



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON EMPLOYMENT, EDUCATION AND
WORKPLACE RELATIONS

**Reference: Issues specific to older workers seeking employment, or establishing a
business, following unemployment**

TUESDAY, 21 MARCH 2000

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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON EMPLOYMENT, EDUCATION AND WORKPLACE RELATIONS

Tuesday, 21 March 2000

Members: Dr Nelson (*Chair*), Mr Barresi, Mr Bartlett, Mr Emerson, Ms Gambaro, Mrs Gash, Ms Gillard, Mr Katter, Mr Sawford and Mr Wilkie

Members in attendance: Mr Barresi, Mr Emerson, Ms Gambaro, Mrs Gash, Ms Gillard, Dr Nelson, Mr Sawford and Mr Wilkie

Terms of reference for the inquiry:

Inquire into and report on the social, economic and industrial issues specific to workers over 45 years of age seeking employment, or establishing a business, following unemployment.

WITNESSES

BASTIAN, Mr Rob, Chief Executive, Council of Small Business Organisations of Australia.... 1008

DAVIES, Mr Ted, Managing Director, Operations, RightD&A 1008

GALLET, Ms Wilma, National General Manager, The Salvation Army Employment Plus..... 1008

LEECH, Dr Marie, National Manager, Research and Social Policy, Mission Australia..... 1008

**NEWY, Ms Marie, Director, Labour Market Policy Section, Parenting Payment and Labour
Market Branch, Department of Family and Community Services 1008**

OGDEN, Mr Max, Senior Industrial Officer, Australian Council of Trade Unions 1008

**PATERSON, Mr Mark Ian, Chief Executive, Australian Chamber of Commerce and Industry
..... 1008**

ROLLAND, Ms Louise, Executive Director, Jobs East 1008

SHELL, Mr Tony, Area Manager, Area Hunter, Centrelink 1008

SHEEN, Ms Veronica, National Policy Officer, Council on the Ageing (Australia) 1008

STEVENSON, Mr Neil, Chairman, Jobs East 1008

THATCHER, Mr Colin, Assistant Director, Business Council of Australia 1008

**WINZAR, Ms Peta, Assistant Secretary, Parenting Payment and Labour Market Branch,
Department of Family and Community Services 1008**

WIGHTMAN, Mr Peter, Manager, Employment Allowances, Centrelink 1008

**YATES, Mr Ralph Bernard, Group Manager, Labour Market Policy Group, Department of
Employment, Workplace Relations and Small Business..... 1008**

Committee met at 1.38 p.m.

CHAIR—Firstly, we need to go through some formalities. Welcome to everybody, both those who are active participants and those who have come with a very real interest in this issue and who are observing this hearing from the gallery, so to speak.

Resolved (on motion by **Mr Sawford**):

That this committee authorises the live broadcast of the evidence to be given before it at the roundtable forum on this day and the publication of the proof transcript on the electronic parliamentary database.

CHAIR—I declare open this roundtable forum as part of the inquiry into mature age workers. I welcome the representatives of peak employer organisations, the Australian Council of Trade Unions, Job Network providers, the Council of the Ageing and departmental officers from the Department of Employment, Workplace Relations and Small Business, the Department of Family and Community Services and Centrelink.

PARTICIPANTS

BASTIAN, Mr Rob, Chief Executive, Council of Small Business Organisations of Australia

DAVIES, Mr Ted, Managing Director, Operations, RightD&A

GALLET, Ms Wilma, National General Manager, The Salvation Army Employment Plus

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WIGHTMAN, Mr Peter, Manager, Employment Allowances, Centrelink

YATES, Mr Ralph Bernard, Group Manager, Labour Market Policy Group, Department of Employment, Workplace Relations and Small Business

CHAIR—I understand that Mr Ogden from the ACTU is due to be here but, presumably, is late for some reason and Mr Paterson, from the Australian Chamber of Commerce and Industry, has a meeting and will not be here until 3 o'clock. We also understand that Mr Bastian, from the Council of Small Business Organisations, has been unavoidably delayed, but we expect to see him very soon.

I remind you that the proceedings here today are legal proceedings of the parliament and warrant the same respect as proceedings in the House. The deliberate misleading of the committee may be regarded as a contempt of the parliament. The committee prefers that all evidence be given in public, but if at any stage you wish to give evidence in private please do not hesitate to ask to do so and the committee will consider that request.

First of all, I thank all of you for agreeing to come to this inquiry. I know that it is something that is important to all of you and of concern to some others. The inquiry has spent almost a year now examining evidence, both written and given in face-to-face meetings with people who have come to speak to us—and I think we have crossed paths with each of you at least on one occasion. Amongst the many things that we have encountered when trying to properly examine and make recommendations in relation to mature age unemployment and career transition for people over the age of 45 is the way in which the redundancy and dismissal process is managed. In some cases it is managed extremely well, and the BHP personal Pathways program is probably the gold standard. That, of course, is not a standard that all Australian companies could possibly reach. But other companies handle it particularly badly. There is no doubt—certainly in my mind and, I think, in the minds of most of us—that losing a job in a country where we define ourselves through our work is as significant a life event as losing a member of your family, losing a limb or having some other catastrophic event occur, after which there is a significant grief and bereavement process established, not to mention adjusting to it. We are also mindful of the fact that one of the reasons that employees are losing their jobs is that the business itself is in trouble, and no-one should forget that.

In considering how we can possibly improve and—for want of a better expression—humanise the whole process by which employees make the transition from work to hopefully only a brief period of unemployment, if that, and then to another job or into a small business, we are considering the concept of whether there ought to be some kind of code of conduct established jointly between workers, their representative organisations, employer organisations, government and non-government welfare organisations to see if it is, firstly, desirable and, secondly, of practicable assistance to develop a code of conduct which is appropriate to the size of each and every business. We have been told by some of you that that would be of assistance to some employers. Other employer organisations are naturally sceptical that this might further add to the burdens that employers already face.

I think it is also fair to say that our committee is not supportive of something that is unnecessarily prescriptive, nor certainly of anything that is going to make it more difficult for business to create employment opportunities for people. Nonetheless, I think we are convinced that there is a better way of doing it. That is why we are here today: to listen to you and to solicit your views on this. So thank you very much for being here. I might invite Tony Schell from Centrelink up in the Hunter region to explain to us—although I realise we are probably talking to the converted in this audience—the BHP personal Pathways, which is the gold standard and is well beyond the capacity of many of your members, for example, Rob. Perhaps you might give us an overview of that first, Tony.

Mr SCHELL—As most of you would realise, BHP announced the closures nearly two years before they actually occurred and, at the same time, announced the Pathways program itself. We at Centrelink were able to work with BHP and the unions involved in a transition program to

assist the people who were going to be redundant to make choices and to make the transition as smoothly as they possibly could. What we did was to work with our colleagues in other government departments in the Hunter and the Department of Employment, Workplace Relations and Small Business, and we virtually established an office on site where we commenced interviewing people who were going to leave BHP about two months before the actual closure. We were able to provide them with advice on the impact of their redundancy payments and any other payments that they were picking up because of the closure, and to assist them to make that transition by registering them for employment, getting them access to the Job Network and adjusting other payments which they had an entitlement to but which were affected by the closure.

That process continued right through until the plant shut. We maintained the office for a period of about two weeks after the actual closure and we were extremely busy over that entire period. We were also able to make the transition for those workers to their local office a lot easier as well because we were able to establish records on our system and it was not as though they were walking into an office cold. We had some record of them and we were able to have some history in terms of dealing with them. The process is the gold standard, as has been mentioned, and it made it very easy for us to provide a full range of services to the workers. We received great cooperation from BHP and provided them with valuable assistance as well.

Prior to actually establishing the office, we did set up a program of seminars for the workers. They were run outside working hours or on site at the plant as well, which gave them broad outlines that they could think about before they had an appointment with us and were able to discuss their circumstances. That worked well. We were also able to identify particular groups within that work force that had English language difficulties, and we were able to arrange interpreters and other assistance for them when it came to interviews. Because we had such a lead time, we were able to provide an extensive range of services and we had a lot of time to organise those. The contrast for us is that, with a lot of other closures, we find out about them a day or two before or just after they happen. We provide the same service, but it is in a much more condensed time frame. From our point of view, the longer the time frame we have, the more time we have to organise and provide those services.

CHAIR—Thanks very much, Tony. I suppose the threshold issue is, firstly, whether it is desirable. I think it is fair to say, knowing what most of you have said to us, that you think that in principle it is. I might ask you, Colin Thatcher from the Business Council: where does your organisation stand in relation to this?

Mr THATCHER—The BCA believes that the effectiveness of the Jobsearch assistance is diluted when it is provided after a period of unemployment. That is basically our premise, where we are coming from. Our approach is to look at ways of reducing that timelag between the time a decision is made to retrench or to embark upon a redundancy program and the time when a person qualifies for more intensive search arrangements. Doing that, as we would see it, would require many people being involved, not just a code of conduct on employers. In other words, one needs to ensure that employees understand the urgency so they do not sit around and wait until after their redundancy payment has run out to start seeking employment because the chances of them gaining employment are diminished. Employees certainly need to have an understanding of that and be accepting of arrangements in an early referral process.

Employers also need to be aware of this fact. If there is to be some role for employers to be a conduit to make referrals, that should occur in a fairly non-bureaucratic way, I would think. I am mindful of the fact that section 170CL of the Workplace Relations Act also imposes some conditions, and one would not want to have another parallel arrangement. So, whatever the arrangements or guidelines for employers, they would have to be non-bureaucratic and not act as a disincentive. Then there is a role for Centrelink to look at the criteria for when the intensive assistance will chip in so that it is not contributing to the lag which then contributes to the period of long-term unemployment. There are means for the Job Network providers getting involved earlier by linking earlier with employers and making contacts with employees before the actual approval comes through from Centrelink.

CHAIR—Rob Bastian, your members are probably at the other end of the business spectrum from Colin's. Would you like to tell us what your thinking is in this?

Mr BASTIAN—I do not think the sector is really across this issue in terms of offering a policy recommendation. I have certain feelings that I know would be relevant based on the experience of running COSBOA for about 14 years. I am struggling to actually connect with this discussion. The two speakers at the moment basically have been talking about processes to sensitively, I guess, lay people off because of efficiencies they are pursuing at the big end. I am extremely conscious that small firms by and large are picking up about 60 per cent of the net job growth—net after the lay-offs. My focus is more about how to encourage them to employ more and remove impediments to employment. I wish my thoughts were a bit more organised. By 4 o'clock they probably will be.

In terms of laying people off, which seems to be where the other two speakers have been coming from, I am a little worried about the orderly process of doing that because in practical terms in a small firm you are in denial. You are worried about unfair dismissals processes; you probably haven't got yourself completely across all those sorts of issues in a tiny firm employing three or four people. You are trying to make sure that you do not give expectations that you should not be giving, but by the same token you are probably focused a little bit on your business, to try to stay in the ring in the hope that you do not have to lay somebody off. I do not know that a code of conduct would really help you with that dilemma.

My worry about honest dialogue with a person that may be facing the cessation of their employment is to try to get the capacity for honesty at that point. I am thinking of myself here. I employ about 30 people. It is a roller-coaster ride. I honestly do not know whether I will be here in six months time when some of the contracts I am running are not there. I do not feel free at this moment to discuss that with my staff because all sorts of subtle things come in. They start to look around, and I cannot afford the inefficiency of their looking for other work. I do not have that sort of fat. I am running flat out. I am not BHP, looking to wind back an operation over three or four years in a country region. I do not have that sort of scale.

