

BACKGROUND

The Minister for Employment, Training and Industrial Relations and Minister for Sport (Qld) directed the Queensland Industrial Relations Commission (QIRC) to conduct an inquiry into the impact of the Federal government's WorkChoices Legislation on Queensland workplaces, employees and employers.

A preliminary hearing was conducted by the QIRC on 23 June 2006.

Mr Tony Goode, LGAQ appeared at the hearing on behalf of the Local Government industry.

LGAQ invited interested Councils to provide any views to the Association on the effects of the legislation for consideration and inclusion in the LGAQ submission, such input to be received by the Association on or by 30 July 2006.

Accordingly, numbers of councils provided written submissions or resolutions pertaining to the terms of reference of the QIRC inquiry. LGAQ has ensured that the industry's views are reflected and referenced in this submission.

INTRODUCTION

The Local Government Association of Queensland (LGAQ) is the peak body representing local authorities (councils) throughout the state. LGAQ represents 140 member councils. Queensland is arguably the most regionally diverse state in Australia¹ with councils located from the Torres Strait and the Cape in the state's north to councils located on the borders of the Northern Territory, New South Wales and South Australia

Councils range in size from the Brisbane City Council, the largest municipal council in Australia and the third largest in the Westminster system, to small Aboriginal and Torres Strait Islander community councils. There are 32 Aboriginal and Torres Strait Islander councils in Queensland. These Indigenous councils are currently in transition, from community councils to local authorities regulated by the *Local Government Act 1993* (Qld).

Councils, and notably those in isolated and remote areas of the State, are the epicentre of communities and industry and provide the infrastructure and services to sustain their communities. For example, councils out west provide a surprising array of services and trade ranging from running the local credit

¹ Office of Economic and Statistical Research, Queensland Office of the Government Statistician, *Regional Profiles*, May – June 2004

union or bank, the local butcher shop and funeral service, real estate agent providing rental accommodation, establishing and administering respite care services, the local swimming pool, hospital or health service, aged care and disability services. Councils also provide the necessary labour force and infrastructure for development, building and construction and economic planning. These services are in addition to those traditionally understood to be the role of local authorities: roads, rates, and rubbish collection, provision of water and sewerage, town planning.

Councils perform crucial economic development and community engagement functions and consequently the economic health and social capital of communities are informed by and reliant upon councils. As a consequence of this role and these activities, councils are very often the principal employer in country towns and regional settings throughout Queensland. In these circumstances, most small to medium sized businesses rely heavily on, and their survival is dependant upon, the contracted work obtained through council or the provision of goods and services to councils. Not surprisingly, councils therefore perform a vital leadership role in their communities. It is noted that local government in Queensland is a significant employer and a growing industry sector (as evidenced in ANNEXURE A).

LGAQ PROFILE

LGAQ is an organisation that is older than federation itself. It is an employer representative body established by statute² whose constitution and rules of Association specifically provide for the following:

- To make new Awards by consent with Unions of Employees
- To implement any decision of an annual conference on any industrial relations matters; and
- To arrange for applications to be made and appearances entered into before any Industrial Court or Tribunal, either State or Commonwealth, for and on behalf of all Members.³

As an industry association, LGAQ has direct involvement in the preparation, negotiation and resolution of issues and dispute pertaining to a miscellany of industrial relations instruments (both awards and agreements) covering over 400 different occupational categories. ANNEXURE B outlines the distribution of employees previously covered by state and federal awards and agreements. Collected data demonstrates that local government, relative to other industries, has a significant union membership of approximately 30+% of the workforce. The principal unions operating in local government in Queensland are the Municipal, Administrative and Clerical Services Union (ASU) and its state affiliate, the Queensland Industrial Employees Union, the Australian

² Sections 1194, 1195, 1196, 1197, 1198 and 1199 of the *Local Government Act 1993* (Qld)

³ Part 1 paragraph 3 Constitution and Rules of Association

Workers Union of Employees QLD (AWU), the Federated Engine Drivers and Firemens Association Qld Union of Employees, the Construction, Forestry, Mining and Energy, Industrial Union of Employees Qld, the Plumbers and Gasfitters Employees Union of Australia Qld Branch Union of Employees, the Builders Labourers Federation. In addition, councils run child care centres and thus are party to the industry award. The union party to that award is the Liquor, Hospitality and Miscellaneous Union.

Whilst there is current uncertainty regarding the outcome of the states' High Court challenges to WorkChoices, LGAQ notes that the Queensland Department of Industrial Relations (hereafter referred to as DIR) has published a Research Paper⁴ in which it asserts:

*"We have assumed that all local governments would also be subject (sic) the federal jurisdiction"*⁵

LGAQ has made no such assumption. LGAQ has recommended to member councils to undertake an assessment of their constitutional corporation status, based on previous decisions of the High Court, and advice from legal counsel. LGAQ has provided advice and decision making tools to assist Councils in making this assessment.

INDUSTRIAL RELATIONS PROFILE AND PERSPECTIVES

Local government and its constituent councils are committed to being ethical employers. Discriminatory work practices and arrangements will not serve the industry in its endeavours to attract and retain skilled labour. Local government is in direct competition with the mining industry, currently enjoying a boom that is likely to continue for years to come, certainly beyond the conclusion of the transitional arrangements set out in the new federal legislation; and Councils are competing with an already overstretched building and construction sector in the south east corner of Queensland.

