CPSU (SPSF Group) Submission to Senate Committee regarding Skilling Australia's Workplace Bill 2005-07-22

1.INTRODUCTION AND OVERVIEW

1. The CPSU, Community and Public Sector Union wishes to make specific comment on that aspect of the Skilling Australia's Workforce Bill 2005 as it relates in section 12 to the requirement that "TAFE institutions introduce more flexible employment arrangements by offering Australian Workplace Agreements (AWAs) to staff"

2. We recognise that there are other significant and objectionable aspects to this Bill such as the form and application of " user choice" and "genuine competition" that may lead to a reduction in the effectiveness of the Australian public vocational education and training system.

3. In so far as these concerns are apparent we adopt and endorse the submission of the ACTU.

4. Our interest in making specific comment on the imposition of AWAs arises from our membership's desire; especially as our TAFE membership in one State, Western Australia, have direct experience of the imposition of individual contracts under State legislation, enacted by a former conservative government. SEE ATTACHMENTS 1, 2 & 3

5. The CPSU represents TAFE general staff (non-teaching staff) in all States and Territories other than Victoria. In Queensland, we represent general staff and TAFE teachers.

6. We use the word "represent" in a broad sense for the purposes of this submission – in fact the employee representative institutions that are directly engaged with the TAFE systems (excepting the Territories) are the State registered industrial unions that operate in the State industrial systems.

7. These unions are the Public Service Association of New South Wales, the Civil Service Association of Western Australia, the Public Service Association of South Australia Inc, the Queensland Public Sector Union and the Community and Public Sector Union (State Public Service Federation Tasmania) Inc.

8. These State unions have a long history of effective representation of TAFE employees, (as does the Public Sector Union Group in the ACT and Northern Territory).

9. We are at pains to make this point and distinguish the separate legal identities and representative activities of the above-mentioned

employee organisations. This is because it is important to grasp the reach and nature of clause 12 of the Skilling Australia Bill in relation to co-operative principles inherent in our Federal system and the long established and effective State industrial relations systems.

10. The State registered unions and the State government employers in the TAFE system have settled and harmonious relationships with fair and proper agreement making and excellent dispute resolution mechanisms.

11. The rates of pay and conditions of employment of general staff (except the Territories and Victoria where State powers were ceded to the Federal jurisdiction) are contained in the relevant State awards and certified agreements – terms that have been subject to negotiation, conciliation or arbitration over many years.

12. The State unions operate as democratic and representative organisations that allow members to fully and actively participate in the development and pursuit of legitimate industrial claims.

13. There appears to be neither evidence nor claims made, that our unions are other than responsive, representative and democratic bodies, that are properly and legitimately constituted to represent the collective interests of the employees for whom we have coverage in TAFE.

14. Indeed, each of these unions and their membership have reason to be proud of the service they have provided over the years; and we make special note of the knowledge, commitment, dedication and often selfless service of many hundreds of workplace delegates over the years.

15. In so far as the employers are concerned, that is ultimately the various State and Territory governments, we understand that each and every one of these governments is opposed to the imposition of AWAs on TAFE employees.

16. In summary, we have a situation where the employers and employees are satisfied with the existing arrangements.

17. Notwithstanding this settled relationship we have the Federal government seeking to impose its own conception of how agreement making and industrial relations in TAFE workplaces should be conducted.

18. It is an assertion of power that is improper and unacceptable in the context of the Australian federation.

19. In correspondence to State Premier's dated 25 May 2005 the ACTU wrote:

The issue of AWAs being imposed on education employees along with school-based and post-school trainees and apprentices is abhorrent and a direct attack on the rights of workers to organise and collectively bargaining as per ILO standards. However, we can offer a tactical way to deal with this set of demands in the interests of reaching a national agreement. If the states were to indicate to the federal government that individual agreement-making could remain as a possibility, but only in circumstances where employees were given genuine choice through a workplace ballot, and respect for majority decision where employees chose a collective agreement – that is, the exclusion of AWAs in such cases – the ACTU believes that it would expose the ideological nature of this demand.