I am concerned—and this is pretty instinctive; I wish I was better prepared—that a code of conduct should not lay on me things that I cannot deliver and things that basically exacerbate my trying to be honest with my staff, trying to keep the show on the road and trying to do the best I can for what I see are competing forces. I run COSBOA on a contract basis, and I have about 30 employees at the moment—but they come and they go pretty quickly. I am worried

about unfair dismissals. I am worried about residual responsibilities to people in terms of making sure that I have the right amount of money to pay out staff. I am worried about a whole pile of things that seem to me to hang around the edge of a code of conduct which, I am afraid, have to be factored in there. I do not know whether this impassioned speech is really getting anywhere, but the truth of the matter is that I am finding it rather difficult to actually relate to this discussion because I am conscious that the average firm size in the country is 6.3 people, including the big end of town, and when it gets down to 3.5—when you take out the top end of town—those firms would never even read this code of conduct.

CHAIR—When we last spoke, you said that you thought it was a good idea.

Mr BASTIAN—A code of conduct?

CHAIR—Yes.

Mr BASTIAN—For employment, not for dismissal—not for removal.

CHAIR—We will pull the *Hansard* out to remind you, if you like.

Mr BASTIAN—I have it here.

CHAIR—What we are looking at is some sort of guideline which gives an employer a series of, I suppose, ‘check’ things that might be considered when they are essentially forced to make a person redundant or to dismiss them. Whilst it is, of course, an issue of debate, we are not talking about unfair dismissal provisions, legal entitlements and those sorts of things. We are considering whether family members should be notified, whether it should be pointed out to the employee that Centrelink is there to help them and that there is a non-government organisation in their particular area which can provide assistance to them; In other words, that, when people go into a small business, they take with them a series of skills—financial management skills and also personal skills. Some employers are very good at dealing with their interpersonal relationships with employees; others are not. Whether it is a small business or a large business, there has to be a better way of doing it than, as we have encountered, just throwing people out the door. That is what it is about, Robert. It is not about those legal things with which I know your members are encumbered.

Mr BASTIAN—My apologies then. I got the wrong bounce, and I am perfectly happy to say—no question about it—that a little check list is not an issue. But the question before was more about small business failing to employ the right proportions. I think that was where we were before. The discussion between the two speakers here was more about how we sensitively lay people off. They are totally different things.

CHAIR—They are related. How people make the transition from work, to unpaid work, to unemployment and then back into the work force, we found—in many cases from our personal experiences and also as a committee—is routed in the way in which their redundancy was actually managed by their former employer. I might ask Mr Davies if he would like to make a comment on this. He is a professional in this area. Then perhaps Marie Leech from Mission

Australia might like to make a comment. Ted, perhaps for the purposes of everybody here, you might just briefly explain what Davidson & Associates do.

Mr DAVIES—Davidson & Associates specialise in career transition or out-placements. We help displaced workers, from CEOs right through to the blue-collar worker, to manage through that transition from job loss. We have worked with many thousands of people over the years in this area. There are certain principles that we believe are very important that have already been covered to some extent today, but there are a couple of two-edged swords in this as well.

Doing it properly has, as you say, the most profound impact on the way people view their former employment with the organisation that they are leaving. We conducted an independent survey of employees who had left a major organisation within the last couple of years, to find out how they felt about the termination of employment with that organisation and the professionalism with which that had been handled. There was an absolutely direct correlation between the level of satisfaction about the termination practice and the amount of coaching that had been undertaken in terms of management and the way in which the whole process had been undertaken. Where there had been little to no advanced training or coaching of line managers involved in the termination discussions, the level of dissatisfaction with the termination process was quite high. In those areas where there had been considerable coaching of line managers, the level of satisfaction, even though this was a difficult and sensitive topic of discussion, was comparatively high.

Terminating people's employment and communicating that decision is probably the worst job that anybody in management or a supervisory position ever has to undertake in their careers. Therefore, they often get it right but they can also get it wrong. The amount of preparation and coaching that people have in terms of how to actually handle this has an immense impact on how people view their former employer and going forward. What we have found is that the way in which people are treated on terminating their employment with the organisation has a vast impact on the subsequent image and reputation of that organisation. There is certainly a desire on the part of what we would say were professional and responsible employers to do this right, but there is also a very major impact on their reputation as employers of choice in their communities and the communities in which they act. The BHP example is a tremendous testament to how to do it properly.

There are, as I said, a couple of double-edged swords here, however. Even though intuitively it is good to give people as much advance notice of these events as possible, we do also find that, while people are still in full-time employment and working through a period of extended notice, it can be very difficult for them to actually concentrate on what they are going to do next. While they still have one foot in their past employment, moving forward and doing the things that are necessary to engage in a full-on job search can be quite difficult. For employers to give people, wherever practicable, as much advance notice as possible but to also combine that with facilitating their departure from the organisation is, we feel, very important. Certainly in terms of a code of conduct I, and I am sure most of us here, would support that. We think there is much to be said for that.

CHAIR—Thank you for that. I know Wilma has had a bit of experience with the non-employer end of this. Marie Leech, could you tell us what your attitude to this might be?

Dr LEECH—I have conducted a brief survey with our staff in Mission Employment, which is a Job Network provider, about the issues that need to be confronted here. One of the things they raised very clearly was recognition of the sorts of feelings that occur in people who are given a notice of retrenchment, and that you really need to recognise the whole gamut of feelings: the feelings of despair that people have, and sometimes euphoria at the beginning and then some time later despair. They said to me that we really need to realise that there is a very wide range of feelings and that people need to be counselled in many areas. They need financial counselling; professional, psychological and emotional counselling; and, of course, Jobsearch and retraining assistance. In other words, our workers were suggesting a package that would be provided to people at this stage.

One of the themes coming through most of the responses from our workers is the need for mentoring. There is the suggestion that a person could be mentored in some way before, during and after the whole retrenchment process. They suggested that notice of retrenchment should be given as early as possible. Some of the staff suggested that, perhaps, there could be a special unit set up, especially in large businesses, where the potential retrenchee would move to and where they would immediately begin Jobsearch activities and being linked up with support organisations and so forth. I am not entirely sure if that is the best idea. On the other hand, others said that, while the person continues as a retrenched employee, sometimes for a number of months, their work be valued and that they be recognised. They said that, in some areas, as soon as the notice of retrenchment is given the person is more or less neglected, and that they need to be valued the whole way through.

I think the resounding thing that came through is the absolute necessity for early intervention in every area in relation to retrenchment. The observation has been made that mature workers more than most have a potential to go downhill very quickly in terms of loss of self-esteem, and, of course, that leads to the sense of isolation, pulling them further away from their networks of employment and their social networks. So there were those sorts of issues of catching people early, before the major problems started.

CHAIR—Thank you, Marie. Wilma, would you like to add anything to that?

Ms GALLET—Yes, I would. We are both Celts it would appear. We would strongly advocate for early intervention. We think that it is critical that potential retrenchees have specialist counselling in not only the areas of financial issues but also whole life adjustment issues—whether they are approaching early retirement or whether they are looking to re-enter with a new career—an awareness of self and their own skills and abilities. We also think that it is pretty important that families are involved in that process because sometimes the partners and the children of retrenchees can play a very important role in how the person adjusts to becoming redundant. So there is a need for some sort of process where counselling could include families or at least partners.

In the whole area of Jobsearch training, of course, the specialist intervention and training that is required is absolutely critical, particularly for a large percentage of older workers. They have been in the same job for a long period of time and the whole labour market has changed since the last time they were looking for work. Many of these people do not even know how to complete a resume because it was not required when they were looking for work. So advice and

information on how to look for work is important, such as how to complete a resume, Jobsearch techniques, the casualisation of the labour market and how you might manage project work as opposed to a job for life. We really believe that that sort of advice needs to be made available at the point of redundancy.

We recognise that some companies do this very well and engage specialist placement companies such as Davidson to do this sort of work. But, for a large number of smaller employers, the facilities and the capacity are not there. Perhaps a suggestion might be that some form of kit is developed that could go hand in hand with this code of conduct. That kit could contain a range of advice—financial advice, the sorts of forms that people might have to fill in and the sorts of agencies that they need to go to—because there is no question that people who have been in the same job for a number of years do not really know where to go. We might be familiar with Centrelink and Job Network but they are not necessarily. So perhaps the development of a fairly concise kit for the potential retrenchee, but also for employers to help them manage the process, might be a suggestion that would help a company complement the code of conduct.

CHAIR—Thank you, Wilma. I will ask you, Max, for the union's perspective, which I know you have got. Then I will ask Louise Rolland, who has a bit of experience in this too, to comment.

Mr OGDEN—Firstly, I must apologise for being late. I was at a meeting which went a bit longer than I thought. Our position was put fairly clearly in the submission done by Bill Mansfield and, in particular, I think the kind of code that comes out of the European foundation for working and living conditions sets up a very good position. I would like to make a couple of comments on some of the practical experiences that I have had as an official negotiating redundancy packages and the effects that some of those have had. These comments may be of some interest.

First of all, it is a bit of an irony that we have been successful, in quite a lot of workplaces over the years, in negotiating very good redundancy packages, which is a very good thing for those going off, but the downside is that in many cases, when volunteers are called for—I am leaving aside dramatic closedowns like those we have read about in the press—you actually get more volunteers offering themselves than the numbers expected to go in the first place. Secondly, those packages have also naturally tended to favour the older workers who are often keen to go. Recently two things have started to come into the redundancy packages that we have negotiated. One is more commitment to counselling and to training—and I will come back briefly to that—and the other is a bit more time being given to that process.

One of the things that has certainly happened in my experience with a number of companies—and in some cases I warned them that this would happen but unfortunately they did not take any notice—is that when people have volunteered and gone off, the companies have lost huge amounts of skill. I refer particularly to intrinsic skills. In fact, I had one large company come to me six months later, when they actually had more people on the shop floor than before the redundancies. They told us they had had one awful shock in that they had previously had far more skills, particularly amongst the older workers who were not recognised as having skills,

than they had ever believed. They just could not operate effectively now without putting more workers on. So recognition of skill becomes quite important as part of that.

There was one innovative redundancy scheme a couple of years ago in a large operation which I was very familiar with but was not directly involved in. The parties agreed that some 200 redundancies were to take place over a period but they involved the older workers—those who wished to leave—working in teams. The union negotiated this arrangement: they could not leave until they had transferred their skills to the rest of their team. At some stage the team was able to say, ‘Herk McGirk can leave now because he has transferred all the relevant skills,’ so there was a real incentive for the older worker, who has had their skills recognised, to transfer them. It was of real advantage to both sides and you had a transition in a redundancy process there which was almost seamless. It worked extremely well.

The overall point that Bill Mansfield made in our submission is probably one of the most important ones; that is, having a total process of skills and learning that runs right through the work force. One of the problems we have currently—in fact, I was just having some discussions this morning here about it—is that the emphasis in the skills and training programs has been on new workers, all of which we support, but it has been at the expense of—and it should not be—already established workers. This is very true in the food industry, which I have had a lot to do with, and only last Friday our training council was discussing this very problem. Our experience is that older workers in these areas are actually very keen to learn skills in the industries that they work in. I contrast that in my experience with getting older workers in some industries—where there was restructuring taking place and where we had actually negotiated good programs for training—to go into new industries. Our experience was that the offers were not taken up nearly as keenly. People were somewhat reluctant to learn new skills to go into something new but they were not reluctant to learn new skills to continue in their traditional area. For example, I am doing some work in aged care and I understand that the older workers are falling over themselves to learn to be a personal carer level 3, which is quite a skilled job, but the same people probably would not be so keen if it were a job outside. I think that is an important lesson.