Put simply, it is in the interest of local government employers to provide attractive industrial relations arrangements if they wish to survive the challenges of labour and skills shortages that currently confront them.

Local Government has, prior to the advent of WorkChoices, been beset with a miscellany of awards and arrangements.

Currently within the federal jurisdiction the Queensland Local Government Officers Award 1998 has application to three streams of employment in the industry:

⁴ Department of Industrial Relations (Qld), *The Coverage and Characteristics of the State jurisdiction under a new Industrial Relations system*

⁵ Ibid, p. 8

- Administrative services stream
- Community and environmental services stream
- Technical services stream.

A summary of occupations, functions and areas covered by the award may be found in Appendix C.

There are 14,238 officers employed under this Award, comprised of 6845 males and 7393 females.

Local government is committed to innovation and modernisation. Accordingly, councils have embraced the proposition that community development, leadership and quality service outcomes are best achieved by the development of their people. Skills utilisation and further skills acquisition are central to Councils' innovation and modernisation effort.

Accordingly, and from this context, LGAQ supports the review and reformation of pay and classification scales;⁶ necessary reforms which will emanate out of the WorkChoices reforms, but could have been possible under previous legislation.

LGAQ supports the Commonwealth Government's Award Review Taskforce's proposition that "an industry sector approach is attractive for a number of reasons"⁷ including but not limited to: greater homogeneity of award terms will apply on an industry basis; and thus the rationalisation of awards on an industry basis would, as the Taskforce notes, "simplify the process of consolidating award terms in rationalised awards."⁸ LGAQ equally agrees that "One of the main advantages of adopting an industry-based approach is the simplicity of access to award information."⁹ LGAQ makes the obvious point that the Taskforce's logic apropos awards also flows to the Pay and Classification scales: the management of industrial relations in local government throughout Queensland and Australia will be significantly simplified through the adoption of Local Government as an industry in its own right.

The unions that are party to the Queensland Local Government Officers Award 1998 are:

- Australian Municipal, Administrative, Clerical Services Union (ASU)

⁶ Note the observations of the Award Review Taskforce in its Final Report on Rationalisation of Wage and Classification Structures, where it found that classification structures were highly diverse in their structure and the content of their definitions used to describe particular jobs. The Taskforce also notes that in some instances they (classification structures) "refer to machinery and or equipment that are now obsolete", a point made in the LGAQ submission.

⁷ Award Review Taskforce, Discussion Paper, *Award rationalisation*,, December 2005,p6

⁸ Ibid, p6

⁹ Ibid p6

- Association of Professional Engineers, Scientists and Managers Australian (APESMA).

The award contains two salary scales: an executive salary scale and a general salary scale. The executive salary scale has eight categories (to reflect the size of various councils).

The general salary scale has eight levels, and within each of the eight levels, incremental rates are prescribed. LGAQ supports the reformation of pay scales and the industry rationalisation of awards, so long as any ascription or prescription replacing the current arrangements is premised on the attainment and retention of relevant skills.

Since 2001, Chief Executive Officers (CEOs) have had award exemption, and since 2005, with the consent of the Local Government Managers Association and the relevant unions, other Executive officers are now exempt from the award, where written contracts of employment are entered into between the council and particular officer. LGAQ recommends the continuance of this award exemption. There may be scope to expand this exemption to other levels of Executive Management in Local Government.

The Municipal Officers (Aboriginal and islander Community Councils) Award 2004 covers:

- CEO's
- Project Officers
- Clerical Officers
- Administration Officers
- Community Services Officers
- Social Workers
- Overseers
- Technical Officers

The union party to this Award is the ASU.

Queensland local government also operates under the state awards, including, but not limited to:

- Local Government Employees (Excluding BCC) Award covering 9,703 males and 928 females, totalling 10,631 employees
- Engineering Award (740 males and no female employees)
- Building Trades Public Sector Award covering 476 males and five females, totalling 481 employees
- Child Care Industry Award (15 males, 423 females totalling 438 employees).

Brisbane City Council (BCC) employs 5472 males and 2498 females totalling 7970, and has recently completed its 6th Enterprise Bargaining Agreement (2005). The following broad employment groups have been applied through the past 4 EBA's to overcome demarcations and different conditions provided through a varied of awards for members of the same operational team:

- Salaried Staff Employees (Professional, Technical and Administrative classifications, in roles evaluated through a Mercer CED process, within an 8 band framework, with increments)
- City Service Employees (Operational employees, teams leaders and Local Laws Officers subject to described roles evaluated through an agreed points system, within 14 grade structure together with an entry level)
- Passenger Services Employees (bus drivers and assistants subject to progression based on experience increments over 6 levels).

Trade Services Employees (trade and related classifications based on the Engineering Award, State and Building Trades Public Sector Award mostly between C10 to C7, with an "over-award payment" aggregating a range of allowances and previous over-award components into one single rationalised payment).

There is a miscellany of other awards used by councils, depending on the extent of their operations, and these account for 322 males, 562 females totally 884 employees.

