not allowed to not come in. So I came in and ended up going home, throwing up and being really sick. I nearly fainted in the store, and she really did not care. She called me in the very next day, asking me to work again. I was starting to do five-hour shifts before school. I would start at 5am, finish at 10 and then go straight to school afterwards. That was really killing my sleeping time. By the time I got to school, I had no energy left and I would fall asleep.<sup>19</sup>

- 5.20 There was also a concern amongst students that refusing to take on an additional shift when requested would have repercussions when future rosters were prepared. Chris from Leeming Senior High School in Perth, stated:

There is always that pressure. I have talked to people in my year and in the year below who have that same dilemma. Some of them feel pressured. They believe that if they say no one time they will not be asked again. I understand that but I think it depends on the relationship between you and your manager.<sup>20</sup>

- 5.21 Ms Jennifer Jago, a Pathways Planning Officer at Latrobe High School in Tasmania, added:

I have had a number of people over the last few years make comment that if you knock back a shift, particularly if you do it a number of times, you will miss out on shifts. I had a case just the other day. It was someone I know. She is not actually a student. She had two days off sick and she only got one shift this week. So, yes, it does have an impact. Young people in particular who want those jobs see that as a major problem so they will not often, depending on the circumstances of the job, say that they do not want to work until 10 o'clock at night. That is a big issue.<sup>21</sup>

- 5.22 Jaison from Edmund Rice College described a situation where, because he has had to turn down shifts due to increasing demands of school work, he
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18 Lauren, student, Tasmanian Academy (Hellyer Campus), *Transcript of Evidence*, 21 April 2009, p. 20.

19 Amber, student, Craigmore High School, *Transcript of Evidence*, 7 April 2009, pp. 39-40.

20 Chris, student, Leeming Senior High School, *Transcript of Evidence*, 8 April 2009, p. 24.

21 Ms Jennifer Jago, Latrobe High School, *Transcript of Evidence*, 21 April 2009, p. 60.



rarely gets shifts in the holidays anymore, despite wanting the additional work.<sup>22</sup>

- 5.23 Students can also be reluctant for parental involvement in their negotiations with employers. Tabitha, a student from St Clare's College in Canberra, stated:

I suppose employers sort of expect that as we have a job we are responsible for ourselves so then, if your parents step in, employers think, 'Well, clearly you can't look after yourself and you're not responsible enough to have this job, so we won't continue to give you shifts', or 'If you're going to whinge and cause trouble for us, we don't want you working here.'<sup>23</sup>

- 5.24 A further issue arising for many students was their belief that it is standard practice to have to find their own replacement if they were unable to do a shift.

### 'Sometimes they forget that I am only 16'

- 5.25 Students are valuable workers, not only for the skills and enthusiasm they bring to the workplace, but also because they are usually paid an age-based wage, which makes them attractive to employers. While there is a certain level of responsibility which rests with students to balance the competing demands in their lives, there is also a responsibility which lies with employers to recognise that their young employees are still in transition to adulthood, and work is often just one in a series of priorities they are trying to balance. Based on evidence from students, there are employers who are neglecting this responsibility when composing rosters or when calling on their young employees to take on additional hours:

**Alexander:** They would say, 'You are working only nine hours a week. Why can you not do an extra five hours?' I would say, 'Because I am 15. I do not do extra. Nine hours a week is enough for me.' That is what my parents were telling me. As other people were saying, your parents are your guide in whether or not to take on a job.<sup>24</sup>

**Sanja:** ...some employers do not understand that you have school and work...I wanted to study and everything but I could not because of the hours they gave me. I was part time and I told them

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22 Jaison, student, Edmund Rice College, *Transcript of Evidence*, 30 April 2009, p. 56.

23 Tabitha, student, St Clare's College, *Transcript of Evidence*, 17 August 2009, p. 9.

24 Alexander, student, Leeming Senior High School, *Transcript of Evidence*, 8 April 2009, p. 50.

what hours I could work and stuff like that, but they wanted me to work other hours and I knew that I could not do it. They did not seem to understand. In the end I had to quit because of the hours that they kept putting on the roster.<sup>25</sup>

**Rachel:** I am working part-time and I knew that when I went into the job, but sometimes they forget that I am only 16. It is not a job that I am going to be doing forever. Next year I want to go to university. Sometimes the employer thinks it is a bit more serious than it is, that it is our whole life, and they do not realise that we have friends, school and family. For me everything comes a bit before work. A couple of my friends have said that sometimes their employers do not understand that they have a life outside their jobs. If someone gets sick or it is someone's birthday you need to show your support to that person. Sometimes employers could be a bit more considerate.<sup>26</sup>

**Jessica:** I used to work but I had to quit at the beginning of the year because I just found it very hard and stressful... You have to find a boss who will understand, I guess, and help you. If you do need the time off it is rare that you will find an understanding boss who will let you have that time.<sup>27</sup>

## Students' awareness of their rights at work

- 5.26 Discussions with students throughout the inquiry reinforced the observation in submissions that young people tend to lack awareness of their rights concerning rates of pay and employment conditions.<sup>28</sup> The NSW Commission for Children and Young People noted that it was not only young people, but their parents, schools and employers who are unsure about young people's rights and obligations in relation to work.<sup>29</sup>
- 5.27 It was also evident from the committee's student forums that young people experience difficulties understanding the terms of their

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25 Sanja, student, Applecross Senior High School, *Transcript of Evidence*, 8 April 2009, p. 49.