Finally, one of the things that seems to me to be important is terminology. I am involved in negotiations at this very moment with a large national organisation where we have sought to use the term ‘employment security’ rather than job security on the basis that society changes so rapidly that there are now fewer secure jobs and that what should be secure is the employment, so that people can rapidly learn and transfer within that same organisation. I think that kind of flexibility is implied even by the terminology that we are starting to put into some agreements, which is a bit different to the traditional.

CHAIR—Louise, could you introduce what Jobs East is about, for those who are not familiar with it, and tell us what your collective experience is and what your attitude to what we are proposing might be?

Ms ROLLAND—Jobs East is the area consultative committee—part of the federal government’s network of ACCs across Australia. Our geographic region is the eastern region of Melbourne. About three years ago we developed an interest in what was happening to our older workers. We were hearing anecdotally that a lot of people over the age of 45 were finding themselves unemployed and struggling to re-enter the work force. So we undertook a research

project to look at how we could develop a regional response, and have ended up with a national response because we came to understand that the culture around older workers and the way they are viewed, both by our society and by industry, really prevents many older people from successfully regaining employment once they find themselves unemployed. We have set up a national initiative called the 'Employers Convention on Age', which is promoting age balance in the work force. We think this is highly significant, given the ageing of the population and of the work force and also the continuing economic growth and the labour supply and skill shortage issues that we are starting to see in our region and that other regions are experiencing.

The code of conduct straight away brings to my mind the question: what is the policy context that this code will sit within? I see the code of conduct living or dying on the resources that it has to develop relationships and to promote and disseminate the information relevant to the code. The UK experience of the code of conduct in the employment of older workers is a very good example of a code that has not had the resources and which has been seen to be a means to an end in its own right, and I think that is a failure of that particular code. Like many of the other people here, I think that engaging both the employer and the employee in the code is particularly important. I think that older workers, when faced with a redundancy, are often making very uninformed choices about their future.

With the Victorian, South Australian and Western Australian governments, we have been running quite a few focus groups looking at age discrimination in employment. When we run those focus groups with older job seekers—many of whom have been retrenched—and we say to them, 'How are you going with the job search?' often the response is, 'It's been 12 months, and I've only really just started looking.' So there is a misunderstanding about the luxury of time off while you can afford it and how soon you need to be out there pounding the pavements again. Also, with broader forums that we have been running for job seekers, we have been shocked to see how ill prepared they are for their job search. They have little understanding of proper resume preparation, little understanding of how to structure their job search and little understanding that the job search process itself is a full-time job—that it is not something that you can approach on an ad hoc or part-time basis; that you actually need to be at that job pretty well consistently throughout the week. I think that Max's point about workers in a particular industry not being prepared to retrain for new or emerging industry or areas of occupational opportunity is a bit at odds with our experience of those job seeker forums. The strong message that has come through from those forums—and maybe this is enlightened after a period of unemployment; I do not know—is that they will do anything to get a job. They will take with open arms any training that they can be given that will lead them into a job.

From the small business/larger business perspective, I actually think that two different strategies are needed. I think that a code of conduct is often more suited to larger businesses that have the human resource management capacity to interpret that code back to their own business practice. I think with smaller businesses that is a big ask, as Rob was saying. In our experience of working with small business operators in our region around recruitment processes, the small group one-to-one process and with practical tools that allow them to apply it directly back to their small business is far more successful than giving them a checklist of 10 things they should consider. We have been working very closely with Centrelink in South Australia with these forums, and the interesting thing that has come through for older job seekers when Centrelink have presented at these forums is that, even though people attending have a fairly broad range

of opportunity to access Centrelink services, they are not doing that successfully. Sometimes I think it is about professional development within Centrelink, enabling them to work more successfully with the older job seeker, and sometimes I think it is about educating the older job seeker that because they have assets that might prevent them from being eligible for allowances does not mean they are entirely ineligible for services that Centrelink offer.

I suppose a marginal point—although not directly related here—that we are experiencing through our contact with older job seekers is that there are far deeper issues for those who are marginally attached to employment generally. At the forums we have been running—we have run four over the last couple of months—with 120 older job seekers, probably about 75 per cent of those have been marginally attached to employment for the last 10 years. It is our suspicion—and it is only a suspicion at this stage—that these people probably had an itinerant work history throughout their working life and their problems of employment at the moment are being compounded by their age. When I think about a code of conduct, I see these people being treated well in redundancy over and over and over again, and I wonder what that is going to actually do for them. They are the key points.

CHAIR—This meeting is basically considering the merits and then possibly the form it might take—some sort of code of conduct, set of guidelines, best practice or whatever is appropriate to the nature of certain businesses and their sizes. What has been your experience with people who have been made redundant or who have been dismissed? Could it have been improved and would they have had fewer problems had things been handled a little differently?

Ms ROLLAND—Absolutely. I think the ABS data tells us that 20 per cent of people have less than a day's notice of redundancy—that in itself speaks a thousand words. I am entirely convinced that interventions prior to redundancy could do a lot to alleviate a lot of the pressure that those people find themselves under. I think that codes of conduct supported by best practice case studies, so that business have practical examples of other businesses' success in implementing those codes, go a long way.

CHAIR—Yes. If you are running a picture framing business or a shoe shop and you employ three people, you do not have the time nor certainly the skills—and nor should you be required to have—to do some of the things that, at the other extreme, you might have had with the BHP program. Nonetheless, whether it is Wilma's kit or that and a set of guidelines, at least you can say to a small business employer, 'Look, this is where you can get assistance.' If employees do not know much about Centrelink and their non-government agencies, how the hell is a business person supposed to know as well? To us, at least, it has the prospect to be as educative as it is to set any formal guideline.

Mr THATCHER—I think I was trying to imply that the notion of a code of conduct seems to fall only on employers when I was trying to say that many parties and stakeholders need to be involved. The second thing is that the Boston Consulting Group which, I think you recall, were doing some work for the Business Council—

CHAIR—They are very good, too.

Mr THATCHER—We could not get some data on the size of companies which were laying off staff. But a number of Job Network providers provided us with the figures that 30 per cent of people came from companies with more than 100 employees. So the minority are coming from the larger companies and the 70 per cent are coming from companies or employers with fewer than 100 employees. Therefore, any solution or any thought that is going to come forth from the committee should take that into account, bearing in mind the issues of bureaucracy.

CHAIR—That is a really good point; it is a two-way street, and not all of the onus should be on an employer. We have dealt with people who have lost their jobs and who have not been given any sort of guidance, let alone empathetic assistance, out of the workplace. And then they have mortgage pressures, they have got kids, and they have got dependent parents at the other end of life. They have never known anything other than having a job. It just seems that, if the process were improved at the point where the employer at least knew what was available and was making some effort which could help the employee, we might actually get a better outcome. Some people are fantastic at running a seafood wholesaling business but they are not the kind of people who are particularly adept at sitting down and talking to someone about a major life event such as losing a job. So the question is: can we help them? I am hesitant to say that as a member of the government.

Bernie, does the Department of Employment, Workplace Relations and Small Business have any thoughts on this?

Mr YATES—We have always been very positive about ensuring that good practices are well understood and promulgated about employment termination and, from time to time, we have run extensive seminars around those issues and, to that extent, that any guidance could be factored into that sort of educational material. We have particularly targeted smaller businesses because they do not have the same ready access to information about changes in legislative requirements and the like. I think Wilma's idea of an information kit is good, if we could develop that and make it generally accessible, whether it is through the Net or through other sources. We are concerned to avoid undue prescription, if only because a lot of employers and their work force develop quite creative solutions. I think Max has illustrated that agreement making can provide quite a useful mechanism for developing tailor-made approaches. I think it is fair to say that historically people tended to focus on things like notice and severance benefits to the exclusion of other tools which could now be recognised as very important, particularly for people who have been with companies for very long periods of time and who have not actually been out in the labour market recently.

Certainly, the Workplace Relations Act seeks to provide minimum standards and protections, and I guess we look to those being built upon through agreement making. Colin has mentioned already the provisions of section 170CL which provide a trigger, at least in instances of larger scale redundancies of 15 or more employees, to involve government agencies earlier in the piece—that is, as soon as a decision is taken about the retrenchment. I do not know how systematically or effectively those provisions have worked. They have been in place over a fairly long period. Certainly with a labour market environment with a lot more dynamism and a lot of change, the effectiveness of those sorts of mechanisms should have a premium on them. I guess we have seen an illustration of them working at their best in the BHP environment where

you have got a very long lead time of notification. How well they can and do work in other instances is worthy of a closer look in its own right.

CHAIR—We have found that it has been pretty patchy.

Mr YATES—Yes.

CHAIR—That is not for lack of effort on the part of Centrelink. The 170C provisions do not seem to be universally applied.

Mr YATES—Yes. Again, perhaps that is part of the process of better education in and understanding of what you do in a significant restructuring or downsizing situation. I should also say that, on the statistics, over 400,000 people are measured as being retrenched in a year. I would have thought that quite a significant number of those people make okay transitions. That is not to say that they are ideally looked after, but many of them make reasonable transitions to new employment. I guess it is how you most effectively target any assistance or support so that it does not unnecessarily capture or tie up those people who are able to make reasonable transitions, and that you are not introducing requirements that work against job creation, albeit in the interest of trying to facilitate better transitions. They are the general comments I would make at this point.

Mr BASTIAN—I would like to expand a bit on a point that Colin made about responsibilities being more than just on the employer. I am keeping my mind focused on very tiny businesses, because the person you employ and the person who is sitting in front of you when you are going for a job interview is a very different beast to the person who is sitting in front of you when you are laying them off. As two human beings, you see this thing from totally different perspectives. I am sure that a lot of small players find it incredibly difficult and gut wrenching, and they do not feel they are up to making it right. In a tiny firm—I am stating the obvious; but it needs to be said—if you have a difficult situation where someone does not want to go and is looking to be vindictive, you are very exposed, particularly as we become increasingly hooked into technology. For example, damage can be wrought on a very small firm in five minutes if its computer system is taken down. In a small firm, you very rarely have more than one person who is technically able to handle computers. You feel very vulnerable as an employer in approaching that or even mooting that that is about to occur. I do not really know how to offer something positive there.

I can see all sorts of reasons why poor notice is given, to make this difficult transition quickly for the interests of the business and the other employees in the business, and your focus is probably more on that than it should be—than on making the transition as easy as possible for the person to go. I am not suggesting that that is necessarily a universal situation. But I just do not sense that is coming across the table here. You are very vulnerable as an employer to a disgruntled departing employee. Even if it were not an organisation which is highly technically oriented in terms of computer programs and other things that can be damaged, if your small work force is operating 10 or 20 per cent below capacity because it is unhappy and disaffected, you are in real trouble. I just want to put those things on the table. It is not a malicious thing, but with an unhappy employee in a group for even a week or two weeks, crikey, it is a month or so before you have recovered from that. So I just felt the need to say that.