A profile of total number of employees and award distribution, state and federal may be found in ANNEXURE A

Of the 140 councils in Queensland, at least 117 have certified agreements applying to their operations. These awards and agreements are registered in the state and/or federal jurisdictions. In addition to these awards and certified agreements, there are local area workplace agreements (LAWA's). LAWA's have been either formally certified as an industrial relations instrument, or have become part of the enterprise agreement. Councils that do not have formal certified agreements may still have 'arrangements' that act as a nascent agreement.

In summary, local government in Queensland employs well in excess of 35,000 employees and growing, thus making local government a significant employer and industry in Queensland. On a national basis, local government engages in excess of 373,000 employees, thus making it a significant employer in its own right.

A ROADMAP FOR CHANGE: REFORMING INDUSTRIAL RELATIONS

LGAQ's strategy for reforming industrial relations in local government is enshrined in a 10 year industrial relations reform strategy: "A Roadmap for Change: 2003 - 2013", which outlines a number of goals to deliver a workplace relations system that gives:

- *" Councils confidence in maintaining an affordable workforce that is relevant for the current and emerging business of Councils*
- *Workers a confidence for receiving appropriate employment conditions and support to pursue career options that promote their continued employability by Local Authorities*
- *Communities a confidence that employment practices in Local Government service the best interest of Councils socially and economically*
- *All affected parties a confidence that the system is sufficiently transparent and robust to deliver the necessary certainty for effective planning and performance."*¹⁰

This Strategic document has as its primary goal that local government industrial relations be covered by one jurisdiction. This Strategic document was prepared prior to the current Commonwealth Government reformation of industrial relations, and thus the Strategy envisaged the jurisdiction to be the State of Queensland (premised on the then federalist industrial relations structures in place at the time).

LGAQ supports both the regulation of industrial relations within a single jurisdiction and the simplification of the current industrial relations environment by ensuring that a miscellany of awards is replaced by a single industrial instrument harmonising arrangements in each Council for each Councils total workforce.

LGAQ concurs with the proposition that the advantages of current federal reforms embraced in what is broadly referred to as WorkChoices, include, but are not limited to:

- "The rationalisation of the interminable processes, labour and expense necessary for employers to keep abreast of a myriad of award, common rule and legislative amendments, variations and interpretations, often in multiple jurisdictions
- The implementation of the decisions of a single national wage review system
- Jurisdictional certainty and the contingent curtailment of 'jurisdictional shopping'

¹⁰ Op cit *Reforming Industrial Relations for Local Government in Queensland: A Roadmap for Change – 2003-2013* p2

- Certainty in compliance with one regulatory or dispute settlement system
- A single predictable hierarchy of trial, appeal and review"¹¹

All submissions and resolutions referred to LGAQ for consideration in the preparation of this submission. universally support the proposition of a single jurisdiction and a curtailment to the aforementioned 'jurisdictional shopping'. This 'jurisdictional shopping' has relevance to at least one of the questions posed by the QIRC in its Inquiry and will be addressed later in this submission.

LGAQ considers that it is antithetical to a modern industrial relations approach to maintain antiquated measures (including some that remain in current awards, such as a locality allowance that was created due to 19th century travel arrangements, or the provision relating to long service leave as they pertain to employees who were engaged by councils prior to 1944). LGAQ and its constituent member councils are keen to develop relevant, modern and innovative approaches to the attraction and retention of labour and to its industrial relations practice.

LGAQ considers the new Federal legislation affords significant potential for procedural efficiency, a simplified system and clarity of process. LGAQ observes that the industry is currently facing some significant challenges due to:

- The current period of uncertainty due to the newness of the federal legislation and the absence of the yet to be made decision of the High Court;
- Some of the procedural teething problems, notably the record keeping regulations and the complexity of the application of transitional arrangements within local government; and
- Some aspects of the drafting of the legislation such as the making of agreements where there is contestation between unions, some of which are prepared to agree and others are not prepared to agree to the making of an agreement with a Council, which will require further refinement to achieve WorkChoices intended purpose of a simplified system of industrial relations.

LGAQ notes the recently published findings of the federal government's Award Review Taskforce, and notably its observations regarding the application of awards in Australian workplaces:

"This Study demonstrates that while award terms and conditions are only used to set pay and conditions of employees by a minority of businesses, awards are being used as a resource by a majority of businesses."¹²

¹¹ City of Townville, *Submission to LGAQ Regarding Queensland Industrial Relations Commission Inquiry Into WorkChoices Legislation*, 28 July 2006, p3

Since the federal Labor Government introduced Enterprise Bargaining in the last century - much of the regulation of industrial relations has been focused on the workplace: on each constituent Council. During this period, whilst awards have been referred to as the "parent", their offspring have grown up and reflected more modern aspirations, such as improved rates, restructured allowances, variation to hours of work and superior entitlements.

LGAQ is keen to support this ongoing modernisation and harmonisation of entitlements in each Council and throughout the industry. Currently negotiated WorkChoices collective agreements have integrated relevant award conditions with past advances in previous Enterprise Bargaining Agreements. LGAQ has invited Unions to address its various industrial relations forums and requested input from unions to its initial template for Agreement making.