26 Rachel, student, Leeming Senior High School, *Transcript of Evidence*, 8 April 2009, p. 47.

27 Jessica, Illawarra Senior College, *Transcript of Evidence*, 30 April 2009, p. 39.

28 See Australian Council of Trade Unions, *Submission no. 21*, p. 19; Brotherhood of St. Laurence, *Submission no. 12*, p. 5; NSW Teachers Federation, *Submission no. 22*, p. 12.

29 NSW Commission for Children and Young People, *Submission no. 33.1*, p. 7.

employment contract. The ACTU noted that young people are less likely to have the confidence to challenge their employer on these matters.<sup>30</sup>

- 5.28 The Queensland Commission for Children and Young People and Child Guardian stated:

Knowing the standards and conditions they should expect in the workplace and how they can seek redress in cases of mistreatment will improve the position of young people in the workplace and enable them to be empowered.<sup>31</sup>

- 5.29 The Commission also suggested that young workers' vulnerability is increased when they lack knowledge of their employment rights and this can encourage abuse of young people in the workplace. The Commission stated that while it is important young people's rights at work are protected, 'it is just as important that employers, parents/guardians and young people in particular are aware of these rights.'<sup>32</sup>

- 5.30 A National Young Workers Campaign undertaken by the Workplace Ombudsman over 2007-08 targeted 440 employers for a compliance audit. Of 399 audits which had been finalised at 30 September 2008, 165 (41 per cent) of employers were found to be in breach. Breaches largely related to wages (60 per cent), with 18 percent related to weekend penalty rates. The Ombudsman found that the high non-compliance rate was 'indicative of the vulnerability of young workers in the workplace.'<sup>33</sup>

- 5.31 The NSW Teachers Federation found that once students start work, they are interested in the 'rules' of the workplace and want to know that they are being treated fairly. The Federation also found that many students believe such matters should be taught in school.<sup>34</sup> Mrs Deanne Reynolds educates students about their rights at work in her capacity as a careers adviser at Canberra Girls' Grammar School. However, Mrs Reynolds acknowledged that:

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30 Australian Council of Trade Unions, *Submission no. 21*, p. 19.

31 Queensland Commission for Children and Young People and Child Guardian, *Submission no. 46*, p. 3.

32 Queensland Commission for Children and Young People and Child Guardian, *Submission no. 46*, p. 3.

33 Fair Work Ombudsman, *National Young Workers Campaign*, <<http://www.fwo.gov.au/Audits-and-campaigns/Documents/National-Young-Workers-Campaign.pdf>>, accessed 25 September 2009.

34 NSW Teachers Federation, *Submission no. 22*, p. 11.

...making young people aware of their rights and where they can find information about their wages and conditions and what is expected of them is generally not well done in schools.<sup>35</sup>

- 5.32 Occasions where students were treated unreasonably in their first job but did not realise it because it was their first exposure to the workforce appeared to be quite common. Often, students only came to learn of their unfair treatment when they moved in to another job with better systems and practices in place. Fiona, a student from Melba Copland Secondary School in the ACT, had her first experience of work as a 15-year-old in a fast food restaurant. She stated:

I did not have a formal induction and I was being paid \$6 an hour, which I now believe is less than I should have been paid. By the time I had been working there for eight or nine months I was working as a supervisor but being paid the same as everyone else, even though I was only 15 years old and supervising people who were maybe 18 or 19. I had absolutely no idea of my rights as a worker and I did not know how a boss should treat his employees. I know now that my boss was not treating us properly, because he was such an angry person and the way he was talking to us was not right, but I had absolutely no idea that it was not okay. Not to get paid for four weeks and then get paid at the end of four weeks was also not all right. I think it is important, particularly for a first job, that you know what your rights are before you get into it, because I just assumed that that was what part-time work was like.<sup>36</sup>

- 5.33 Hannah from Grace Lutheran College in Brisbane, only came to realise she had been working under exploitative conditions when she found out more about her rights at work in a subsequent job:

I had a job before this job, and I was working eight-hour shifts and did not realise that I was allowed a break. I was the only junior there, and I was left alone for a section of time, whereas at this job they gave me a leaflet on all the rights that I have. That has shown me, and my workplace makes sure that all those rights are followed through every time I work.<sup>37</sup>

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35 Mrs Deanne Reynolds, Canberra Girls' Grammar School, *Transcript of Evidence*, 17 August 2009, pp. 27-28

36 Fiona, student, Melba Copland Secondary School, *Transcript of Evidence*, 17 August 2009, p. 11.

37 Hannah, student, Grace Lutheran College, *Transcript of Evidence*, 29 April 2009, p. 44.

- 5.34 The *You're gold...if you're 15 years old* report, found that some students 'are willing to turn a blind eye to abusive practices for the opportunity to make money and gain employment experience.'<sup>38</sup> This finding was supported in evidence from Luke from the Tasmanian Academy's Hellyer Campus. Luke stated that he was fairly confident that he knew his rights, but he still believed that employers 'may push the boundaries a bit sometimes' with respect to young workers. Luke suggested that even where young people are asked to do things that they 'probably know are not right', they had a tendency to 'want to go along with it anyway.'<sup>39</sup>
- 5.35 Drawing on their own workplace experiences, students agreed that they should be much better informed about their rights. Maddison from Grace Lutheran College in Brisbane, stated:
- I believe that it should be compulsory – the government should print a handout or something like that – for all employers to give information to their employees. I know that when I started I was just given a couple of sheets to fill out, and that was just tax sorts of things; there was nothing about my rights or any future things that I would need to know, such as the age when my wage rate changes and things like that. I really do not know any of that, and it should be compulsory.<sup>40</sup>
- 5.36 Tomas from the Australian Technical College - North Brisbane added:
- ...we should be informed a lot more about our rights and the regulations. Because we are new to the workforce it is a little bit frightening to know what your rights are at work.<sup>41</sup>
- 5.37 The accessibility of information about young workers' rights and the way it is disseminated is also an important consideration in ensuring students utilise this information. Otherwise, as was suggested by Jessica from the Tasmanian Academy in Burnie, students will learn from experience:
- ...in a lot of the businesses where we work, nobody has actually touched the book of rights on the table. Realistically, even if you provide us with a booklet of our rights at work, how many people are going to go through and read what their rights are?  
Everything, especially at this age, comes from experience. Even if

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38 NSW Teachers Federation, *Submission no. 22, Attachment A*, p. 9.