CHAIR—Having been a small and a large employer myself in one form or another, I know that it is different when you have an army of lawyers behind you. You feel as if you can do whatever you think needs to be done. But, when there are only a couple of you there, it is a different matter.

Mr BASTIAN—There is no momentum in a small firm to be able to carry yourself past these sorts of things.

CHAIR—Bernie, does the department produce, or are you aware of, any advice or information, such as the kit Wilma was referring to, that is made available to employers to help them—helpful advice, if you like, on how to do these things?

Mr YATES—We have developed quite a bit of material on managing employment terminations effectively and backed those up with seminars and the like. Some of the things I think you have been talking about in terms of principles and good practice that go to managing more significant work force adjustments and so on have not been the focus of those, but could be elaborated upon to pick up those dimensions as a way of providing ready information and guidance. I guess that is where we would encourage the committee to think. I think the suggestion has been made that some of the issues to be grappled with here usefully should involve a variety of players who have a part to contribute rather than individuals having to go to shop to my organisation and then off to Centrelink and to various other bodies. If there were scope to draw together some of that guidance to make it easy for the user, whether it is an employee to be retrenched or employers who are seeking to do the right thing, that would probably be of most value.

CHAIR—There is no reason why general information and guidelines could not be developed and then, added to that, material that is specific to the area or the region in which a business is operating?

Dr LEECH—The mature workers program in New South Wales, I think, are developing packages for various industry types. In other words, I think they are developing something for a mining company where a retrenchment would occur and therefore the package. Presumably in some areas the workers of the mature workers program would be available to take that into the organisation. It seems something like that on a national level would be worth while. I have also noted from the American literature that there are partnerships now between businesses and community organisations so that the business organisation can more or less outsource the work of the counselling, the mentoring and the supporting to community organisations. I wonder if that might not be an area that would assist the small businesses particularly, who may not have the time or the resource, or where there may be the tensions that have been described. It might be better to have a partnership with a community organisation to come in and do the work of assistance.

Ms SHEEN—I have been listening with a great deal of interest to what people have been saying. I think our take on this issue and what has not come up in the discussion to this point is the whole issue of age discrimination in retrenchment. For the people with whom we have had contact that is where so much of the pain lies; they have been singled out for retrenchment because of their age. There could be a range of reasons for that. It could be because they have

not been skilled up over a number of years, so they are at a point where companies are adopting new technology and they simply are not up to it. There may be a good process in train, or there might be restructuring going on, but they have been singled out because of their age. I think that is the issue here that needs addressing. This is a very fundamental part of the UK Code of Practice on Age Diversity in that it does have a specific code for basing decisions on objective job related criteria to ensure the skills needed to help the business are retained. So I think this should be a very important part of any code—that there is a very clear definition of why certain people are being retrenched as opposed to other people.

However, I do see that there are very different issues in wholesale retrenchments and insolvency where whole work forces are being put off and retrenchments where individuals are being selected out. I think those differences need to be clearly highlighted. In restructuring and downsizing exercises, the code of practice would be quite different to an insolvency or a total liquidation, closing down exercise.

CHAIR—We recognise that. But there are still some basic things you would expect could be done, even in the worst case scenario. Marie or Peta, do you want to add anything at this point from the Department of Family and Community Services?

Ms WINZAR—I have just a quick comment. From our perspective, there are three quite simple questions here: who needs the help, what help do they need and when do they need it? It is much harder to find the answers to those questions. I would certainly take Bernie's point that, for many people, the issue of transition is relatively smooth, but there are equally, amongst this older group, many who lack basic skills about job search, resume writing and so on. The key issue for us, I suspect, is that group of customers who are not eligible for income support because they have a partner who is still employed and working or they have got assets—that is a much lesser group—or they have received a redundancy package that disbars them from income support for perhaps up to three months or so. That three months is quite a critical period because during that time they may be eligible for some job matching assistance from Job Network members but they are not eligible for intensive assistance and they are not eligible for Jobsearch training. They are eligible for financial advice from Centrelink offices, but that is really about the extent of it during that first three-month period. The question is: is there anything that we ought to perhaps do to make sure that we do not allow people to self-assess out of the system so that, at the very least, they do link with the Job Network to get some job matching help and they do link into Centrelink's financial services? Lack of information is a key barrier.

Mr OGDEN—One recent development within the union movement has been that several unions have actually signed agreements with one of the big companies in the Job Network and part of the arrangement is that those unions have then negotiated enterprise agreements whereby this company is nominated as the preferred supplier of these services. So, if there is any redundancy, it is already prenoticed in there and it immediately triggers. They come in straight away with a range of services which the union and the employer are already familiar with. It has only just started happening in the last few months, but it is starting to really overcome that problem.

CHAIR—That is going one step further than we are contemplating, but presumably that is an agreement between a union and an employer with which both are comfortable.

Mr OGDEN—Exactly.

Ms ROLLAND—A couple of people have commented that many people make a smooth transition after redundancy. The fact is that many older workers do not; the majority do not. There is a small percentage who do make a transition to employment, and I have the ABS statistics here. Of that small percentage, 70 per cent of them actually move from permanent to part-time casual employment. This is something that we hear again and again from older workers: they can get lots of casual jobs but not a real job. There is that understanding of the labour market and the opportunities there. I think we need to be very clear that most older workers are either induced into early retirement, which we cannot afford as a nation, or they are unemployed.

CHAIR—Before I invite Rod to ask you a few questions, Tony, with regard to your Centrelink organisation, if you had an ideal world where every employer from very small to very large was saying, ‘Look, I’m sorry, Brendan, but it is time for us to part company,’ and put it in appropriate terms and then immediately contacted your organisation, would you be able to cope with that?

Mr SCHELL—In broad terms, yes, I think we would be able to. In reality we see most of these people—maybe not at the time you are suggesting but a short time thereafter—about the income assistance and the other forms of assistance they qualify for. I will give you an example. A small business on the Central Coast closed down. We were not told about it; we got information via other means. Within 48 hours we phoned every one of those employees—we had got in touch with the employer, who gave us the details—to make sure that they were covered from our point view and were accessing the right type of assistance. So we can do it. It is a question of volume and frequency.

Mr THATCHER—I was a little concerned that we have been dealing so far in the discussion with employees as though they were one homogeneous, stereotypical type. Some employees are obviously more at risk of becoming long-term unemployed than others. One of the issues we have been looking at is: when do you identify that and when do you then link them to some more intensive assistance? At the moment it seems—from the Boston Consulting Group’s work—to take an average of four months and sometimes as much as 12 months after termination before employees who are at risk of becoming long-term unemployed become eligible for intensive assistance through a Job Network provider. Should we be talking about a variable and more diverse arrangement, whereby those who are more at risk of becoming long-term unemployed have some special arrangements, rather than just about a code of conduct?

CHAIR—Certainly from our point of view, it goes without saying that all employees are different. We are all human beings. Some people cope with major life events quite well; others very poorly. Some people appear to be coping well and obviously are not. By the nature of their skills—I will not say age—some people find it easier to get another job than others do. The circumstances of their separation from an employer can influence that wherever people are in the spectrum. If you are going to amputate somebody’s leg, there are some basic things you do,

knowing that some will sail through the whole experience and others are really going to flounder. It is a question of whether some minimum reasonable requirements might be suggested to both employers and employees in the government and non-government organisations that support them. One of the things that occurred to me was whether any incentives—not necessarily financial—could be locked into the system to assist employers to see the wisdom of going through this sort of process. I also accept very much what Tony just said to us about Centrelink coping. My experience does not always bear that out, Tony—I guess I will find out when I lose my preselection. It might mean that government is required to provide more resources to its agencies to enable a more appropriate rapid response time.

Mr SAWFORD—We are talking about parts of the code of conduct. There does not seem to be much disagreement about an educative role. I am sure people around the table have very different views about a potential legislative role or maybe some other role that people have come up with. Among the things about this inquiry that have dismayed me are the huge generalisations and the wide variety of definitions that allude to various parts of what is going wrong in the labour market. For example, what is happening with BHP in Newcastle with a planned change—getting out of business and technology—is very different from a company going belly up or being subject to a vicious and aggressive takeover. A whole range of different things can happen with what is euphemistically called downsizing.

The data available to us seems to be only part there. I will use two tables that I have in front of me as an example. Looking at the ABS data—that you have all had—the number of people employed in industries right across Australia increased between 1984-85 and 1997-98, which is the last lot of figures. There was an increase in all areas except three: the state governments' electricity, gas and water; government administration and defence, which is Commonwealth; and mining. Mining only went down by 6,000 people in that particular time. It gives a picture of 6½ million people in the labour market in 1984-85 and 8½ million people at the end of 1998. Yet that does not tell the whole story. The assumption is that these were the people employed in the industry; it does not say how they were employed—for four hours a week or full time. You also get misleading information about the share of employment by industry. For example, manufacturing, Max, fell from 20 per cent to 12.8 per cent. Yet finance, property and business services grew by 6.3 per cent, and community services, which is education and health, grew by 1.2 per cent. It all looks about the same. What went wrong here?

Stephen Roach, who was the great architect of downsizing 10 or 12 years ago, is now the great guru of anti-downsizing. People out there are much smarter than we give them credit for. To anyone who says to a worker on your factory floor, Max, 'I am going to increase productivity by sacking half the work force' or 'I am going to make this company more profitable by sacking half the work force' or 'I am going to grow market share by sacking half the work force', we would say: come on! Yet these economic theories have dominated the last 20 years. These theories have been discredited. No company that has downsized has increased market share. None has got more productive. If dear old Henry Ford and Bill Kellogg, of cereal fame, were sitting at this roundtable now, they would say that the debate had something essential missing. You would ask, 'What is it?'. In the last 10 years we have talked about the efficiency-wage hypothesis. Fine. So did Henry Ford. He doubled wages and got productivity to rise. That is what he did. Everyone said he was nuts, but he identified one of the two crucial issues in productivity and growth, in market share and in employment. Kellogg did the opposite.

He had people working 12 hours a day, made them work six hours per day and paid them exactly the same wage—and his productivity went up, too. Yet currently in the OECD—particularly in this country—there is no real emphasis on the hours-per-week debate. It has been totally discredited.

So, really, the question I am asking in a general sense is: in terms of the definitions that we use, the data that you have available to you and the debate, if you cannot define the problem how can you define the solution or even a possible solution? Your comments would be most welcome on that code of conduct, on that educative role or on any potential legislative or other role that you may think of. I am sorry for the long-winded approach.

CHAIR—Are there any responses to Rod's remarks?

Mr BASTIAN—I am a little confused, Rod. One has the imagery of Telecom whacking off huge numbers of workers and increasing its profitability by squillions. The banks seem to be concentrating on increasing their profitability fairly substantially. Whether they are increasing their productivity I am not certain, but they are certainly increasing their profitability. Your claim was that, basically, no-one has ever made a quid downsizing.

Mr SAWFORD—They have in the short term, Rob. But, in the long term, no research will back up any long-term productivity or profitability gains from downsizing. Certainly, the evidence on profitability is yet to be finally determined, but there is no evidence whatsoever anywhere around the world that downsizing leads to productivity increases, other than in the short-term structural change—none whatsoever.