20. We are confident that TAFE general staff employees, given a fair choice as to the nature of the system that governs the conditions of their working lives, would vote by a significant majority for the existing system. They would emphatically reject a system where individual contracts would override (and facilitate) undercutting existing award and/or collective agreement provisions.

21. We are confident on this point as it is widely recognised that the fairest bargain or contract is reached where there is near equality of bargaining power.

22. In most areas of employment, as we believe is also the case in TAFE institutions, individual members of staff are not equal in bargaining power, knowledge or skills to an employer, armed with human resource departments, industrial relations consultants and the best legal resources.

23. This disparity is lessened where employees combine their skills, knowledge and resources in democratic organisations (i.e. unions) that have access to fair and independent arbitration through the various existing State industrial relations tribunals.

24. In consulting the union's members in TAFE for the purpose of making this submission, typical responses to the proposition that AWAs could be available in TAFE were :-

25.

"How can I negotiate my own agreement, I don't have that sort of knowledge."

"I have always relied on the union to look after my wages and conditions."

"I don't want to have an AWA, I want to be covered by an enterprise agreement ".

26. Employees generally are incredulous that the effect of AWAs could be that each employee, performing the same duties and exercising the

same responsibilities, could end up with different and differential rates of pay and conditions. Of this potential outcome, a member said –

"T*hat would be a disaster. We work as a team."*

25. There are sound policy reasons for openness and transparency in employment contracts in public service employment.

26. Nepotism, favouritism and discrimination were scourges of public employment in the 19th and early 20th centuries.

27. Legislative and policy reforms through the course of the last century led to the effective and efficient public sector institutions we have today, where appointment and promotion are based on merit, where rates of pay and conditions of employment are codified and accessible to all employees.

28. We are of the view that if the public sector vocational training and education systems are to continue and thrive, there is no place for different, inconsistent and secret employment contracts.

29. The same considerations apply to the private sector.

2. WORKPLACE REFORM – DO AUSTRALIAN WORKPLACE AGREEMENTS PROVIDE THE ANSWERS?

1. In Section 12 of the Bill, conditions for receiving grants are placed upon TAFE Institutions to implement workplace reforms. The major proposal of this so-called `workplace reform' is the implementation of a system of individual contracts known as Australian Workplace Agreements (AWAs)

2. The movement towards an individualized employment legal regime has been a high priority in the Federal Government's industrial relations agenda. It is argued that this creates greater freedom and higher wages, increased flexibility, productivity and trust in the employment relationship. This is based on the notion of 'freedom of contract' that individuals have the capacity to bargain fairly and equally with their employer.

3. `Freedom of Contract' ignores power imbalances inherent in the employment relationship.

4. This notion is a legal fiction, which has been rejected by lawmakers over the century, in the form of regulations by governments to counteract power imbalances by providing rights and entitlements

through legislative means and the encouragement of collective bargaining.

5. Workers have sought protection in this unequal bargaining position by bargaining collectively through the protection of their unions.

6. In order for workers to feel secure in the workplace relationship, the settlement of agreements must be *seen* to be fair, equal and bargained in good faith. It must be a mutually satisfying process in which one party does not dominate over the other.

7. Workers at TAFE have constantly told the union that the imposition of AWAs does not engender a fair and equal bargaining process.

8. Our members at TAFE consider that imposition of individual contracts of employment has serious implications for their employment relations.

9. In the face of claims of greater flexibility, productivity and workforce commitment, we examine available empirical evidence. This examination of empirical data confirms our members' fears of poorer wage outcomes, loss of entitlements with no gain in workplace flexibility or productivity.

AUSTRALIAN WORKPLACE AGREEMENTS – THE FACTS NOT SPECULATION.

1. AWAs were introduced into the Federal industrial relations system in 1996 and since then they have been wholly unpopular and unsuccessful, despite current Federal government policy to encourage their use.