39 Luke, student, Tasmanian Academy (Hellyer Campus), *Transcript of Evidence*, 21 April 2009, p. 20.

40 Maddison, student, Grace Lutheran College, *Transcript of Evidence*, 29 April 2009, p. 44.

41 Thomas, student, Australian Technical College – North Brisbane, *Transcript of Evidence*, 29 April 2009, p. 42.

you do provide the documents, even if you do have pamphlets handed out in support groups, a select few will read it, but generally it will be another one of these informative pamphlets that we are not going to sit down and look into.<sup>42</sup>

- 5.38 It should be stressed that while evidence suggested that many students do not believe they are not adequately informed of their rights, there are clearly employers who disseminate appropriate information very effectively. For example, Natasha, a student from the Canberra Institute of Technology (CIT), explained that she was fortunate to work for employers who paid her correctly, gave her an employment record and issued a manual about her rights at work. She added, 'I do not see enough of that happening in other establishments.'<sup>43</sup> Stephen, also from CIT, stated:

I work for McDonalds. When I started there I was told: 'This is your rate. This is the award you are paid under.' I was given a booklet with information and various means to find out more information if necessary.<sup>44</sup>

- 5.39 Other students reported attending formal induction programs when commencing work where they were briefed not just on pay and conditions, but also occupational health and safety issues.<sup>45</sup>

## Measures to assist young workers

- 5.40 The evidence presented in this chapter relates the significant disadvantages that can confront young employees in the workplace. Student workers lack awareness about their pay rates and conditions and can be vulnerable to mistreatment or exploitation. Lack of awareness is often compounded by a limited capacity and power to negotiate with employers and their lack of external supports and self-confidence.
- 5.41 DEEWR acknowledged that with the significant number of students now in employment, 'the need for appropriate protection, rights and fairness in the workplace is very important.'<sup>46</sup>

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42 Jessica, student, Tasmanian Academy (Hellyer Campus), *Transcript of Evidence*, 21 April 2009, p. 21.

43 Natasha, student, Canberra Institute of Technology, *Transcript of Evidence*, 17 August 2009, p. 11.

44 Stephen, student, Canberra Institute of Technology, *Transcript of Evidence*, 17 August 2009, p. 10.

45 See *Transcript of Evidence*, 21 April 2009, p. 58.

46 Department of Education, Employment and Workplace Relations, *Submission no. 53*, p. 29.

- 5.42 This section looks at some existing or proposed measures to support student workers.

## The new Fair Work system

- 5.43 Australia's new national workplace relations system – the Fair Work system – came into effect on 1 July 2009. The system was established by the *Fair Work Act 2009* and covers the majority of workplaces in Australia.
- 5.44 Key elements of the new system include:
- a legislated safety net of 10 National Employment Standards;
  - new modern awards [as defined in the Act];
  - revised enterprise bargaining arrangements;
  - streamlined protections dealing with workplace and industrial rights, including protection against discrimination and unfair dismissal; and
  - two new organisations to regulate the system: Fair Work Australia and the Fair Work Ombudsman.<sup>47</sup>
- 5.45 The new system is being implemented in stages and some features will not be implemented until 2010.

## Fair Work Australia and Young Worker Liaison Officers

- 5.46 Fair Work Australia (FWA) is the new independent national workplace relations tribunal charged with carrying out a range of functions including:
- providing a safety net of minimum conditions, including minimum wages, in awards;
  - facilitating good faith bargaining and the making of enterprise agreements;
  - granting remedies for unfair dismissal;
  - regulating the taking of industrial action;
  - resolving a range of collective and individual workplace disputes through conciliation, mediation and in some cases arbitration; and
  - functions in connection with workplace determinations, equal remuneration, transfer of business, general workplace protections, right of entry and stand down.<sup>48</sup>

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47 Fair Work Online, *The new fair work system*, <<http://www.fairwork.gov.au/The-new-Fair-Work-system/>>, accessed 21 September 2009.

48 Fair Work Australia, *Our Role*, <<http://www.fwa.gov.au/index.cfm?pagename=aboutrole>>, accessed 21 September 2009.

- 5.47 FWA will assist employees who feel they have been subjected to discrimination, harassment or unfair dismissal. FWA has a website <<http://www.fwa.gov.au>> and national information line where young people can access information and assistance.
- 5.48 A measure specifically relevant for young people is that FWA will have a Young Worker Liaison Officer in each state to develop information relevant to young workers and monitor complaints made by young workers to FWA. These FWA officers will
- make sure information provided by FWA is information young people want and need;
  - make sure information is in terms young people can understand;
  - monitor the terms and conditions of young people under the new workplace relations system; and
  - monitor complaints made by young people to FWA.<sup>49</sup>

## National Code of Practice for Young Workers

- 5.49 The Australian Government has committed to the development of a voluntary *National Code of Practice for Young Workers* which will be devised in broad consultation with stakeholders and the states and territories. The Code will deal with issues such as rostering arrangements for children during school hours, training, mentoring in the workplace and occupational health and safety for young people at work.<sup>50</sup> The Minister for Education, Employment and Workplace Relations, the Hon. Julia Gillard MP, suggested that parents concerned about their child's employment could be confident that if the employer was complying with the National Code of Practice, then their child would be working in a fair and safe workplace.<sup>51</sup>
- 5.50 The NSW Commission for Children and Young People favoured national regulation of young people's work over a voluntary code of practice, citing the complexity of the industrial relations system and lack of protections for young workers to substantiate the need for a consistent national approach which gives due regard for young people's schooling needs.<sup>52</sup>

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49 Department of Education, Employment and Workplace Relations, *Submission no. 53*, p. 34.