Mr BASTIAN—The second part of what you were saying—which I found was where my head was—was what are we actually trying to achieve and what is the problem. I am scratching around for data to try to determine, only for myself, I stress, whether or not we are dealing with the sustenance of these people—that is, with their income; older people who are being dispossessed, I guess, or put out of work—or whether we are dealing with their involvement in society itself; that is to say, their engagement with what is going on in their country.

My experience with the few people over the age of 40 or 45 who I am engaging right now is that they are actually seeking part-time work rather than permanent work and that they are undergoing quite major changes in what they want from their work. The quest side of COSBOA—that is to say, the charge of trying to help the underdog—seems to me to be attracting retired public sector people who have policy skills, which they are giving to me for practically nothing. I am trying to figure out whether we are talking about people over the age of 45, of which I am one, who are being laid off and therefore have a desperate need to sustain their families, which is a huge issue, or whether we are talking about people who have established themselves in society and are choosing to play a less active role in society to increase their lifestyle. They do not want to be isolated and do not want to waste all those skills and all that experience but still want to contribute, whether it is an almost social contribution. We are debating this thing almost as if it is an employment issue. I wonder whether a fair chunk of it, and I have no data, is an involvement issue.

Mr SAWFORD—I will just comment on that, because I do want to get responses; I do not want to keep on talking. Essentially, the employment situation in this country is roughly 700,000 people unemployed, 700,000 people working part time, underemployed who want to work more, 700,000 people who have given up the labour market for various reasons—their partner earns more money, they have assets or whatever—and there are 70,000 advertised job vacancies each month. That is the equation we are dealing with, and it is about time that we stopped deluding ourselves and started applying solutions to the actual information and data. What really gets me angry is that we start applying solutions to situations that do not exist.

Mr STEVENSON—It is obviously a complex issue, and one I have been attempting to understand and to add some value to for about 20 years. I think the difficulty is, though, that with these sorts of reductionist theories we end up in situations where we look for simplistic solutions to what are very complex problems. You are absolutely right, Rod. The data does indicate that very little long-term productivity gain results from downsizing. What we do know, though, is that if a major publicly owned company makes an announcement that there is going to be downsizing the reflection in the share market in terms of shareholder value is typically positive.

One of the difficulties we have in this roundtable discussion is that we are talking about a code of conduct. Everyone would agree that is a good and a valuable thing, principally because it begins the education debate that needs to occur. At Jobs East, and in my role at Ernst and Young, we have been trying to drive that for a period of time now. We have a number of stakeholders in the process: we have employers that are responding to the need for increased shareholder wealth; and we have employees who are ill equipped, typically when they are over 45, to compete in the new 'work search' market because 'jobs' are now the old paradigm—they do not exist. It is now portfolio work, and it is people who are now flexible and nimble. Max used the term 'employment security'. We are attempting to develop a concept of employability such that people can let go of this old notion of job security, because the reality is that the jobs are changing, and changing rapidly.

I simply say that, if we are going to make some sense of the debate, we need to think about the debate in terms of the economics, the politics, the technology and the whole globalised structure. That is not to devalue the work that the committee is doing at all, because there is a real role for education. We know from our research with two different clients that 80 per cent of people who have accepted a legitimate voluntary departure package—as different from people who have not had any other option but to say, 'Yes, I will volunteer to go'—regret having made that decision. Why do they regret it? Because they have been bedazzled by a bucket of money. They have not had the skills, and they have not had the knowledge to understand the new work environment. As a result of some of these economic theories developing credence they are thus beginning to learn that long-term improvement may not necessarily result.

Mr SAWFORD—Who do you think should be doing the educative process on how and what?

Mr STEVENSON—Our response at Jobs East has been to develop the employers convention, because there is a role for business and employers here. It is not to say it is entirely their responsibility, but we ran some focus groups with human resource managers who were

living and breathing the old stereotypes about older workers not being able to be retrained, not being able to acquire new skills and becoming cognitively less capable. The academic research clearly shows us that that is not the case. So we are saying to business, 'We need to educate you people such that it is not about downsizing but about re-evolving your organisation to meet the new challenges.' Equally we are saying to people who are affected by redundancy and retrenchment, 'It is incumbent on you to better equip yourself to compete in the new work market.' We have thousands of horror stories.

Mr SAWFORD—Can you make that educative process work without legislation?

Ms ROLLAND—I think so. Our focus groups are often a bit of a comedy. We go from employers to workers and employer representative agencies to employee representative agencies. On the employer side, we always hear, 'Forget about the legislation; work in partnership with us. Work through the education process.' On the other side we hear, 'We need legislation to be able to have some sort of stick to work with the carrot that is the educative process.' In our experience with the convention, the educative process is the way to go. The education has to be based on practical business experience—you have to demonstrate how it benefits a business to be able to do that as well.

CHAIR—Presumably, particularly in your position, Neil, if you can demonstrate that a more humane, sensitive and educative process for redundancy and dismissal produces a better business outcome for that business and the remaining employees, that as much as anything is likely to change it.

Mr STEVENSON—You are absolutely right. Some terrific research has been done out of the Melbourne School of Economics just recently. They make the point that the worst possible outcome from a retrenchment exercise can be that the people that remain are so disaffected that they effectively retire but remain on the job. You continue to pay them, but in fact productivity dies. It is the worst possible outcome. If I can just close out on that, what we do know from our experience and our research is that, if you bring some education and best practice to the process, you can limit or minimise the amount of productive negativity that occurs.

CHAIR—On the process of redundancy and that 80 per cent of former employees regret having taken redundancy, in the personal Pathways BHP program, the recommendation was that they see two financial planners independently of each other and consider the advice of each. They are the kinds of things we ought to be focusing our minds on in this. The whole question of the labour market, and all that is within the auspices of our committee and our inquiry, has covered a whole range of things. Today we are not specifically looking at preventing the problem in the sense of job creation and the economic climate that is conducive to it, but we are looking at one little but significant part of it, and that is the redundancy/dismissal process.

Mr EMERSON—We need to be aware of the limitations of codes of conduct, and in particular to take note of Ron Bastian's and others' comments. If 70 per cent of redundancies—let's say that is roughly right—occur from businesses that have fewer than 100 employees, I would say that most of those would occur from businesses that have fewer than 10. I ran a small business for a period. If you are in the position of having to lay off people, the odds are that your business is in trauma. You are not doing it because of some sort of behavioural problem

usually—you may be going down the gurgler, or at the very least you are going through a lean trot, there is not much going on and you cannot afford to keep people on. If that is the case, what will not come into the employer's mind is, 'I'd better get that bit of paper or that kit that arrived six months ago or two years ago and flick through that and start looking at it and work out how we can do this all very sensibly.' In a sense the business and the employee are in trouble together. Realistically we should not get into a position where, as a committee, we feel good that a kit has been produced. The department says that it has some material, and obviously there is scope for expanding on that, but I think that producing kits and either mailing them out with a stamp or sending them out through the Internet for small businesses is not going to be all that valuable.

We used to receive piles of mail from all sorts of people appealing to us about all sorts of things, 'I've got to go through the mail. Junk, junk, junk,' and I am concerned that this will either bite the dust or perhaps end up on the shelf and will not be something in the forefront of people's minds. My caution is: let's not make this a substitute for the fundamental issue which has also been raised here, and that is the need for early intervention. Mature age workers think, 'Wow, here it is. I've got \$25,000. I'll be able to get a job easily,' and a year later they find that that has not worked out at all and then they are in real trouble. I would hate to see this as some sort of mask for addressing the more fundamental problems. Having said that, for bigger businesses a code of conduct and information kits can serve some useful purpose.

CHAIR—I say to my colleagues: if at any point you want to ask a question or make a comment that is relevant to a particular point we are on, please do not feel restrained. As you can see, I am a very aggressive chairman—they are all intimidated.

Mr BARRESI—Let me address my first question to Dr Leech. Marie, very early on you mentioned that perhaps there needs to be a separate unit created where these people who have been targeted for retrenchment are parked for a period of time while they are going through their various support services. Putting aside BHP, which Brendan has said is the Rolls Royce of the services available, have there been any other examples where that has actually worked? I can think of only one other, which I came across in my earlier life, and that was Telstra. When they had their failed Vision 2000 program and they parked them all there, there must have been an effect on that company's ability to perform. As Rod says, what effect was there on those who remained? Are there any other examples of where that has happened and has been proven?

CHAIR—Just before you start, Marie, I will just let the meeting know that Mark Paterson has arrived from the ACCI. Thank you for coming; I know you had to squeeze this in.

Dr LEECH—I do not have any other examples of where it has taken place. It was in fact a response to a survey of some of our Job Network providers. They seemed to think it would be a good idea in large companies. They were very firmly behind the idea of having, a few months beforehand, preparation for retrenchment. All of that is expressed in the sort of context of people perhaps being moved to an area. I am sure it would only work in a large company, where they would have supervision in getting into the job search business and so on.

One of the other suggestions was that companies—and again it would refer to medium to large companies—would have a member of staff who would be responsible for all of these

issues of retrenchment and that there would be a point of contact. Apparently, lack of information, rumours and all of those issues tend to create a lot of tension in the retrenchment process. So I think the feeling of our Job Network providers, from their experience in working with people, was to ease that period as much as possible with a good flow of information and, if possible, an area where they could come together and where they could have support from supervisors in building up links with support organisations and with employment organisations. As well as that, they could have peer support if there are a number of them: they could support each other in the process and share their experience and so on.

CHAIR—Rob Bastian wanted to make a comment in response to your question, Phil.

Mr BARRESI—I would like Ted to answer that as well because I am sure Ted will have come across examples of where this has been effective.

Mr DAVIES—There is one underlying assumption that is coming out here, and that is that large and medium companies as a matter of course offer some form of transitional support to the people who are leaving. What we would suggest is that, while some form of support to people leaving is given to people at more senior and management levels, there is still not universal acceptance that some form of support is provided to people organisation wide. That is the first point. It would be a mistake to assume that this sort of support is provided universally, because it would be our view that it is not.

I would like to comment on one of the earlier comments about mature age workers, and it is relevant to your question. We have undertaken some focus group studies of mature age workers who have actually been successful in gaining employment and we have tried to at least develop some thoughts and some perceptions based on what is essentially a qualitative rather than a quantitative study, but there are a couple of things that keep coming back. First of all, there is this perception that mature age workers are not as flexible, are not as employable and may have some baggage that their younger colleagues will not have. Therefore, there is a strong perception on the part of the people who have been successful in getting jobs that there is inherent discrimination out there in terms of their employability. When you ask them one question—what was it that they got out of getting support in terms of their transition?—it is that one word: confidence. What people, when they come out of a job, have invariably lost is that degree of self-confidence that they really need in order to launch themselves into a different career or a different job. Organisations that could help underpin that degree of self-confidence would be the organisations that, we would say, were demonstrating best practice in this regard.

There is a variety of reasons and ways in which they can do that, but trying to maximise the degree of ownership and control which people have over their own transition is a key element. That does not have an impact only on the people who are leaving organisations. As you absolutely rightly said, this has the most profound impact on the people staying with organisations and how they feel. The way in which people who are leaving organisations are treated has the most profound impact on the way people feel who are staying in organisations, and an impact on their productivity and their ongoing commitment to the role. So this is not just taking care of people who are leaving organisations; it is very much a question of taking care of people who are leaving organisations in order that the right signal is sent to the people who are staying.