Mayors and Chief Executive Officers have since February 2006 conducted public meetings with their staff to reassure their respective workforces of their intent to ethically utilise the opportunities presented by WorkChoices, and to reassure employees of their intent not to rapaciously undermine employment conditions. LGAQ, on behalf of the industry, has repeatedly and publicly made the same commitments.

Advances in terms and conditions of employment together with the ongoing application of good governance necessitate reforms in employment arrangements at the workplace or Council level.

LGAQ is keen to ensure that industrial instruments are modern, written in plain English and comprehensively contained in one instrument. As observed by our constituent Councils:

"....at the moment the majority of employees do not know which award(s) and agreements apply to (their) engagement and which court and or commission has the power to hear disputes which may arise during employment. The major benefit of WorkChoices is the establishment of a single system to address employment and industrial relations. This will offer significant opportunities to improve efficiency and productivity in the mid to long term....."¹³

It is axiomatic to suggest that the benefits to employees, human resource practitioners, payroll officers and industry employers of a single industrial instrument in a single jurisdiction are efficiency and transparency. Such an approach is also financially responsible.

Whilst LGAQ has called for reform in the handling of unfair dismissals, most notably from a procedural perspective, it does not consider that the current

¹² Award Review Taskforce *Final Report on Rationalisation of Wage and Classification Structures*, Australian Government, July 2006, p 58

¹³ Op cit, *Queensland Industrial Relations Commission Inquiry Into WorkChoices Legislation*, pp3-4

arbitrary cut-off of 100 employees regarding access to remedy through an industrial tribunal is appropriate or fair. Moreover, there is currently no reformation of procedures pertaining to unfair dismissal for employers that engage greater than 100 employees.

Equally, LGAQ does not support the removal of the 'no disadvantage test' from agreement making. Indeed, it is LGAQ's view that the preservation of this test (or indeed an alternative test) would have done much to assist in the successful application of reforms in agreement making now enshrined and anticipated in the WorkChoices legislation.

QIRC TERMS OF REFERENCE

The following is a consideration of each of the QIRC Inquiry's Terms of Reference:

1. Consider mechanisms for employees to report incidents of unfair treatment as a result of the introduction of WorkChoices

In providing to industry its terms of reference for the Inquiry, QIRC has not provided an explanation of what it means by the term 'unfair' for the purposes of its deliberations. Notwithstanding this inadequacy, and having regard to Local Government's opposition to the provisions regarding unfair dismissal, LGAQ concurs with the observations of the Townsville City Council:

"In any event, the *Workplace Relations Act 1996* (Cth), which is the legislative vessel which carries the WorkChoices amendments, adequately provides for both prudential, review and appeal processes. In addition a separate 'policing' function has been established"¹⁴

The amended federal legislation also attaches significant penalties for breach, including civil penalties for procedural breach. The latter is extremely prescriptive and attaches, if a breach is found, significant financial sanctions.

WorkChoices has provided a mechanism to address such alleged incidents of unfair treatment in the establishment of the Office of Workplace Services (OWS). This Office has, inter alia, been established to ensure the rights and obligations of workers and employers under the *Workplace Relations Act 1996* are understood and enforced fairly. As such, remedy is now obtainable in one jurisdiction, and for this reason why would the industry propose a duplication of such remedy in another? LGAQ re-iterates the industry's desired objective of operating within one jurisdiction. Moreover, why would there need to be an additional mechanism in the state jurisdiction, in circumstances where employees and employers are legally covered in the federal jurisdiction?

¹⁴ Loc cit, p5

Furthermore, such duplication would unnecessarily complicate grievance and dispute resolution. LGAQ has supported the conferring of mediation and resolution powers via industrial instruments (such as collective workplace agreements) to the Australian Industrial Relations Commission (AIRC).

LGAQ notes, however, that much relies on the efficacy of the OWS; and observes that there is a need for Government or other party to closely monitor its role and operations.

Other protections are also available to aggrieved employees including common law remedies, anti-discrimination laws and the provisions of the *Trade Practices Act 1974* (Cth).

Three sections of the *Trade Practices Act 1974* (Cth) also provide protection against unfair treatment, salient to the QIRC's first term of reference:

- S53B is targeted at employment situations and provides for a specific prohibition against misleading conduct during the recruitment process;
- S 52 which provides for a general prohibition against misleading and deceptive conduct;
- S51AA which prohibits a corporation from engaging in unconscionable conduct.

In the event that a court finds that misleading or deceptive conduct has occurred, it may make an order for damages.

In all these circumstances, LGAQ cannot ascertain any logical reason to add further complicated mechanisms pertaining to "unfair treatment". Liaison between the Department of Industrial Relations (Qld) and the Department of Employment & Workplace Relations (Cth) can provide the Queensland Government with necessary reports pertaining to this Term of Reference.

2. Inquire into incidents of unlawful, unfair or otherwise inappropriate industrial relations practices including:

- **The reduction in wages and conditions through Australian Workplace Agreements (AWA's) or other collective agreements;**
- **Discrimination, harassment or the denial of workplace rights; and**
- **Unfair dismissal or other forms of unfair or unlawful treatment of employees**

LGAQ observes that every employment relationship is regulated by an employment contract, which contains expressed terms agreed upon by the employer and employees and implied terms given force through the common law.