50 *Forward with fairness for Australian workers*, ALP Policy Document, pp. 8-9.

51 *Forward with fairness for Australian workers*, ALP Policy Document, p. 9.

52 NSW Commission for Children and Young People, *Submission no. 33.1*, p. 7.



## Young Workers' Toolkit

- 5.51 The Government is also developing a *Young Workers' Toolkit* as a practical means of providing key information for young people about starting work and issues they may encounter in the workplace. DEEWR suggested that the Toolkit would be distributed to young people through organisations such as TAFE, Centrelink, FWA offices and online via the FWA website.<sup>53</sup>
- 5.52 The Minister for Youth, the Hon. Kate Ellis MP, has been seeking feedback from young people on the proposed Toolkit through the Australian Youth Forum website <<http://www.youth.gov.au/ayf>>. The Government is seeking contributions from young people so it can ensure the Toolkit provides information that will be useful to young Australians. Some of the common questions that confront young people in the workplace which the Toolkit proposes to address, include:
- How do I find out how much I should be paid?
  - What can I do if I think I am not being paid correctly?
  - How do I bargain for my terms and conditions of employment?
  - What should I look for in an employment contract?
  - What is the difference between casual and ongoing or permanent employment?
  - Can I be required to do unpaid trial work?
  - What's the difference between work experience, volunteering and paid work?
  - I feel I have been bullied and harassed at work – what should I do?
  - What meal or rest breaks am I entitled to?
  - My boss rosters me on late at night when there is no public transport to get home – what can I do?
  - What can I do if I have problems during a training placement or apprenticeship?
  - I think I have been dismissed unfairly – what can I do?
  - I am concerned I am being asked to do work that isn't safe. What can I do?
  - I am an overseas student – do I have the same rights as local employees?<sup>54</sup>

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53 Department of Education, Employment and Workplace Relations, *Submission no. 53*, p. 34.

54 Australian Youth Forum, *Youth at work*, <<http://www.youth.gov.au/ayf/Ideas/DiscussionForum.aspx?TopicID=16>>, accessed 28 August 2009.

## 'Students@work' website

- 5.53 After analysing findings from its research into students combining school and work, the NSW Teachers Federation sought to develop resources to assist each of the affected stakeholder groups. The Federation has established the website <<http://www.studentsatwork.org.au>> which consists of four sub-sites for students, teachers, parents and carers, and employers and provides a vast array of materials. The Federation gave a demonstration of the website during a hearing in Canberra.
- 5.54 The section for students, for example, has a list of links which includes 'looking for a job', 'applying for a job', 'accepting a job offer', 'staying safe at work' and 'bullying, discrimination and harassment'. It also includes a CV builder. The employers section includes a link on 'being a model employer of students'. The Federation explained that the website provides links to a range of external sites where information is readily available. Ms Sally Edsall explained:

We did not try to reinvent wheels; we tried to send people to places where there is information. We have tried to present examples of what bullying might be but also what it might not be. There is information saying, 'Sometimes you might be asked to do something by an employer that is a perfectly reasonable thing to do and this doesn't necessarily constitute bullying behaviour.' Under 'Harassment and discrimination', rather than try and redefine all the complexity of the legal issues, we have said, 'Look, in New South Wales this is where it is across Australia and really you have got to go to the [Anti-Discrimination Board] or to the [Australian Human Rights Commission].' They are the places to go to for the detailed information.<sup>55</sup>

- 5.55 Also built into the website is a time management tool which enables students to plan their time, but also facilitates communication between stakeholders in students' working lives – their peers, parents, teachers and employers.<sup>56</sup>

## An 'Intergenerational Youth Compact'

- 5.56 The Australian National Schools Network (ANSN) has proposed the development of a national *Intergenerational Youth Compact* (IYC) because it believes that young people are being left to resolve complex problems

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55 Ms Sally Edsall, NSW Teachers Federation, *Transcript of Evidence*, 18 June 2009, p. 3.

56 NSW Teachers Federation, *Submission no. 22*, p. 22.

with insufficient guidance and support from teachers, employers and parents. ANSN is a not-for-profit national network of teachers, researchers, schools, systems, sectors, unions, universities and community and business partners.<sup>57</sup> The concept behind an IYC is that any school, community or group of organisations which endorses the principles underlying an IYC (see Table 5.1) would sign on and promote themselves as an IYC site.