Mr BASTIAN—To respond to Mr Barresi's point about whether there are any other models out there, over the last decade or two we have put a heck of a lot of time into focusing on youth employment. That spun up a group training scheme for apprentices where small businesses may not be able to offer a full job and are probably a bit shy about the paperwork and responsibility of outsourcing the management of an employee to a group training process. To some extent that structure, as I am sure you are aware, farms out the body to get a balanced training process and handles the administration. I can see no reason at all why a similar model would not work for taking advantage of a situation where a grouping of small business people or a community of business people may not have full-time work or may not have use for the particular experience and skills of mature people, but would just love, for example, to get an ex-accountant, shall we say, engaged in the business on one day a week. If there were some way that one could cluster, on a group training approach, people with particular experience and particular skills, I can see all sorts of circumstances where that would work. So I just make that observation that we have the group training model.

To come back to Craig's statement about how you communicate with small business, it would be a disaster to produce a spike education process where you get a code or a bunch of glossies and a big, high-flying 'We've got the solution—here it is for you.' The sector will bury it. You need a process which somehow keeps the level of awareness horizontal and keeps that process out there so that they can reach for it when they need it.

Mr BARRESI—Further to what Craig was saying—and I have some sympathy for the point put across—if it is not a prescriptive code of conduct—and we have highlighted the difference between the larger companies and the smaller operations, as depicted by your members, Rob—then there could very well be a role for having best practice type models which you highlight and you put up on a pedestal for people to identify. We do that in other aspects of human resources whether it is salaried administration, recruitment or training. Whatever it may be, we have that best practice type model. It is not prescriptive. You do not force it on the employers, but if you want to be in that category of an employer in society that has the respect and the esteem in your community, this is a model which you can strive for. So it does not become a prescriptive code, so to speak, but more something which you can aspire to.

Mr DAVIES—Also, the way in which the employer has behaved in that community in the past will have a big impact on the perception of that employer in the future if they are faced with having to downsize or to close a plant. Coming back to the best practice model, in our experience of dealing with employers who have done this and have been seen to have been doing this difficult exercise very well, they have invested a huge amount of time and effort in the process, but it does not just happen 60 days before they are about to announce a closure. It can take months or years of engendering very strong community relations. The more closely they can bind to the community, the better this will go.

CHAIR—Mark, I am sorry for our sake and yours that you were not here for the first part of our discussion. I guess you have followed the inquiry, at least parts of it, and you know that this is something that is of concern to us. Can you give us the views of the chamber in relation to this, or do you have any comments on what you have heard since you have been here? I suppose it is fair to say that probably all the participants here, to varying degrees—I think it is fair to say with a degree of caution on the part of the business representatives—think that there is a way of

improving it. From a committee's point of view, we are not interested in something which is prescriptive and is further going to slow business activity, but nonetheless, our experience and the things that we have been told suggest to us that there has to be a better way of handling it in many cases. Some cases are done very well. We also recognise that businesses are frequently in trouble. That is why the employees are going. We would be interested to know what your thoughts are.

Mr PATERSON—Obviously, from our constituents' perspective, there is a clear sense of concern in relation to the issue, but having been actively involved in a range of programs over time, there is also a clear recognition that there are not any simple, out-of-the-box solutions that are going to dramatically change the plight of older workers who find themselves displaced from employment. We can all endeavour to do things and we can make best endeavours. A concern that I expressed at the committee meeting in relation to the code of conduct was that you can start with a non-prescriptive best practice code of conduct and then, when people find that that does not dramatically change behaviour in the marketplace, there is a desire by those who would seek to change the behaviour in the marketplace to take that non-prescriptive code of conduct which establishes best practice and start to make it an enforceable code of conduct or a quasi-enforceable code of conduct where government contracts are only issued to companies which are signatories to a particular code of conduct. We have seen that occur in relation to the quality movement. It was not a prescriptive expectation; it was those who were striving for best practice in the quality sense. But then, if you did not have ISO 9001, you could not even tender for government contract work. There is a potential risk, as you go down some of these paths, if people want to see change but want to put forward something on the basis of best endeavours: when those best endeavours do not work, there is a different pressure to make that a more enforceable outcome. If we go down that path, I think we need to have that at the forefront of our minds.

The other element which I raised in the meetings with the committee was to have a clear understanding of the profile of the mature age workers and some of the things that we might need to do to focus on the profiles, particularly of mature age workers. I made reference at that committee meeting to the market research work that had been undertaken by the Australian National Training Authority. It is still a work in progress but it examines what are the motivators in relation to lifelong learning. So it started out from what are the factors that stand behind people as lifelong learners and some of the things that flowed from that were some characteristics of the different segments of the marketplace or the work force.

Interestingly, some age cohorts and separation between male and female came out in relation to that research which identified that for those groups who were not interested in relearning and were not interested in upskilling, there was a dominant skew of males over 45 within those groupings. I have provided the committee with the market segmentation breakdown, but in looking for strategies we do not just have to look at the behaviour and motivation of employers in terms of how we address those people who find themselves unemployed with outdated skills; we also have to look at what are the motivating factors for the potential employees and what strategies can be adopted to address that motivation.

CHAIR—Thank you. We appreciate that too. Today, we are focusing on this one particular issue which is obviously part of a spectrum of interventions which could be considered.

Mr BARRESI—I do not want to get into an argument on this, but I have a concern about what you just mentioned about best practice and that it may lead to some sort of prescriptive response if it does not work. I sense from what you are saying that, because that may be an eventuality, we should not even be looking at a best practice model as a first stage. The other thing is equating it to the ISO. I was part of the introduction of the first wave of quality standards in this country back in the early 1980s.

It is fair to say that the enforcement of quality standards on your suppliers was actually enforced by the company that introduced quality in their own organisation. So it was not government led; it was very much led by the organisation as a requirement that if we are going to be an excellent company we only want to deal with those companies which are also excellent as identified through ISO. There is an analogy there in terms of best practice in other aspects of management practices. It could very well be that you take that analogy and introduce it to other organisational practices without it being prescriptive and without it being enforced by government legislation.

Mr PATERSON—I concede the point that it was a feature of business to business transactions as well as business to government transactions, but it is a hell of a lot easier for government to regulate its commercial transactions with the business community than it is for individual businesses to do it with others. There are marketplace pressures and there is the Trade Practices Act, which has an array of protections for big and small organisations in terms of imposing competitive pressures. The commercial world is different from the government to business world and we did see it introduced as a condition of contract in dealings with government. We do not say that you do not aspire to achieving the best practice approach, but I think it has to be quite clear up-front that it is not a precursor to some form of alternative intervention and some form of alternative regulation. We need to recognise that in many of these situations people approach this on the presumption that organisations have human resource departments within their organisations. It is only the very largest organisations which have specialist human resource expertise. The vast majority of businesses are owned and managed by the owner-operators and they do not have independent access to human resource expertise. Even if you introduce a best practice code of conduct, many of them will not be aware of its terms and will not know what its implications are for their business.

CHAIR—But if it is done properly and put together by business people themselves and other interested parties then it should actually help them. But, if it is something that is imposed upon them, as Rob says, it will go straight in the bin or on the shelf. A lot of your members will be resistant to it and all that sort of thing. Earlier in the discussion the view was put that the hardest thing that you ever do in your life—apart from your personal life, I would suggest—is saying to an employee that you no longer want them working for you. Some people just cannot bring themselves to deal with that. Producing something and making resources available to people to help them do that might actually help both the employer and the soon-to-be-ex-employee. That is where we are coming from.

Mr PATERSON—In the context of that sort of best endeavours activity, clearly employer organisations around the country have worked cooperatively in those sorts of endeavours over time. If it is about trying to find some guidance, some assistance, for people, Standards Australia has done some work on trying to identify some best practice approaches to

counselling, dispute resolution and the like. They are guidance material that helps people work through the process. There is no reason why some work cannot be done in this area. But I think we have to have our expectations realistically founded, understanding who can adopt it, how it can be adopted and what effect it is going to have.

Mr BASTIAN—I would like to quickly reinforce what Mark has just said. It probably is not necessary to create a code just for this specific group.

CHAIR—I should clarify that we are not just talking about if you are 44 this does not apply but if you are 45 it does. We are talking about employment generally, from 15 or 16 through to 80-plus. So, Rob, whilst this has obviously become an issue in our inquiry because of the particular circumstances of people in this age group who frequently have mortgages and kids, and ageing parents at the other end, and a lifetime that is defined through their work, I think you could say it applies to just about anybody.

Kim, I saw your blood pressure rising there when Mark was speaking. Did you want to ask something?

Mr WILKIE—Mark, you have talked about how you would rather not have prescription to enforce a code of conduct, and I think it can be generally said that we would agree with that. We are looking for answers to work out how that can be achieved without regulation. I think it is important that we do have some form of code of conduct, but I am wondering how we are actually going to achieve it without regulation in the long term. We talk about best practice and we talk about BHP and what a wonderful model it is, but it must be remembered that the consensus that was achieved at BHP came about as a result of great conflict because of the union demanding that the people who work there get looked after. If we are going to have a code of conduct and we do not want prescription, how we going to achieve that? Have we got any answers?

Mr PATERSON—There is a variety of guides already in the marketplace in terms of grey letter law and the institution of codes of conduct, so there is already available material that has been developed in consultation over a period of time as to how you develop codes of conduct, how you have quasi-regulation, how you have grey letter law and how you interact the two. There is also a self-regulation task force that is currently examining the issue. It has undertaken public consultations and is receiving submissions from a variety of organisations at the present time. It will report to Minister Hockey in May, I think. So, looking at what is the best practice approach to self-regulation—and codes of conduct fit into that—there is a task force looking at how you can best do that right now. As a member of that task force, I would not want to preempt its conclusions as to what it might recommend, but active work and consultations across a broad spectrum are being undertaken at the present time. So I would say that the question is being actively considered at the moment and that there will be some further guidance coming through from that task force.

CHAIR—Max?

Mr OGDEN—I would like to make a couple of comments on the question of regulation. I must say that the last couple of hundred years of the union movement would suggest that there

is not much faith in codes of conduct. In fact, it is nearly always taken that the employment contract will finish some form of regulation—that is the reality—unless there is community pressure. I will give you one example. I was reading recently—not in relation to employment but in relation to environmental issues—of a study that a colleague of mine has done that shows that, in those countries where tough regulations on the environment were used, the regulations actually forced employers to become much more efficient in the use of resources. Without them, they would not have been. Eventually that becomes the norm and you probably do not need the regulations; but sometimes you do. I do not see codes of conduct being a matter of one or the other, in a sense. If we have a code of conduct, I do not have a problem with that, except that our experience of codes of conduct is not very positive because, when the crunch comes, they can simply be ignored by the use of all sorts of excuses.

However, if we do that, I think it ought to be done within the context of the sort of stuff that Rob was saying so that there is a holistic arrangement of processes, not just of a code of conduct for this group. But it raises all the issues about some of the absolute disasters that have happened from downsizing and so on—the whole push as was mentioned earlier about how it is often driven by share price and how it has nothing at all to do with efficiencies. In fact, quite the opposite is often the case. So, if we develop something like that, it ought to be done within the holistic context and not just taken in little parts. That is because there is no simple solution to one section of it; it is a total process that has to be pursued. The community should not rule out appropriate regulation particularly to look after older workers if the organisations sitting around here identify them as a particular group that has difficulties. If it requires some kind of regulation at some stage, so be it because usually regulations done properly actually drive companies and industries in the right direction.

CHAIR—Thank you, Max. Teresa?