2. AWAs cover a very small percentage of the workforce, only about 2%.

3. AWAs are individual agreements and therefore unions cannot be a party to them.

4. ***Awards, Certified Agreements and AWAs – Some Reflections April 2002, ACIRRT Working Paper*** , A study by David Plowman indicates that:

> 'employers interest in AWAs may be based upon an assumed rather than proven notion of flexibility. Their interest is more likely to arise out in a reduced role for unions and the capacity to formalize relation in the increasing non-union sectors of the economy'.

5. The paper concludes that, although AWAs are more flexible than multi-employer awards, their flexibility relative to single employer awards/agreements is unproven. It is argued that the collectivist nature

of the AWAs, i.e. the offering of identical or near identical agreements to all or most employees of the enterprise, diminishes their relative capacity for flexibility (Plowman 2002).

Claim: Increased Productivity and Flexibility:

6. In ***Do individual and collective agreement make a difference a longitudinal study of agreement making and their effect on workplaces*** ACIRRT Working Paper, Dick Crozier from Australian Business Ltd. found that managements' responses were that 35 per cent reported improved profitability and 40 per cent reported improved productivity.

7. However, changes to the organization, work culture, products or services, improved skills and motivated workforce was considered to be more influential.

8. The form of agreement does not usually cause productivity or profitability improvements – these improvements arise from a multiplicity of factors.

9. A majority of respondents were unable to confirm that their agreement had a positive impact on the achievement of various goals (Crozier 2002).

10. Professor Peetz has studied the effect on national productivity growth of the move to a more individualised system in ***Is Individual Contracting more Productive?*** He finds that in periods under the traditional award system, national productivity was higher than in the period since the introduction of the Workplace Relations Act. (Peetz 2005:p5) Productivity growth has been below the average that applied during the traditional award period.

11. New Zealand evidence does not support the argument that individual contracts improve productivity in the workplace. Gilson and Wagar who examined workplaces and organizations at a micro level found that:

    > *we cannot find a single statistically significant or reliable relationship between organisation pursing individual contracts and our exhaustive measures of firm performance*. (Peetz 2005:8)

12. In fact Tseng and Wooden, who looked at productivity levels in Australian firms, found that the combined effects of union membership and collective agreements produced higher productivity levels than the combined effect of individual contracting and non-unionism. (Peetz 2005 P:8)

13. Wooden found that

> *Unions apparently are good for productivity, but only at workplaces where unions are active*.

14. A BCA funded study ***The Impact of Enterprise and Workplace Focused Industrial Relations and Employee Attitudes and Enterprise Performance*** found that:

> *There was no negative relationship between unionism and productivity, but collective bargaining coverage was associated with higher levels of self-claimed productivity*' (Peetz 2005)

15. Peetz's analysis of Access Economics' report into productivity and flexibility found that industries which had a lower penetration of AWAs had less labour productivity growth than industries with the fewest AWAs (Peetz 2005 p13)

16. Peetz argues that

> *In short, there is no compelling evidence presented by or on behalf of the BCA to support the claim that individual contracting leads to higher productivity. In fact, there is barely any evidence at all and what evidence is presented is shallow and dependent on either misrepresentation or failure to use current data that had been available for some time* (Peetz 2005 p15).

17. British case studies by Brown show that firms that ceased recognizing unions for collective bargaining and pursued procedural individualization

> *did not gain any advantage in terms of either functional flexibility or temporal flexibility of labour over firms that retained collective bargaining* (Peetz 2005p16)

18. Peetz concludes that there is no positive relationship between individual contracting and productivity…. Workplace data shows no gains in terms of productivity for individual contracting over union collective bargaining.

19. All of these studies show the instrument of regulation of the workplace appears to have little impact on workplace flexibility or work practices. Awards, agreements and AWAs all have the ability to cater for particular work arrangements and AWAs do not improve labour productivity.

20. It would appear to us that the desire to institute AWAs and further de-centralise is more directed to de-unionising the workforce and eroding wages and conditions of workers, rather than seeking better work practices.

Claim: Worker Commitment and Trust:

21. Proponents of AWAs argue that individual contracts and low unionization rates improve worker commitment and improve trust relationships at the workplace. These assumptions are unfounded and in fact there is much evidence to suggest otherwise.