LGAQ points to the remedies currently available to employees in circumstances of breach of contract or unfair or unlawful dismissal, which is referenced earlier in this submission.

LGAQ has also stated its opposition to the arbitrary cut-off of 100 employees as it relates to the provisions of the new federal legislation pertaining to unfair dismissal.

LGAQ asserts that changes to conditions of employment of themselves should not be interpreted as a diminution in such conditions. The industry is committed to modernisation, and thus in developing any collective agreement that rejects the mere transplanting of outdated or irrelevant conditions to a particular workplace agreement does not mean, a priori, a diminution of conditions. Some examples of such changes include, but are not limited to:

- Removal of the horse and saddle allowance in councils where the means of transport is only, and will only, be a motor vehicle
- Removal of camp and temporary camp allowances and arrangements in large metropolitan and urban centres where temporary camps have not and never occur or will be required
- Removal of callings derived from broader industry awards, such as riggers and scaffolders in councils where buildings will only ever be less than those stipulated in the construction-related industry award.
- Alteration of ordinary hours to reflect environment and climatic conditions.

LGAQ will provide the QIRC with many more examples to illustrate this point, if it so requests.

LGAQ and its constituent councils wish to modernise conditions, and as such would wish to see the removal of antiquated arrangements, such as the already referenced long service leave provision applying to employees engaged by a councils prior to 1944.

Equally, there is an array of allowances, such as attaching a trailer to a vehicle, which is hard to monitor and adds undue complexity to the work of supervisors and pay officers. LGAQ is recommending the introduction of a general purpose allowance which embraces all such allowances that are infrequently undertaken or difficult to monitor. Indeed, such a general purpose allowance, with indexation, has been adopted in previous iterations of enterprise bargaining agreements. In this context, to suggest that encouraging contemporary entitlements, rates and arrangements is an attempt to undermine or diminish "hard fought conditions over decades" is plainly preposterous.

The preservation of broad industry classifications that have no relevance to a council or local government as an industry is another example of where

Councils and the LGAQ wish to modernise and ensure relevancy. Failure to include riggers, bosuns, shop fitters and other classifications in a council's new collective agreement is patently not an example of diminution of rights. It is patently an example of ensuring accuracy and relevance.

Councils wish to modernise employment arrangements. They equally desire to ensure that their employees' rights and entitlements are maintained, and pay rates and conditions are fair, improved and attractive. Without such an approach, local government in Queensland will not be able to compete in the attraction and retention of staff.

LGAQ and constituent councils are open to any suggestion by any union for changes in the drafting of agreements if they offend, inadvertently, appropriate employee entitlements. Throughout this period, post 27th March 2006, legitimate input from unions representing their members has been accommodated. There is no reason to believe that this practice will be curtailed.

Reference is made to unfair dismissal earlier in this submission.

Regarding the QIRC's inquiry into discrimination, harassment and denial of workplace rights (which may include the right to be a member of a registered employee association), LGAQ submits the following:

- Employees are currently protected by anti-discrimination legislation, which is not overridden by WorkChoices. Such legislation operates in both the state and federal jurisdictions. The following table summarises this protection:

Federal Jurisdiction	State Jurisdiction
<i>Sex Discrimination Act 1984</i> (Cth)	<i>Anti-Discrimination Act 1977</i> (NSW)
<i>Racial Discrimination Act 1975</i> (Cth)	<i>Equal Opportunity Act 1995</i> (Vic)
Disability Discrimination Act 1992 (Cth)	<i>Anti--Discrimination Act 1991</i> (Qld)
<i>Age Discrimination Act 2004</i> (Cth)	<i>Equal Opportunity Act 1984</i> (SA)
<i>Human Rights and Equal Employment Opportunity Commission Act 1986</i> (Cth)	<i>Equal Opportunity Act 1984</i> (WA)
	<i>Anti-Discrimination Act 1998</i> (Tas)
	<i>Discrimination Act 1991</i> (ACT)
	<i>Anti-Discrimination Act 1992</i> (NT)

- Councils are cognisant of the Division of Workplace Health and Safety (Qld) code as it pertains to workplace harassment and bullying, and this Code has been incorporated into councils' policies and procedures,

- which inform the employment contract, both for the employing council and each employee of the Council;
- Breaches of Codes of Conduct, allegations of harassment or bullying and discriminatory work practices are investigated by Councils, in number of cases utilising the investigative expertise of LGAQ or external specialist service providers;
 - LGAQ regularly conducts training and development programmes pertaining to workplace harassment, bullying and appropriate workplace behaviours with staff of many councils, and provides training and development to councils pertaining to good governance and the statutorily-underpinned Code of Conduct, given force through the *Local Government Act 1993* (Qld), which is not overridden by WorkChoices;
 - Allegations of misconduct and official misconduct are reported to the Crime and Misconduct Commission (Qld) for their assessment and/or investigation and recommendations;
 - WorkChoices proscribes the use of coercion or duress in the making of agreements¹⁵; and LGAQ and its constituent councils are aware of their legal obligations in this regard. Any assertions of such pressure may be referred to the Office of Workplace Services (OWS) as it is an alleged breach of the *Workplace Relations Act 1996* (Cth) as amended;
 - It is to be noted that the Minister for Employment and Workplace Relations, Hon Kevin Andrews, has recently announced a series of amendments to the federal legislation to strengthen protections against duress or coercion - particularly regarding the cashing out of annual leave and personal/carer's or compassionate leave¹⁶;
 - LGAQ concurs with these amendments as well as any other legislative protection against unscrupulous employers removing legitimate or fundamental entitlements from current and future employees.