Ms GAMBARO—I will direct my question to Tony Schell from Centrelink in the Hunter. When I was reading the personal Pathways information that you provided—and I thank you for that—I was very interested to note the personal support to families. I had a couple come to see me recently. The partner had just been retrenched and I remember—Wilma probably sparked this memory when she was speaking earlier—the wife saying, ‘Look, now that he’s retrenched, I have to make it absolutely clear that I do breakfast and dinner but I will not be doing lunch.’ By that I think she was trying to say that her program had taken a certain path. Is that a problem? How many families avail themselves of that counselling or does the partner of the person who has become retrenched also go into self-denial?

Mr SCHELL—I have not got the detail on the exact Pathways information there, because that was part of the BHP program itself. As was said before, there were other agencies involved in this. Our involvement in that aspect was providing seminars on the impact of retrenchment for both husband and wife and for family members as well. The circumstances of the individuals were impacted. The information that we had was that some made choices alone, others made choices as families. Because of the nature of the work that we were doing it was often the case that both parties had to be there to be assessed for assistance as well. So in some circumstances—if they were applying for assistance—yes, both parties were involved in that. If there was no assistance that they were eligible for at that time, it was individuals making choices. It is very difficult to give you a generalisation on it.

Ms GAMBARO—I appreciate that. There is another question I would like to ask, about organisations. I have a book here called *The Age of Unreason*, written by a fellow called Charles Handy. Has anyone read this? In 1991 the thinking was that every company should be a shamrock organisation, made up of three leaves. I will just read this and will ask for your comments on this. The first leaf was the recruitment and placement of permanent employees for the professional core as well as performance management tools and services to enhance the competency of these vital core staff. That was the first leaf. The second leaf was the outsourcing of entire non-core departments for better results at lower cost, enabling clients to focus on their core business. And the third leaf was the placement of temporary and contract personnel—from managers to data entry clerks—so that we would ensure the highest productivity at the lowest possible cost of output.

I remember working for a personnel company in 1993. After they told me the bad news that I had the federal government, they armed me with this bible. They said, ‘Read this. Go out there and get as much outsourcing business as you can.’ I remember going to see Telstra at the time when the redundancies were on in 1993. Ted, I might ask you about the effect of doing what I did in those days. People were given redundancies and it was my job to put them back on the books after a period had elapsed. What does it do to the culture of an organisation when people who have been employees have taken a redundancy package, and then there is a skills shortage—which Max was talking about earlier—and they come back into the organisation? I might just ask some of the other members of the panel today: what is an ideal organisation? We have spoken about codes of conduct, but should we focus on morale? Has the increase in outsourcing led to an increase in redundancies? I might start with you, Ted, on the question of bringing back in those people who have been retrenched.

Mr DAVIES—It causes a degree of cynicism, one would say, which brings it back to the impact on the people who stay within the organisation. How these things are handled has a very material impact on the whole thing. If there is a reason for displacing people in one sense and then bringing them back in another sense, then there is a reason for doing that. But it is not something that we would say really falls into best practice.

Ms GAMBARO—I think Max was speaking about companies experiencing skill shortages and then having to bring people back on the books. Is that commonplace?

Mr OGDEN—Yes, I am aware of a number of those, particularly in the food industry, where the company has laid off more people—and in some cases against our recommendation. They had so many who were going to go off and more volunteered, and they let them all go and then found that they had a real problem. The problem here is not understanding the level of skill in their work force. I am not talking here about saying, ‘We have so many tradesmen with these qualifications’; I am talking about the real intrinsic skill that people have. Then managers were saying, ‘I had not understood how much skill these people really had.’ That is often the problem with traditional, particularly older, blue-collar workers, and no doubt some white-collar workers as well. It tends to get downgraded. Part of this process has got to be, ‘How do we recognise the real skills and knowledge that people have, in order for that to be used in their new employment?’ By the way, I heard a story a couple of years ago about a guy in the Illawarra who, over a period of about 15 years, took five packages and who was re-employed five times by the same company because they got it wrong every time.

Ms GAMBARO—I hope that does not happen too often. But companies are recognising this—companies like McDonnell Douglas. Do we know of any other companies who are looking at older workers and saying, ‘Look, they’re a valuable resource. We don’t want to employ just the young graduates out of university. We do have a lack of skills that have been passed on through generations. When we worked on that aircraft project 10 years ago and we did it this way, it didn’t work. But there is no-one here to tell us that it didn’t work that way’? Do you know of any other companies recognising that?

Dr LEECH—I can give you an example of a company in Britain. This is the British home hardware retailer, B&Q. They staffed the entire organisation with people aged 50 and over. The result was 39 per cent less absenteeism, only one-sixth the average turnover in staff and 18 per cent higher profitability. So there is evidence that staffing a company with older workers is very valuable. I just do not think this information is widely known.

Ms ROLLAND—There are also the four case studies in Victoria that I mentioned before, in the logistics area. Coles Myer have an ageing work force. Until we came into contact with them, they were looking at shifting the age balance in their work force to a younger mix. We have been working with them, and they are now looking at retaining their older workers and looking at how they can deal with the issues of occupational health and safety in an ageing work force. It is the same with Don Mathieson and Staff Glass. They are looking at the same issues of occupational health and safety and increasing Workcover costs with an ageing work force. Australia Post are looking at their whole IT area, because of the pressure of skill shortages in the IT sector, and how they can maintain the currency of the skills of their workers as they age and how they can cross-utilise the skills of younger and older workers within Australia Post. So that is three.

Ms GAMBARO—Thank you very much.

CHAIR—I remind participants that the whole inquiry is about mature age workers, but today’s meeting is about redundancy and dismissal, if we could just focus on that.

Mr BARRESI—Rob, earlier you mentioned that your concern about having any form of code or a lead time to redundancy being known in advance is that you may be setting up an environment of employee vindictiveness. They could have access to the computer technology or whatever it may be which can wreak havoc on the organisation. But, equally, many of your members must have gone through redundancy programs where they have given that advance notice to their employees and where there has not been trouble in the workplace. Surely, it is the management style in the organisation which is the potential problem rather than having a notice period and, therefore, a code which goes with it.

Mr BASTIAN—We are speaking about where it is not working. I have no data, but I am absolutely convinced that in the great majority of cases you have a decent human being working with another decent human being, and things work pretty well. Maybe we could lift our skills a little bit. That certainly was not where my focus was. I was simply putting on the table that, in the context of the responsibilities that Max raised, the performance you see in front of you when you are engaging someone is different from that of someone who is very disappointed and who is trying to defend their livelihood. In a very small firm, that has two destructive elements: one,

its impact on the other players, and we have talked about that; and, two, if they do not agree with their dismissal or their separation, in a very small firm they have things at play—particularly with increasing technology—with which they can damage the firm out of sheer spite. Not to have that in the back of your mind when you are trying to come up with some solution is to deny reality. That is all I was trying to say.

I did not mean to imply that it needed to be the central focus of every consideration. I think that the bulk of people probably resolve their problems pretty well and anything we can do to educate them better would be a positive thing. I am a bit conflicted, as they say, on the point that Max has raised about the suspicion about codes. In many other areas small business has tended to be very suspicious about things which did not have teeth as well, so I do not quite know how to handle that one.

There is another thing that I feel we need to put on the table that seems relevant. There was some coverage in the *Financial Review* about three or four weeks ago about exactly who is demanding a transient society. It was as a result of ABS work. I was quite surprised. The whole imagery is that you have got a whole pile of workers out there clawing for consistency of employment and I guess security. The work tended to underline quite a different position, and that is that it is business that is scratching for continuity of the work force and skills and the retention of experience. For the first time that I have ever seen, a greater proportion of respondees—this is employees—were looking for flexibility of work arrangements and transient work. So I think we should not presuppose that there are not two sides to that coin.

Mr WIGHTMAN—Can I give an example. Where I sit in Centrelink is that reports under section 170 come to me and we redirect those back to the appropriate office in Centrelink. We had an example of a mill closure earlier this year where there was an early announcement and publicity for it and then we sent Centrelink officers out there to make sure staff were aware. One of the conditions that was quite open with the staff was that the mill would work for another four weeks or so provided there was no tampering with equipment or whatever and if that happened people would be ceased immediately. That did not happen. They worked for the remainder of the period for the mill and people transited to other mills as well. So it was quite open that the employer had a fear of that, and nothing adverse came of it.

Ms GILLARD—I want to pursue that point, but I say as a preface that I agree with what Craig said at the outset, that there are a number of profound issues this inquiry has got to deal with of which the code is one but there are some other major issues that are not going to be touched on by the code. In terms of the regulation best practice model, I guess I am a little depressed that there are areas of regulation that already touch on this whole question during this inquiry that from personal experience I think we are aware are honoured more in the breach than the observance. There is clear evidence before this inquiry that a lot of employers do not comply with their obligation to notify Centrelink under section 170 of the Workplace Relations Act. I think we are all aware from the popular press of directors who fail to comply with their obligations under the Corporations Law to not trade when insolvent. You cannot explain the failure to pay employee entitlements except that people have so continued to trade. There is clear evidence before this inquiry that people do engage in age discrimination in hiring and firing decisions despite that not being a lawful act. And I am aware from my personal experience that there are many times that people do not comply with awards and other

regulations in relation to notice and redundancy payments. So I think we have got to take all that on board when we are talking about a code. There is already a patchwork of regulation and a patchwork of problems in this area.

The issue that Phil has raised that I want to pursue I think is often swept under the table. From my experience in this area as an industrial lawyer, you can only really engage in a best practice redundancy model if you are prepared to give people a reasonable period of notice and during the period of notice do what you can to link them with support agencies. Centrelink might be one of them, counsellors might be one of them, outplacement consultants might be one of them and what have you. Yet you find time and time again that employers prefer a short period of notice. I do not think you are getting the burden unfairly here, because I am aware from my experience as an industrial lawyer of some of the biggest companies in Australia who have said to long serving executives apropos of nothing, 'Pack up your desk and the security guard will help you get off the premises.' That is the only notice they have had of their redundancy.

So I think we have to recognise that, while a best practice redundancy model would see employers give the longest possible period of notice, clearly they have fears about litigation, fears about the impact on staff morale of there being a number of staff in the workplace who are 'dead men walking'—in that everybody knows they are going—and, I think, fears about sabotage. I have recently had raised with me, in a different context, the example of a food manufacturer that did not give notice of redundancies until after the last run because they were worried about sabotage in relation to that product. This concern might be more true in small business, where there is a personal relationship as well as a business relationship. Perhaps people feel guilty, and one of the ways to avoid feeling that is not to have the employee on the premises rather than have them living with a number of weeks of notice period where they are there, the employer is there and everybody knows what is going to happen.

It seems to me that I am struggling for solutions on how we would change employer and, I suspect—to some extent—employee culture about attitudes to notice periods. If we do not get over that conundrum, we will continue to have the problem where people are just told at morning teatime that it would be really good if they were gone by lunch. All of the evidence at this inquiry suggests that, if that is how people are told, it has a profound series of consequences down the line as they work through their shock, anger and other feelings. They do not get any advice, they do not know about Centrelink and they make a whole series of foolish financial decisions because they do not understand basic things like the social security preclusion period. We know that is a bad model but it seems to be one that, for a whole series of reasons, employers in a lot of situations lean towards. I am just looking, I guess, for answers around the table on what we can do to shift culturally the acceptance in employers' minds about notice periods and, I guess, the acceptance in employees' minds that this might happen to them once or twice or several times during their working career—that is, that they will continue to work for an employer for a period of time knowing that the relationship is going to come to an end at X or Y date and that that is something to not necessarily respond negatively to. I would be interested in people's views about what we could do. It seems to me that any code would have to hang off that central cultural shift.