22. Deery and Iverson found that:

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> *bank branch performance was clearly higher when employees displayed loyalty to their union, were satisfied with its performance and believed that the industrial relations climate between the two parties was trustful and cooperative. A collectivist work orientation was also associated with better performance outcomes*. (Peetz 2005p18).

23. The poor take up rate of AWAs has been noted already. Workers view AWAs with suspicion and fear.

24. Current proposals to make industrials relations changes indicate the feeling in the community to further attempts to individualise workplace relations and de-collectivise agreement making. In a recent Age Poll sixty per cent of those polled strongly disagreed with the Government's new industrial relations policies. (The Age July 5th 2005).

25. Kristin van Barneveld, in her doctoral thesis Equity and Efficiency: The Case of Australian Workplace Agreements found that management:

> *hoped that the introduction of AWAs would result in closer ties between them and employees. However interviews with some employees suggested the opposite. A significant number of the non-managerial AWA employees…indicated that they felt they had been `blackmailed' into signing as AWA, and an 'us and them' attitude was evident between both AWA and non-AWA employees and management*. P19

26. Attached statements from delegates and workers at TAFE have indicated to us the same concerns.

Claim: Better wages and conditions

27. We turn to the effect of AWAs on wages and conditions of workers.

28. Studies of AWAs indicate that while professional and managerial workers do not seem to be disadvantaged in AWAs, other workers covered by AWAs have had worse wage outcomes than other forms of

agreements. They have also been subject to an erosion of working conditions.

29. Wages data collected on the ACIRRT-ADAM database found that AWAs are less likely to include quantifiable wage increases during the term of the agreement than collective agreements.

30. Workers on AWAs are exposed to the risk of not receiving a wage increase during the life of the agreement. This is a significant fact when one considers that AWAs can have a lifetime of 3 years.

31. Studies of AWAs not only indicate a poorer wage outcome but also a reduction in working conditions and non-wage benefits.

32. AWAs are less likely to include penalty and overtime rates for working long and unsocial hours. They are far more likely than union agreements to contain provisions which reduce the payment for non-standard work hours arrangements. (Van Barneveld & Arsovska 2002:17)

33. A study conducted by the Western Australian Commissioner of Workplace Agreements found that individual agreements reduce or eliminate significant conditions of work. It found that 50% of individual agreements reduced or eliminated conditions such as overtime pay and penalty rates and that some employees lost two or more significant conditions (Bailey and Horstman 1999)

34. A recent analysis of AWAs by Prof Peetz ***The Impact on Workers of the Australlian Workplace Agreements and the Abolition of the `No Disadvantage Test'*** shows that they provide for longer working hours than other agreements and that they were usually paid at the single ordinary time rate, not overtime (2005 No.2p 2).

35. Rather than enhancing productivity, AWAs have boosted profitability through cost reductions.

36. Individual contracts are more likely than collective agreements to reduce or abolish payments for overtime, nights or weekends.

37. Workers see AWAs and the de-unionisation of bargaining as a method of reducing pay and conditions. Their suspicions are well founded.

38. Since the introduction of the Workplace Relations Act wage, increases in non-union agreements have been on average .5 percentage points lower than union collective agreements. The cumulative effect over the period from 1996 to 2005 leads to disadvantage of 4.3 per cent for workers on non-union agreements. (P2p4)

39. AWA are much less likely than collective agreements to provide for wage increases during the course of the agreement and where

increases do occur they are usually based on individual performance at discretion of management

40. Another aspect of AWAs is that there is a fundamental difference between the way they link performance to pay increases from that of collective agreements. Collective agreements have a more team or group focus whereas AWAs are more likely to link increases to individual performance measurement.

41. We would submit that for an individual performance pay system to operate effectively and fairly and be accepted by the workforce it must be properly administered by those having the proper knowledge to do so, that the process must be objective and fair and that it must allow participants in the appraisal system to contest and appeal decisions.