3. Consider the investigations and outcomes of similar inquiries in other states and territories in terms of their relevance to Queensland

Reference is made to LGAQ's submission to the Commonwealth Government's Award Review Taskforce and to the Taskforce's findings.

LGAQ makes no further comment regarding this term of reference. It is a Term of Reference which is more appropriately addressed by the QIRC, through its research that no doubt accompanies its current Inquiry.

¹⁵ S400, *Workplace Relations Act 1996* (Cth)

¹⁶ Hon Kevin Andrews MP, Media Release *Amendments to Workplace Relations Regulations*, Media Centre, 22 September 2006

4. **Recommend a process for:**
- facilitating the regular reporting and examination of incidents of unfair treatment as a result of the introduction of WorkChoices; and
 - monitoring and reporting to the Minister, on a regular basis, on industrial relations practices under WorkChoices including their impact on employees and employers.

This Term of Reference has been addressed earlier in this submission, notably in the commentary attached to Terms of Reference 1. A collegial relationship between DEWR and DIR will more than adequately provide an avenue of regular advice to the Queensland government pertaining to performance of Queensland constitutional corporations operating in the federal jurisdiction.

LGAQ suggest that DIR take a proactive role in ensuring that Queensland workers are protected through the means provided by the enabling legislation.

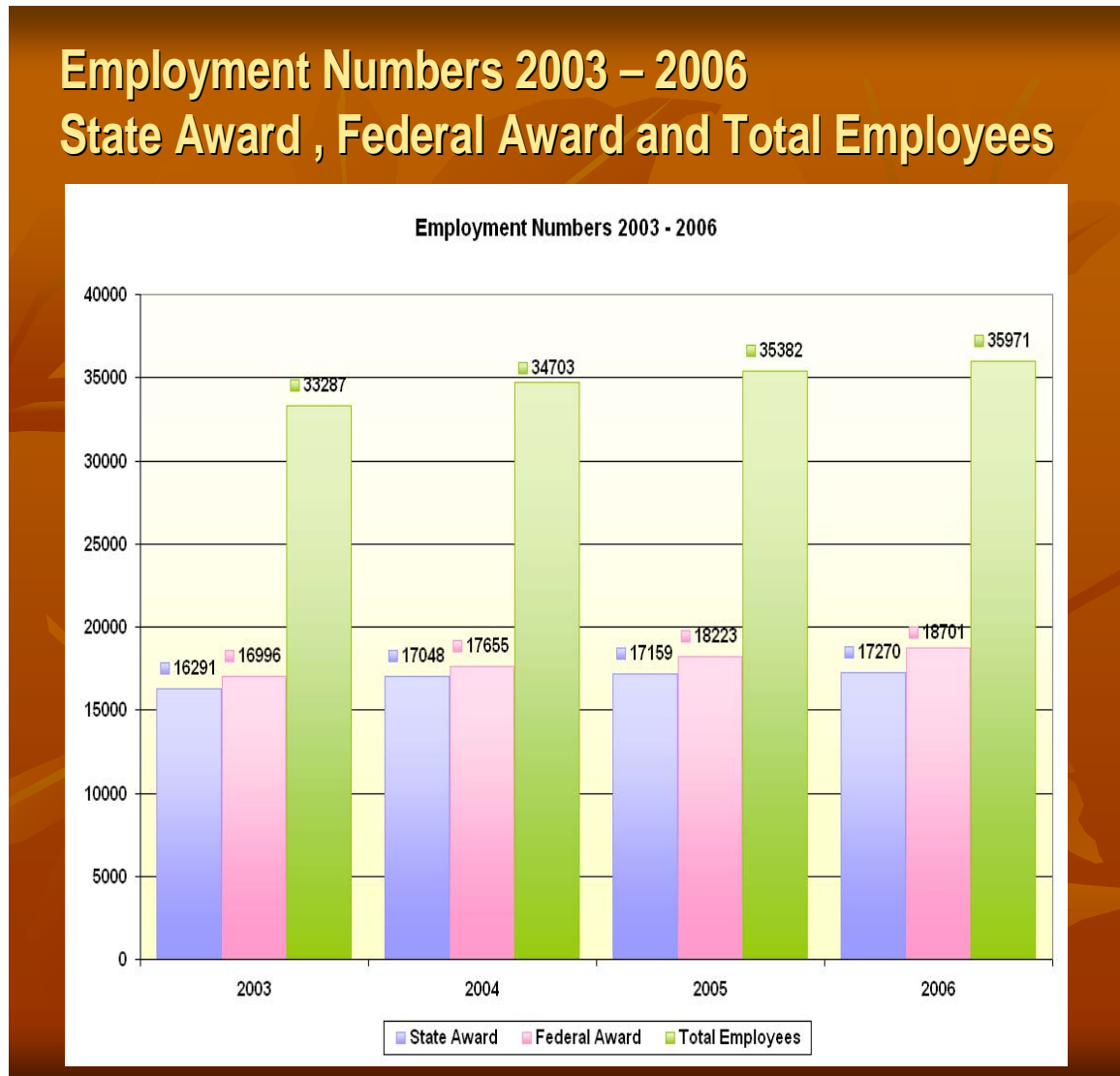
Summary

LGAQ makes the simple observation that if the High Court upholds the constitutional validity of the corporations powers upon which the *Workplace Relations Act 1996* (Cth) as amended relies; Councils as constitutional corporations will thus be captured in the federal jurisdiction.

Having established that the regulation of local government's industrial relations resides within the federal sphere, any duplication of functions or roles attached to the QIRC would thus be unnecessary; and would complicate rather than simplify industrial relations. Such an approach is antithetical to the submissions and requests of all constituent councils, which seek the simplification of industrial relations arrangements and systems. Such complications only serve to add unnecessary costs to employing councils, which means in real terms that valuable resources are being directed away from necessary service delivery, and would confuse rather than clarify industrial relations arrangements for council's respective workforces.

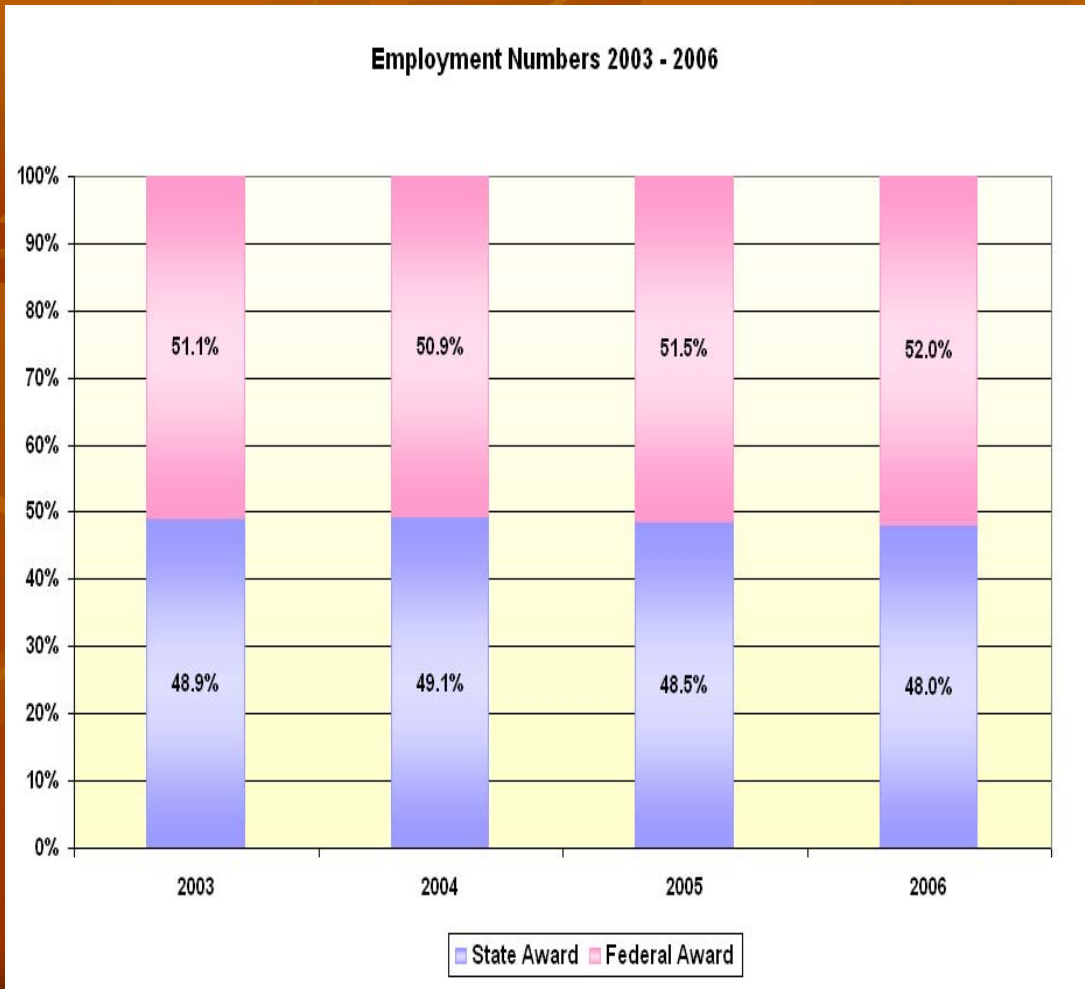
In conclusion, local government did not seek nor acritically embrace the advent of WorkChoices. However, while it opposes the nature and ascriptions pertaining to unfair dismissal and the failure to maintain the 'no disadvantage' test; it strongly supports reforms that will lead to a single employer being captured by a single jurisdiction; together with the modernisation and harmonisation of employment conditions.