Mr DAVIES—We have a saying that ‘the employee whom you trusted this morning does not turn into a criminal this afternoon’. The way in which that departing employee is treated after the notification of termination is very important but, by the same token, extended notice periods can be as tough on the departing employee as they can be on the employer and the co-workers. There is not an easier or a proscriptive answer to that, I would suggest, but there are principles involved—for example, the more control over the termination of the leaving process the individual employee can have the better so that they have some input into how they will leave or when they will leave—the arrangement and the timing. There is a notice period that employers have to follow, but many employers will waive that or pay in lieu in order to accelerate the window that people have to work through. That is not always something the individual will necessarily have a problem with. It is really a question of how much personal control the individual can have over what is a very difficult situation for them. It should not be assumed that people automatically want to work through as extended a period of notice as possible.

Mr OGDEN—There are a whole lot of agreements that have that flexibility. In fact, in one that we finished recently it was three months, but people could leave in the first week if they wished. That is to everybody’s advantage. So you time it, and you provide the services that are appropriate to the individual.

CHAIR—One would think there would need to be some degree of flexibility. The nature of some businesses is such that separation would need to be fairly close to immediate, and then in other cases you can, as Max told us earlier, lock it into workplace and certified agreements.

Mr BARRESI—But even in those situations, Mr Chair, where you do need to have the person escorted off the premises by lunchtime—Ted, your business in out-placement would be evidence of this—you could still offer that service of helping the person adjust to their new life out of that company.

Mr DAVIES—That is the critical time.

Mr BARRESI—In fact, it happens quite regularly, does it not, that somebody may be given notice of separation in the morning, and that afternoon you could be waiting in a little anteroom with your team of counsellors to help that person and start that process of transition which will continue outside the premises. In that situation it helps. But can we take that model to the blue-collar level and to the non-professional level and make an attractive proposition for an employer? The way some of our placement consultants charge, I do not know whether too many of them would be putting up their hands or making that phone call to you. I could be wrong.

Mr DAVIES—The principles involved are appropriate at whatever level in the organisation you are talking about. One of the comments made earlier this afternoon was about the impact on the family—how you communicate the news that you are going to lose your job. The principles and some of the issues involved in that are as common to somebody who is working on the shop floor as they are to somebody at a senior executive level. You will find people go into denial. They go home and they may not tell their family for weeks that they are going to lose their job. These sorts of things are not uncommon. It is not a question of there being a particular group of workers or employees who are more susceptible to this or who have more needs for this than

others. There are common principles involved. We would suggest that, irrespective of what level in the organisation people occupy, they should get that support.

Mr PATERSON—I want to speak to a big issue that was raised. A range of examples were given of that patchwork of regulation which exists at the present time that a whole array of businesses, for whatever reason, do not follow. I think that reinforces the message that I was trying to make earlier that trying to enforce something does not necessarily change the culture; it does not change the way people operate in business. I think cultural change within business is one of the toughest challenges that business organisations in Australia and everywhere else in the world are currently facing.

In thinking that we can come up with a simple solution to how we change the culture, most of the organisations who are going to look to the best practice approach like this are organisations which are actively engaged in trying to change the cultural approach to better integrate the business needs and the needs of those who work within the organisations. The work we do in the work and family awards is a demonstration of businesses that are trying to understand the needs of their employees as individuals, as human beings, as members of society, and how they can better rearrange their work so that people can meet their commitments, either to younger children, to older family members or to others that they are close to. So there are many examples, I think, of people trying to change that culture to become an employer of choice. And, over time, in a competitive environment, I think we are going to see many more approaches of employers wanting to become the employer of choice. We have already got skill shortages in a whole range of areas where skill shortages are becoming active impediments to investment, because people cannot make new investment because they cannot get access to appropriately qualified employees. They are not going to hold and attract the best quality people by having archaic, outdated practices. I think if something on a genuine, voluntary, best practice basis can be developed, you can actually provide some tools to some of those organisations as to how they can do something that they are striving to do better than they do at the present time.

I understand where Max is coming from, but making it an enforceable regulation does not change culture, and you will not impose cultural change on an organisation by regulation. The organisation has to want to change its culture if it is going to effectively change it. It might give lip-service to it but, if it is about genuinely changing the culture of the organisation itself, the employees working within that organisation have to want it.

Mrs GASH—I will be very brief, as I think people have said most things. Can I point out to you an example from the south coast, where I come from. We have a paper mill—most of you would know about the paper mills. Because there was no code as such for the workers and the company, the two people in management worked together to set a code for their workers. I was privy to some of that decision making, and I have to say to you how remarkable it was that both the company and the workers actually agreed on a voluntary code—and that includes the unions, Max; I think you know who I am talking about. It is still in force today. It is one of the models that I have seen which are very versatile and very proactive in their approach to redundancies, mature workers and also young workers in the work force. Having said that, Mark, can I also go to the fact that I come from small business—very much so. Today I still employ about 30-odd people. I have three employees under 25, and the rest are all over 48 and up to 75 years old. If I can take more mature workers, I will, on the basis that they have skills

and knowledge. So I think it is also up to us, as employers, to look at what is available and, as you said earlier, to do the best for our own businesses.

But I also understand where Rob is coming from; it is a two-way street. You cannot do all for the employees and do nothing for the employers. I think this committee has to come to a decision as to how we are going to combine those forces, because it is a problem of people sabotaging your industry. If you tell them too early, it gets around. It happened to me in my own industry. It got around, and some 20 employers got very militant about the fact that something was supposed to have happened which actually did not happen. But those things are very real concerns for people in the industry. Having said all that, I certainly do not have the solution either, Mr Chairman, and I am hoping that we can come to some solution here today. I have great concerns about putting it into legislation, because I think that is another thing to which employers will say, 'Stuff it.' I had better not use that word—I have used that too often! Employers will say, 'Here is somebody else from the government telling me how to run my business. In actual fact it is I who wants to run the business—together with my employees because I do not have a business without them.'

Mr WILKIE—Looking at different aspects of what would be in a code of conduct, I have the view that a code would be useful where large companies are putting off large numbers of people who have been serving them very well for many years. That is because most of those people would not be eligible for Centrelink or Job Network services because of their redundancy payouts and often, as has been mentioned, because their partners would be working. I have the view that a basic requirement of that code of conduct should be that those people would be offered job outplacement services as a matter of course. I am wondering what the views of the other members of this panel are about that.

CHAIR—Any comment? There is an obvious cost there.

Mr STEVENSON—We would endorse that. We have done some career transition centre work at blue-collar level with organisations like Telstra, the department of admin services and others, and we found that when we provided that support the dwell time—the time they were out of work—was substantially reduced as compared with the situation when they did not get that support, so I think the evidence is there that people relocate much more quickly when they are given outplacement support. The issue, of course, becomes the one of quantum—the extent to which the employer should be obliged or not obliged to pay an amount of money. But we got quite good results with fees in the order of \$1,200 or \$1,500 per employee and, given that the majority of these people potentially still have 20 to 25 years of work life left and the capacity to earn half a million dollars in wages plus, it is an investment worth making.

Mr PATERSON—If you are going to say that that is the case for some businesses, you have, as in every one of those arbitrary claims, the distinction between inside the boundary and outside the boundary. Who determines where the boundary is? What happens when you change the size of the business? If you are just above the boundary, then you would take yourself to just below the boundary before you were to go through that sort of course of action—that is, if the burden is thrust back onto the business. If there is a social argument in that which Neil puts forward to say that, by an investment of \$1,200 to \$1,500 per head, you can get that person back into employment very quickly, then there is a social responsibility to not impose an additional

cost on the employer who has been forced to make people redundant. You should not say, 'In addition to all of the other costs that you, as an employer, have got to meet, we have got another one for you, which we impose compulsorily on the employer.' All that does is bring those decisions forward and place at risk some people who would not otherwise have been at risk.

And there is the challenge of the notice periods. I do not know a small to medium sized business in operation that has not at some stage wondered where next week's payroll is coming from. If you change that dynamic and change the notice period by enforced regulation that applies across the board, you will bring forward many of those decisions, because people will not be able to trade insolvently. I accept that some do and should not. We have not fixed that by legal mechanisms yet. We have just got to make sure that we do not bring forward many of those decisions. The challenge of small to medium sized business is staying in business from week to week in a competitive environment, and we need to keep that in the back of our minds.

CHAIR—In concluding, I would firstly like to thank all of you, including those individuals and organisations who have been sitting at the back patiently listening to all of this, and I am sure their blood pressure has been going up or down at various times through the course of the discussion. Now that we have had a focus discussion about this issue, I ask you in going away from here today to give some thought to what you think should happen, what sorts of things you might have reservations about and what sort of process you think would be reasonable to progress this, if you feel it has some merit. Send it to us—only a page or two pages at the most, hard copy or email—because it is something that we are concerned about.

We are not concerned about it because we are a bunch of idle politicians who are intent on imposing more restrictions on the capacity of people to create wealth. Perhaps it was best summarised in June 1991 by Richard Smith, who is the executive editor of the *British Medical Journal*. Having spent 20 years reviewing all of the research, including two longitudinal studies in the United Kingdom on the impact of unemployment on human health and wellbeing, he said that the evidence that unemployment kills, particularly the middle-aged, now verges on the irrefutable. He said that in the course of the inquiry, apart from the individuals whose lives they had touched and the institutional submissions that had been put to them, they also spent some time with Colin Mathers from the Australian Institute of Health and Welfare. The excess mortality for unemployed men in this age group in this country is 37 per cent. There are 50 per cent more doctor visits a year and 35 per cent more admissions to hospital. Recently, unemployed men in this country suffer a 14 per cent prevalence of depression. The death and injury rate of children under the age of four of men in this particular age group is four times higher, and in the British research they saw a 20 per cent excess mortality for the wives of men who become unemployed in these circumstances. According to Dr Mathers and his colleagues at the Institute of Health and Welfare, 62 per cent of men over 45—not surprisingly—and 42 per cent of women over the age of 45 report poor psychological health. That all adds up to a significant human cost, and one of the things that can improve the situation is to try to do what we can, within the constraints of what is reasonable, to see that employers and employees supported by government and non-government organisations have some modicum of understanding of what is a reasonable way to proceed. That is what it is all about. Please do not think it is about some agenda to pass laws and make life more difficult for people.

In terms of costs to employers, in the end we are all taxpayers, and if we do not meet a cost at some point which might have a preventative effect, we will pay far more in terms of health and welfare costs further down the line. I apologise if I sound patronising but I hope you will give some thought to this. By the way, it is a matter of bipartisan support; it is not some sort of partisan activity, that is for sure. The request for ideas also applies to the people who are seated at the back there. For those who did not have the opportunity to speak directly at the forum, if you have comments to make on anything that was said with which you agree or disagree, then I would certainly like to hear from you also. If we could have the comments and remarks back within a week, that would be terrific. I know everybody is flat out, but please do it within a week or 10 days or thereabouts. Thank you to the participants, my colleagues and the secretariat.

Committee adjourned at 3.55 p.m.