**Table 5.1 Principles underlying an Intergenerational Youth Compact**

<p>1. Providing high-quality learning opportunities for all young people is fundamental to building a society of competent adults. Worksites should be places where young people gain basic employment skills. Wherever possible, workplace contexts should also support the acquisition of higher-level vocational and technical skills. Youth employment should not be 'skill free'. It should include training components that lead to recognised credentials;</p>
<p>2. Our schools must provide flexible programs that respond to the pressures involved in juggling school and work. Flexible timetables, opportunities for extended completion of year 12, and second chance options need to be widely accessible;</p>
<p>3. Young people need guidance on how to combine study and work effectively. Teachers, ancillary staff, employers, unions, and other community agencies should all contribute to delivering 'joined up' programs. Students who work should be encouraged to provide peer support for each other within the school context;</p>
<p>4. Young people have a right to live, study and work in safe environments. As they take their first steps into paid employment, it is their right to be protected against harassment, exploitation, and physical injury;</p>
<p>5. Additional resources are required to provide effective transition support for young people who are from socially and economically excluded communities. No single program or policy can meet the diverse needs of these young people. Indigenous youth, refugees and recent immigrants, homeless and undersupported youth, and young people from remote rural communities must be supported through programs that are crafted and integrated locally, resourced both locally and centrally, and designed to meet their needs;</p>
<p>6. The whole community is responsible for the wellbeing of our young people. Responsibility includes being compassionate, respectful and helpful. Helping young people to manage the many transitions along the diverse pathways that eventually lead towards adult lives requires joint efforts from teachers, parents, employers, students, and others in their communities.</p>

*Source:* Australian National Schools Network, Submission no. 13, pp. 3-4.

57 Australian National Schools Network, *An Overview*, 2008, p. 3.

5.57 ANSN suggested that an IYC would be based on the following three components:

1. *IYC Hubs*, which would bring employers, teachers, parents, students, and others in local communities together. Following the *IYC Principles* outlined above, they would examine the impacts of combining school and work, engage students in a dialogue about learning, identify gaps and problems in relation to school delivery, community services, and workplace regulation, and develop improved forms of transition support for young people.

2. *A national IYC network*, through which educators, employers, parents, and students could learn about and learn from a wide range of initiatives that are being implemented around Australia through the *IYC Hubs*.

3. *Employer and Union commitment to IYC principles*. This is perhaps the most audacious component of the proposal. It would demand high-level leadership from peak bodies. The intention would be to create a recognisable 'badge' for youth-friendly employers, and for unions that give high priority to protecting young people's rights.

5.58 ANSN noted that a number of employers, non-government organisations, local community partnerships, schools, unions and young people themselves have undertaken promising initiatives which already adopt the principles underlying an IYC. An IYC is proposed to connect these initiatives and those who manage them into a mutually supportive network.

5.59 ANSN also identified some secondary schools providing flexible programs which assist students combining school and work. These are discussed in the following chapter.

## **Regulation of the working environment for young people**

5.60 Presently, regulation of the working environment for young Australians remains a legislative matter for state governments. As a result, young workers can be afforded different levels of protection depending on the jurisdiction in which they work. Businesses can face practical difficulties where there is a requirement to observe both federal workplace laws and state child employment laws.<sup>58</sup> Some state and territory governments have

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58 Prof. Andrew Stewart, *Exhibit no. 1*, p. 29.

restrictions about the age that young people can be employed, the type of work they can do and when they can work.<sup>59</sup>

- 5.61 Professor Andrew Stewart's 2008 report for the NSW Commissioner for Children and Young People, *Making the World Work Better For Kids*, noted the varying degree of inconsistency across jurisdictions:

In some jurisdictions the regulation of child employment is almost non-existent, in others extremely elaborate. There are no national standards, except in restricting the performance of work during school hours. There are also problems of integration or consistency. Some businesses are required to comply with both federal and State labour laws when employing someone under the age of 18. It is questionable how widely such a requirement is understood or complied with, especially in small businesses.<sup>60</sup>

- 5.62 Professor Stewart's report advocated an approach to the regulation of child employment based on four main premises:

- a *national focus*, to be achieved either by the passage of a federal law on child employment, or through harmonisation of State and Territory laws;
- the adoption of *clear and simple* rules and processes;
- a need for those rules and processes to be *consistent* with general labour laws - in particular by dealing only with those matters that cannot or should not be left to those general laws; and
- the adoption of various strategies for informing those concerned of their entitlements and obligations, and for overcoming the problems that many young workers encounter in asserting their rights.<sup>61</sup>

- 5.63 Some inquiry participants advocated national regulation of children's work. For example, the NSW Commission for Children and Young People stated that 'we need to have at least a harmonised approach to the way in which we regulate children's work.'<sup>62</sup>

- 5.64 The NSW Commission for Children and Young People indicated that a regulatory approach should consider things such as the age at which

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59 Fair Work Online, *Best Practice Guide: An employer's guide to employing young workers*, <<http://www.fwo.gov.au/Best-Practice-Guides/Documents/05-An-employer's-guide-to-employing-young-workers.pdf>>, Accessed 21 September 2009.

60 Prof. Andrew Stewart, *Exhibit no. 1*, p. 39.

61 Prof. Andrew Stewart, *Exhibit no. 1*, p. 39.

62 Ms Gillian Calvert, NSW Commission for Children and Young People, *Transcript of Evidence*, 30 April 2009, p. 7.

young people work, the length of hours for which they work, the time at which they work, as well as employer responsibility for the dissemination of information about occupational health and safety issues.