42. We argue while Australian Workplace Agreements do not provide a better wage outcome for workers, individualized pay setting undermines merit based pay and will result in nepotism and patronage. This undermines the capacity of public sector workers to act without fear or favour.

43. The very basis of public service ethics are undermined.

Implications for Gender Inequality

44. We would argue that any movement away from award and collective agreements will reverse and endanger greater gender equality in the workplace.

45. Awards and agreements negotiated collectively have put in place flexible part-time work arrangements, paid maternity leave, family and carer's leave and superannuation provisions.

46. International studies show that women fair better under centralized bargaining arrangements.

47. Australian Bureau Statistics data shows us that women on AWAs have hourly earnings 11 per cent less than women on collective agreements.

48. Peetz's analysis finds that the gender pay gap was worse on AWAs while under registered collective agreements, women received 90 per cent of the hourly pay of men on such agreements. Women on AWAs received only 80 per cent of the hourly pay of men on AWAs. (P2p11).

49. The gap also widens significantly when we consider part-time employees, where the difference paid on AWAs is 24 per cent. (p2p12).

50. We believe that the suspicion and fears of our members have been further heightened by the current proposals to remove the application of the no-disadvantage test to AWAs.

51. An examination of empirical evidence of the effect of Australian Workplace Agreements on productivity, wages and conditions, flexibility, worker commitment & trust and gender equality demonstrates that they will not deliver workplace reform as intended by the legislation.

52. We therefore submit that the linking of funding to the introduction of AWAs is a coercive and undemocratic means of pursuing failed, unproven and unnecessary Government policy. We urge Senators to reject such conditions.

ATTACHMENT 1

1. My name is Jo Gaines and I am the Branch Assistant Secretary of the Community and Public Sector Union/Civil Service Association Inc (CPSU/CSA), WA Branch of the CPSU.

2. I have been employed with the CPSU/CSA since June 1993 and over that time I have worked in a number of positions in the Union.

3. In 1992 the Court Government was elected in WA. Like the Howard Government, the Court Government introduced and implemented radical changes to State based industrial relations. They did this through the introduction of:

Workplace Agreements Act 1993

This Act introduced the ability for employers and employees to enter in to individual contracts. When an individual contract was signed, the employees conditions of employment were no longer governed by the Award system or collectively bargained Agreements and the WA Industrial Relations Commission had no jurisdiction to hear or settle disputes arising under Workplace Agreements. The Labor Gallop Government repealed this legislation when they came in to power in 2001.

Minimum Conditions of Employment Act 1993

This Act introduced a minimum set of conditions for all employees in WA. It was the only "safety net" that was available for employees who signed an individual contract. The minimum conditions set by this legislation were:

- A minimum wage of 275.50 pw (at introduction).
- 10 days sick leave per year, with no carry over of unused sick leave from year to year.
- 4 weeks annual leave.
- 2 days compassionate leave per year.
- 10 public holidays per year & no penalty rates to applying on a public holiday.
- 52 weeks unpaid parental leave.
- No redundancy payment, but 8 hours leave to look for alternative work.

All the above conditions (with the exception of the minimum wage) could be replaced by a 15% casual loading.

WA Industrial Relations Act 1979

Rafts of changes were made to this Act. They included secret ballots, restrictions on right of entry provisions for unions and heavy penalties for breaches against the amendments. Many of the draconian amendments have since been repealed.

4. By 1993 employees in the State Public Sector had not received a pay rise other than safety net adjustment for a number of years. Negotiations with both the State Labor Government and the newly elected Court Government were stalled by failure to agree on how to bargain in the State Public Sector.

5. In 1994 the Union made application to the WAIRC in an effort to deliver a wage increase to members and to break the impasse that had emerged. As a result of the application to the WAIRC a settlement was reached on a Framework Agreement for enterprise bargaining within the State Public Sector, the 'Western Australian Public Sector (Civil Service Association) Enterprise Bargaining Framework Agreement 1995 No PSA AG3 of 1995.

6. Negotiations under the framework agreement however, were characterised by pattern bargaining and restrictions (through wages policy) instigated by the Government and implemented by agencies.