ANNEXURE A



ANNEXURE B

Employment Numbers 2003 – 2006 State Award and Federal Award



ANNEXURE C

Summary of Occupations, Functions and Areas ¹⁷

CORPORATE

Executive

[Chief Executive Officer/General Manager](#)
[Deputy CEO](#)
[Director Corporate/Administration](#)
[Director Finance/Treasurer](#)
[CEO's Assistant/Executive Officer/Personal Assistant](#)
[Mayor/President's Secretary/Personal Assistant](#)
[Minutes and Agendas/Governance/Executive Officer](#)
[Media/Marketing Officer](#)
[Strategic Planning Officer](#)

Management/Administration

[Senior Administration Officer](#)
[Administration Officer](#)
[Secretary/Administration Assistant](#)
[Contracts Management Officer](#)

Finance

[Senior Accountant/Finance](#)
[Creditors Clerk/Officer](#)
[Debtors Clerk/Rates Officer](#)
[Purchasing Officer](#)

Human Resources

[Human Resources Manager](#)
[Human Resources Officer](#)
[Payroll Officer](#)
[Occupational Health and Safety/Risk Management Officer](#)

Information Technology

¹⁷ Extract from Proposed 2006 *Remuneration survey* involving Local Government Associations throughout Australia. Note: In addition to the positions outlined in this survey, Qld has other positions embracing Water and Treatment Works, Transport and other infrastructure; and involve professional classifications (such as economists, scientists, social workers, solicitors), technical (such as laboratory technicians), trades (building certifiers, plumbers, electricians, concreters), administration (purchasing officers) and Passenger Service employees (such as bus drivers and assistants). This Appendix is illustrative.

[Information Technology Manager](#)
[Information Technology Administrator/Officer](#)
[GIS Officer](#)

Records

[Records Manager](#)
[Senior Records Officer](#)
[Records Officer](#)

Customer Service

[Customer Service Officer/Cashier](#)
[Customer Service Officer/Receptionist](#)

ENVIRONMENTAL

Management/Administration

[Director](#)
[Deputy/Manager](#)
[Administration Officer](#)

Planning

[Planning Officer/Inspector](#)
[Planning Assistant](#)
[Drafting Officer](#)

Building

[Principal Building Surveyor/Manager Building Surveying](#)
[Deputy/Senior Building Surveyor](#)
[Senior Surveyor](#)
[Building Surveyor](#)
[Building Officer/Inspector](#)
[Building Assistant](#)

Health

[Principal Environmental Health Officer](#)
[Deputy/Senior Environmental Health Officer](#)
[Environmental Health Officer](#)

Enforcement

[Ranger/General Inspectorial Manager](#)
[Senior Ranger/General Inspector](#)
[Ranger/Enforcement Officer/General Inspector](#)
[Traffic and Parking Control](#)
[Security Officer](#)

HUMAN SERVICES

Management/Administration

[Director](#)
[Deputy/Manager](#)
[Administration Officer](#)

Community Development

[Community Development Coordinator/Officer](#)
[Social Planner](#)

Economic Development

[Economic Development Manager](#)
[Economic Development Officer](#)

Tourism

[Tourism Officer](#)

Community Services

[Community Services Coordinator/Officer](#)
[Community Information Officer](#)
[Aged Care Coordinator/Officer](#)
[Youth Coordinator/Officer](#)
[Volunteer Coordinator](#)
[Home & Community Care/Human Services/Welfare Officer](#)

Childcare

[Manager/Director](#)
[Coordinator/Team Leader](#)
[Teacher/Qualified Officer](#)
[Aide/Unqualified Officer](#)

Recreation & Sport

[Recreation Services/Sport and Recreation Manager](#)
[Recreation Centre/Pool Manager](#)
[Recreation/Sport and Recreation Officer](#)
[Assistant Pool Manager/Duty Manager](#)
[Pool Attendants](#)

Library

[Principal/Chief Librarian/Manager Libraries](#)
[Branch Librarian/Library Branch Manager](#)
[Library Technician](#)
[Library Officer/Assistant](#)

ENGINEERING/INFRASTRUCTURE

Management/Administration

[Director](#)
[Deputy/Manager](#)
[Administration Officer](#)

Engineering, Professional

[Construction/Drainage/Design Engineer](#)
[Technical Officer](#)
[Draftsperson](#)
[Surveyor](#)

Works - Construction/Maintenance

[Principal Works Supervisor/Manager/Civil Works Manager](#)
[Supervisor](#)
[Leading Hand/Team Leader/Ganger](#)
[Grader Driver](#)
[Road Construction/Maintenance](#)
[Plant Operator](#)
[Construction/Drainage](#)

Sundry Trades

[Mechanic](#)
[Carpenter](#)
[Horticulturalist/Arborist](#)

Parks & Gardens

[Principal Supervisor/Manager](#)
[Supervisor](#)
[Leading Hand/Team Leader/Ganger](#)
[Gardener/Parks Labourer/Plant Operator](#)

Asset/Facilities

[Handyman](#)
[Caretaker](#)
[Cleaner](#)
[Airport Officer/Manager](#)
[Golf Course Manager](#)

Waste

[Waste Truck Driver](#)
[Landfill Employee](#)