5.65 Queensland's Commission for Children and Young People and Child Guardian agreed and suggested that 'clear, robust and simple legislative protections should exist nationally to support all young workers.'<sup>63</sup>

5.66 The NSW Teachers Federation added:

We want students to be able to undertake part-time work with the confidence that they are going to be working under properly regulated conditions and they know where they can find information and support if they need it. That is where the federal government can assist, with uniform standards and legislation. We want expanded opportunities for students to combine school and work...<sup>64</sup>

5.67 It was also argued that any national regulatory scheme must be supported by an information and advisory service for children and young people, parents, schools and employers.<sup>65</sup>

## How many hours should students work?

5.68 Students expressed some confusion about receiving mixed messages from parents, schools and employers about how many hours they should be working, or whether they should even be working at all. Many students reported being encouraged by their schools or teachers to give up their part-time jobs during their senior schooling years:

At the beginning of this year I had an English teacher who said, 'Quit your job.' I said, 'I love my job.' She said, 'You should quit because you have to study. English is more important.' I said, 'I love my job. It is a bit of a release for me.' ...The teachers are saying, 'Quit your job. You have to study', but your parents are saying, 'Go and get a job.'<sup>66</sup>

5.69 The South East Local Learning and Employment Network also commented on the negative attitude of teachers with regards to students' part-time work:

63 Queensland Commission for Children and Young People and Child Guardian, *Submission no. 46*, p. 2.

64 Ms Sally Edsall, NSW Teachers Federation, *Transcript of Evidence*, 30 April 2009, p. 10.

65 NSW Commission for Children and Young People, *Submission no. 33.1*, p. 8.

66 Rachel, student, Leeming Senior High School, *Transcript of Evidence*, 8 April 2009, p. 53.

In our experience, there is a strong view held by many educators that part time work is NOT good for a student's school work. It is common to hear from them that part time work interferes with learning and that many students suffer in their results because of their part time work load.<sup>67</sup>

5.70 DEEWR agreed that educators do not always appreciate how much young people value their part-time work outside school.<sup>68</sup>

5.71 While it may be difficult to establish the impact of work on educational attainment, the Queensland Catholic Education Commission stated that 'it goes without saying that overwork, especially successive late shifts and "closings", can have a detrimental effect on a young person's learning, not to mention their overall health.'<sup>69</sup>

5.72 As noted in chapter three, one of the major dilemmas in determining what represents an appropriate number of hours for students to be spending at work is that research suggests that 'different individuals appear to tolerate different hours.'<sup>70</sup>

5.73 The impact of a student's work can also be affected by other activities they engage in outside school time such as sports, dance, music practice, or community service. Students involved in sporting teams, for example, can be required to train a number of times during the week and then play competition on weekends. One student stated that:

Some kids have a lot of sporting commitments which disrupts and interferes with study time. I am home for only half the weekends of the year and train five times a week.<sup>71</sup>

5.74 It is also questionable whether students have the capacity to self-assess when the number of hours they are working is impacting on their school work/health. This was evident during the school forums where examples were provided of students taking on too much work to the point where it impacted adversely on their academic results. Two such instances were related by senior students from Grace Lutheran College in Brisbane:

About a year and a half ago now...I was only at the end of grade 10, but the other workers there were at the end of grade 12. A guy

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67 South East Local Learning and Employment Network, *Submission no. 23*, p. 4.

68 Department of Education, Employment and Workplace Relations, *Submission no. 53*, p. 3.

69 Queensland Catholic Education Commission, *Submission no. 18*, p. 4.

70 Ms Alison Anlezark, National Centre for Vocational Education Research, *Transcript of Evidence*, 7 April 2009, p. 3.

71 Nicholas, NSW, student survey response.

and a girl there were both doing up around 20 hours a week... they both had aspirations to go to university, but, unfortunately, neither got the [results] they expected.... Their opportunities got cut down a bit. It is just annoying to see them trying to juggle it all. You wish someone would sit them down and say: 'There is a life after this year and you should try and keep your eyes focused on the future as well. It is great to make \$3,000 this year, but how is it going to impact on you for the rest of your life?' You just wish that you could help some people who are struggling and give them a hand.<sup>72</sup>

A girl at my work decided to work too many hours last year. She was finishing year 12 and, because she chose to work too many hours, she did not get into the subject she wanted to do – she failed to reach the prerequisite for it because she juggled too much with work and school...She has been telling me not to work as many hours. She said it was just too hard.<sup>73</sup>

- 5.75 The Parents and Friends' Federation of Western Australia acknowledged that part-time work can limit a student's options with respect to further education:

For university bound students, part time work can adversely affect university entry prospects, especially for the higher Tertiary Entrance Rank (TER) courses - excessive work hours can often affect the achievement levels of year 11 and 12 students with rigorous study demands.<sup>74</sup>

- 5.76 One of the questions canvassed during the inquiry was whether there should be a cap, either enforced through legislation or otherwise, on the number of hours students spend in paid employment and the lateness of those hours.
- 5.77 Various states have child employment legislation which restricts the hours young people can work, although legislation generally only applies to young employees aged under 15 (or in the case of Queensland, aged under 16).
- 5.78 Queensland enacted child employment legislation in 2006 which regulated the working environment for school-aged children under 16 and limits their hours of work to ensure that their employment does not adversely

72 Matthew, student, Grace Lutheran College, *Transcript of Evidence*, 29 April 2009, p. 49.

73 Hannah, student, Grace Lutheran College, *Transcript of Evidence*, 29 April 2009, p. 49.

74 Parents and Friends' Federation of Western Australia, *Submission no. 3*, p. 3.



impact on their studies. Specifically, the legislation prevents school-aged children from being required to work longer than:

- 12 hours during a school week;
- 38 hours during a non-school week;
- 4 hours on a school day; and
- 8 hours on a non-school day.<sup>75</sup>

5.79 Additionally, the legislation does not allow school-aged children to work between the hours of 10pm and 6am and children between 11 and 13 years of age who are performing supervised delivery work are not allowed to work between 6pm and 6am.<sup>76</sup>

5.80 In New South Wales, an employer must not require a child under 15 to work later than 9.00pm if the child is required to be at school the next day. Children also cannot be required to start work less than 12 hours after a previous shift, whether for the same or for any other employer.<sup>77</sup>

5.81 Victoria's child employment legislation restricts children under 15 from working more than 3 hours per day and 12 hours per week during the school term, and 6 hours per day and 30 hours per week outside the school term. Work is generally to be performed only between 6:00am (or sunrise) and 9.00pm, with a rest break of at least 30 minutes after every 3 hours of work, and a minimum break of 12 hours between shifts.<sup>78</sup>

5.82 In the Northern Territory it is an offence for an employer to require a child to work after 10:00pm at night and before 6:00am in the morning where the child is under 15.<sup>79</sup>

5.83 Students conveyed some support for rules which limit how late they can be asked to work via the committee's student survey:

I believe that if a night curfew were introduced for school-aged employees, this would make my experience easier, as I can be kept back at work until midnight on school nights, with no compensation whatsoever. This makes it difficult to do homework

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75 Queensland Government, *Submission no. 41*, p. 12.