7. In the same time frame the Government commenced a strategy of promoting workplace agreements in the public sector. Agencies began to use the threat of offering workplace agreements (WPAs) during collective bargaining negotiations in an attempt to undermine the bargaining position of the Union and its members.

8. This strategy was employed in TAFE during our negotiations under the Framework Agreement in 1996. Following an offer from the Department of Training that was rejected by members, the Department refused to negotiate any further with the Union and commenced offering workplace agreements. The workplace agreement contained the following:

   - Increase of weekly hours from 37.5 pw to 40 pw
   - 3 days short leave abolished
   - Spread of hours increased from 6pm to 10pm, Monday to Friday
   - Penalty rates abolished for some weekend work
   - Abolished shift work allowance

9. Employees who signed a workplace agreement received an 8% increase and a $1,000 payment in lieu of retrospectivity. They were also given guarantees from the government that provisions would be made in the workplace agreement that any productivity based pay increases that applies under the enterprise agreement will also apply to staff who enter into the workplace agreement; demonstrating the

unlevel playing field that existed to ensure that collective arrangements never did better than individual arrangements even if that is not what was negotiated in the first instance.

10. It was only after members participated in industrial action that the Department recommenced negotiations and an agreement was finally registered.

11. In 1997 negotiators in TAFE attempted to bypass negotiations through a single bargaining unit with union representation and negotiate with staff directly on a collective agreement. This was resolved following a period of disputation and negotiations commenced. Again the threat of WPAs was employed.

12. I was directly involved or managed the negotiations during this period.

13. In TAFE, like many government agencies, to get a salary increase employees were asked to trade off conditions of employment. These included:

    - "Cashing in" long service leave or annual leave
    - "Cashing in" annual leave loading
    - Increase in the working week to 40 hours
    - Removing entitlements leave
    - Removing paid holiday entitlements
    - Removing entitlements to union representation in disputes
    - Increasing the span of hours that employees can be required to work

14. These types of tactics were supported and encouraged by the Government of the day. By the late 1990's Cabinet refused to sign off on an EBA unless the employer could demonstrate that they had WPA in place.

15. Until this point a large number of State Government agencies including significant employers had not introduced workplace agreements because they saw no organisational need to do so. This included the Education Department of Western Australia (EDWA now DET), Family and Children's Services (now the Department for Community Development) and the Ministry of Justice (now the Department of Justice)

16. The Government forced their hand by refusing to allow employers, being the relevant CEO or Director General of all public sector agencies the authority to sign an EBA with the Union until their policy on workplace agreements had been effected. Employers were denied wage increase until this occurred and the employers had no choice but to comply with the direction from Cabinet.

17. In effect, the Government's workforce was used as the guinea pigs of their industrial relations ideology. For many workers in the public sector this meant that they were forced to sign individual contracts either because government agencies frustrated attempts to get any decent outcomes out of collective negotiations or because they had no other option to as a new starter to the public sector.

18. In 1994 the Government introduced a policy that all new jobs were conditional on signing an individual contract. This meant that new starters had no option but to sign an individual contract or they wouldn't get the job.

19. The Court Government's wages policy and legislation to push their preference for individual bargaining resulted in some significant problems for the public sector as a whole. In particular it produced:

    - Significant differences in wage and conditions outcomes between government agencies. This produced a barrier to movement of employees between departments as often the difference in pay and conditions for the same or similar jobs differed to such a large degree it prevented people from accepting secondments or transfers. The wage differential between the lowest paid and the highest paid agencies was more than 25%.

    - The policy of delivering higher wages to those who were prepared to sign an individual contract had the effect of dividing the workforce. Employees choosing to remain on collective agreements considered it unfair that they were not offered commensurate salary increases as employees who signed individual contracts simply for the fact that they would not sign there rights away.