76 Prof. Andrew Stewart, *Exhibit no. 1*, pp. 48-50.

77 Children and Young Persons (Care and Protection – Child Employment) Regulation 2005. Available online at: <[http://www.kidsguardian.nsw.gov.au/example-folder-5/CE\\_Regulation\\_2005\\_Amended\\_2008.pdf](http://www.kidsguardian.nsw.gov.au/example-folder-5/CE_Regulation_2005_Amended_2008.pdf)>, accessed 16 September 2009.

78 Prof Andrew Stewart, *Exhibit No. 1*, p. 46.

79 Prof Andrew Stewart, *Exhibit No. 1*, p. 54.

when I begin immediately after school and get home so late.

- Laura (NSW), 6-9 hrs per week.

Another thing would be to increase laws regarding how late kids work. School nights my work closes at 11.15pm and 11.45pm, this is hard as I get to sleep late and am unable to pay attention to school.

- Nicola (NSW), 9-12 hrs per week.

- 5.84 Some witnesses expressed caution against regulating the number of hours that students can work while still at school on the basis that it may encourage early school leaving for those dependent on the income from their part-time jobs. For example, Mrs Theresa Paxino from the Victorian Department of Education and Early Childhood Development, stated:

...you referred to the number of hours that students were working and to the idea of mandating the number of hours that they might be allowed to work while they are at school. Although that seems a protective thing for students, it concerns me that students who desperately need the income will leave school early rather than complete their education while they are working.<sup>80</sup>

## Committee comment

- 5.85 Not only are a significant number of students combining school and work, but the nature of that work has changed markedly. Whereas students' part-time jobs were once based around a Thursday night and Saturday morning shift, the number of hours students work today and the lateness of the hours worked are very different. This is largely a result of the extended weekend trading hours in the retail sector and the late-night trading in the fast-food industry.
- 5.86 The committee greatly appreciated hearing evidence from employer organisations, who were obviously concerned to be good employers of young people and outlined a range of policies and practices in place. However, when hearing directly from those young workers, it was evident that these policies may not always be translated into practice. Students recounted occasions where they were tasked with unrealistic demands from their supervisors, and often these supervisors were school-aged employees themselves. The Government's proposed *National Code of*

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80 Mrs Theresa Paxino, Victorian Department of Education and Early Childhood Development, *Transcript of Evidence*, 22 April 2009, p. 17.

*Practice for Young Workers* should ensure the provision of appropriate adequate supervision for young workers, including appropriate training for young managers and supervisors.

- 5.87 Students who prove to be highly valuable employees can potentially be their own worst enemy because, at times, their employer may overlook the fact that they are essentially dealing with a young person who is trying to balance not only school and work along with other extra-curricular activities, but everything else that happens in their lives during adolescence. It is important that employers understand that there are certain responsibilities that come with taking on a school-aged employee, including recognition that most secondary students are already effectively working a 30-hour week by virtue of the fact that they are spend 30 hours each week at school.
- 5.88 The Government's proposed National Code of Practice seeks to provide information about employment issues and industrial relations to young people. While the Government acknowledged the Code will be voluntary, it proposes to address many of the issues raised in this chapter, such as rostering arrangements for student workers.
- 5.89 The proposed Code of Practice presents an ideal opportunity for a national scheme to recognise the contribution of model employers of young Australians. Drawing from the example of the Equal Opportunity for Women in the Workplace Agency's (EOWA) *Employer of Choice for Women* citation, the Government should give consideration to a similar national scheme which recognises employers of choice for Australia's youth.
- 5.90 Through the Employer of Choice for Women scheme, women-friendly, non-government organisations who have received recognition as an 'EOWA Employer of Choice for Women' can then use this citation in recruitment, advertising and other company promotional material. This allows recognised organisations to 'differentiate themselves from their competitors and achieve public acknowledgement of their efforts in the area of equal opportunity for women.'<sup>81</sup>
- 5.91 To be an EOWA Employer of Choice for Women an organisation needs to be compliant with the *Equal Opportunity for Women in the Workplace Act 1999* and:
1. Have policies in place (across employment matters) that support women across the organisation;

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81 Equal Opportunity for Women in the Workplace Agency, '*EOWA Employer of Choice for Women*', <[http://www.eowa.gov.au/EOWA\\_Employer\\_Of\\_Choice\\_For\\_Women.asp](http://www.eowa.gov.au/EOWA_Employer_Of_Choice_For_Women.asp)>, accessed 9 September 2009.