    - Created increased disputation in the workplace as attempts to bargain collectively were actively discouraged. Whilst government agencies met with unions and union members to negotiate, they often delayed the negotiations, constantly kept the individual contracts better (money or conditions) than collective agreements; would flow on wins from collective bargaining to individual contracts without any conditions; would not allow conditions negotiated in individual contracts to be negotiated in collective agreements eg: enhanced flexileave arrangements. This created a high degree of resentment amongst staff in the workplace that for some still hasn't been mended.

15. There was a Government policy that specifically denied the right of agencies to negotiate salary-packaging arrangements in collective agreements. This policy was challenged by the Unions in a case that went before the WAIRC. The CPSU/CSA and the HSU successfully argued for the insertion of the salary packing provisions into the Award

citing the direct discrimination by the State Government as reason for this to occur.

16. When the Gallop Government was elected in 2001, as part of their election platform they agreed to repeal the Workplace Agreements Act 1993. They also entered in to negotiations with the CPSU/CSA to deliver wages and conditions parity back in to the WA public sector. This resulted in the registration of the [insert correct title of GA].

ATTACHMENT 2

1. My name is Kelvin LEEK and I am a delegate for the PSU/CSA working at Central TAFE in Western Australia;

2. I also sit as a member of the Central TAFE Governing Council which is the governing body of a college with authority in the name of the college to perform the functions of the college and govern its operations and affairs in accordance with the Vocational Education and Training Act 1996;

3. I have been a delegate for around 5 years working at TAFE and prior to that have been in the Western Australian Public Service since 1993;

4. On several occasions I have assisted and represented members who have had various disputes with the college and/or its managers on a range of issues and grievances;

5. Where I have assisted members, I have been able to ensure that a fair outcome has been reached to the benefit on both the employer and the member;
6. Staff are often unaware of their rights to natural justice and fairness, and without assistance from delegates would be subject to undue harshness from the employer;

7. There is a huge risk that staff will be subjected to undue harshness, denial of natural justice and other punitive actions if they are not represented and assisted by delegates during times of dispute;

8. I worked in the public service during Messrs Court and Keirath regime, when workplace agreements were prevalent;

9. During this time I witnessed and indeed personally experienced the harshness with which the employer could act. At that time the only recourse for employees was through the Industrial Magistrate's Court at great expense to the employee;

10. The harshness I saw resulted in a deleterious effect on employees, and I saw several employees go off on extended periods of sick leave due to the effect the harshness had on their health;

11. It would be a draconian step to return to the days that we saw in the 90's;

12. Employees need to feel secure in their position in order to perform to the best of their ability and know that there is protection and assistance available for them in times of dispute.

ATTACHMENT 3

1. I am Celine Lai, a Delegate for Swan TAFE. Swan TAFE evolved in 2003 as a result of a merger of the South-east Metropolitan College (SEMC) of TAFE, Midland TAFE, and the Balga campus of West Coast College of TAFE.

2. SEMC has been proud to achieve the Large Training Provider of the Year Award for the year 2000. Central West College of TAFE was awarded the Large Training Provider of the Year Award for 2002.

3. When I joined TAFE in October 2000, I was told that I had no choice but to sign an individual contract, which meant that I could be on very different conditions to my work associates.

4. Since then, the CSA worked hard to achieve an Agency Specific Agreement for all employees, to cater for the particular environment of SEMC, such as enabling a three day close-down of the College over the Christmas period.

5. Also, in 2002, the Government Officers Salaries, Allowances and Conditions General Agreement was negotiated and certified to collectively protect the rights and interests of employees and the employer.

6. The General Agreement is critical in ensuring that no employee is persuaded, via the tool of an Australian Workplace Agreement, to accept elimination of collectively bargained conditions of employment, which ensure a healthy and secure occupational environment and home life-style, and therefore a productive workplace.

7. The policy of pressuring new employees to sign an Australian Workplace Agreement, rather than simply offering the different pathways, will mean no choice at all between an AWA and a collectively negotiated agreement.

8. Such policy will cause division between workers and a pathway of inferior conditions with an associated less productive workplace, which will un-do the achievements of TAFE in providing quality vocational education and training in Western Australia.

9. The Skilling Australia's Workforce Bill is a conduit for this policy, and as such should not be passed.

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