2. Have effective processes (across employment matters) that are transparent;
  3. Have strategies in place that support a commitment to fully utilising and developing its people (including women);
  4. Educate its employees (including supervisors and managers) on their rights and obligations regarding sex-based harassment;
  5. Have an inclusive organisational culture that is championed by the CEO, driven by senior executives and holds line managers accountable;
  6. Deliver improved outcomes for women and the business.<sup>82</sup>
- 5.92 Being branded as an Employer of Choice for Youth would indicate an employer has been assessed against a similar set of criteria which ensures they have sufficient policies and practices in place to promote a supportive environment for young workers. Employers of Choice for Youth would be required to comply with the proposed National Code of Practice for Young Workers and exhibit characteristics such as:
- a commitment to supporting and encouraging student workers in their schooling and pursuit of further educational opportunities;
  - a strong emphasis on training and development of young employees;
  - ensuring the provision of appropriate adequate supervision for young workers;
  - ensuring the provision of appropriate adequate supervision for young managers; and
  - ensuring that procedures and measures for workplace health and safety are always adhered to.
- 5.93 An Employer of Choice for Youth program would also have an educative role for employers in raising the issue of the importance of providing a supportive environment for young workers.

#### **Recommendation 4**

- 5.94 **That the Australian Government establishes a national Employer of Choice for Youth program to recognise the contribution of model employers of young workers.**

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82 Equal Opportunity for Women in the Workplace Agency, 'EOWA Employer of Choice for Women', <[http://www.eowa.gov.au/EOWA\\_Employer\\_Of\\_Choice\\_For\\_Women.asp](http://www.eowa.gov.au/EOWA_Employer_Of_Choice_For_Women.asp)>, accessed 9 September 2009.

- 5.95 Placing a cap on the number of hours a student can be asked to work during a school week has some appeal. However, the application and enforcement of such a regime would be problematic if introduced through legislation. While many young people are working for discretionary spending, a minority of students are working out of a necessity to support either themselves or their families financially.
- 5.96 The committee concurs with the views of the NSW Commissioner for Children and Young People, who suggested that it may be better to invest time and effort into an information and advisory service that is widely available to students, their parents and employers.
- 5.97 The Government's proposed Young Workers' Toolkit offers a mechanism for disseminating appropriate information about the rights and responsibilities of students and their employers in the workplace. It would also serve as a useful reference point for students to enhance their confidence when negotiating with their employer. The effectiveness of the Toolkit will be contingent on it being widely publicised and distributed, and easily accessible. The Government has indicated that the Toolkit will be distributed through organisations such as TAFE, Centrelink and Fair Work Australia. The Toolkit should be both promoted and made widely available to secondary students through their schools.

### **Recommendation 5**

- 5.98 **That the Australian Government ensures the proposed National Toolkit for Young Workers is made available to students through circulation to all secondary schools in Australia.**
- 5.99 At present, regulations regarding the employment of young people administered by state and territory governments vary significantly across jurisdictions. Given these variations, concerns were raised about how much is known about these regimes within the community or across the business sector, including how widely they are complied with in practice.
- 5.100 There is a need for better co-ordination and legislative consistency between jurisdictions to make it simpler for employers to ensure that all young workers receive adequate protections.
- 5.101 While the Government has sought to improve consistency in the treatment of young employees through a National Code of Practice, there are limits

to how much a voluntary code of practice can achieve given the degree of inconsistency in regulation across jurisdictions.

- 5.102 The Minister, through the Ministerial Council for Education, Early Childhood Development and Youth Affairs, should encourage collaboration between jurisdictions with a view to achieving harmonisation of existing state-based legislation regarding employment of young people and national consistency of regulatory measures.
- 5.103 All Australian jurisdictions have established a Commissioner for Children and Young People or equivalent body which have varying functions (see Appendix E). At present, there is no National Commissioner and, as such, there is no advocate within the Australian Government to coordinate consistent standards in the regulation of young people's work. This is despite the idea receiving support in recent years from those in the community advocating a greater need for child protection and the recognition of children's rights. The establishment of a National Commissioner for Children and Young People was unanimously recommended by a Senate committee inquiry in 2005.<sup>83</sup>
- 5.104 Under the *National Framework for Protecting Australia's Children 2009–2020*, an initiative of the Council of Australian Governments (COAG), one of the strategies that governments and others have agreed to undertake is 'to explore the potential role for a National Children's Commissioner including the relationship with State and Territory Children's Commissioners.'<sup>84</sup>
- 5.105 The Australian Education Union advocated the establishment of a National Commissioner to:

...provide national leadership, research, education and advocacy in relation to the welfare, interests and wellbeing of children and young people, to monitor and report on their welfare and status, and encourage the participation of children and young people in decision-making that affects their lives.<sup>85</sup>

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83 Senate Community Affairs References Committee, 2005, *Protecting vulnerable children: A national challenge*, Second report on the inquiry into children in institutional or out-of-home care, Canberra, p. 192.

84 Council of Australian Governments, *Protecting Children is Everyone's Business: National Framework for Protecting Australia's Children 2009-2020*, <[http://www.coag.gov.au/coag\\_meeting\\_outcomes/2009-04-30/docs/child\\_protection\\_framework.pdf](http://www.coag.gov.au/coag_meeting_outcomes/2009-04-30/docs/child_protection_framework.pdf)>. Accessed 24 September 2009.

85 Australian Education Union, *Submission no. 24*, p. 4.

- 5.106 The Government is encouraged to progress the establishment of a National Commissioner, with a view to facilitating harmonisation of existing regulation of employment of young people across jurisdictions, through promoting and co-ordinating a sharing of information and experiences across each of the states and territories.

### **Recommendation 6**

- 5.107 **That, through the Ministerial Council for Education, Early Childhood Development and Youth Affairs, the Minister for Education, Employment and Workplace Relations, as a matter of priority, encourages collaboration between jurisdictions with a view to achieving harmonisation of existing state-based legislation regarding the employment of young people and national consistency of regulatory measures.**

### **Recommendation 7**

- 5.108 **That the Australian Government progresses the establishment of a National Commissioner for Children and Young People as a matter of priority.**

