

Submission
No 20

INQUIRY INTO IMPACT OF COMMONWEALTH WORKCHOICES LEGISLATION

Organisation: NSW United Services Union
Name: Mr Brian Harris
Position: General Secretary
Telephone:
Date Received: 26/05/2006

Theme:

Summary



**New South Wales Local
Government, Clerical,
Administrative, Energy, Airlines and
Utilities Union**

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Contact: Ben Kruse

26 May 2006

Social Issues Committee
Legislation Council
NSW Parliament
Macquarie Street
SYDNEY NSW 2000

Dear Sir/Madam,

Re: INQUIRY –IMPACT OF COMMONWEALTH WORKCHOICES LEGISLATION

We refer to the above mentioned inquiry and the terms of reference thereto.

The New South Wales Local Government, Clerical, Administrative, Energy, Airlines and Utilities Union (the United Services Union) is the principal union in New South Wales local government and in the clerical and administrative industry and in the Energy and Utilities sector.

We enclose several documents for the assistance of the inquiry:

1. Statement of Tanya Barton to the Parliament of Australia Senate enquiry into the Workplace Relations (WorkChoices) Bill 2005.
2. Statement of Martin Wynne to the Parliament of Australia Senate enquiry into the Workplace Relations (WorkChoices) Bill 2005
3. Statement of Narelle Rich to the Parliament of Australia Senate enquiry into the Workplace Relations (WorkChoices) Bill 2005.
4. Statement of Kristy LeMilliere to the Parliament of Australia Senate enquiry into the Workplace Relations (WorkChoices) Bill 2005
5. Statement of Neville Pearson to the Parliament of Australia Senate enquiry into the Workplace Relations (WorkChoices) Bill 2005.

6. We also enclose a copy of a Press Release from the Local Government and Shires Association of New South Wales indicating their opposition to the Federal legislation.
7. We also enclose for your information a copy of a Press Release issued by the Federal Minister for Local Government, the Hon. Jim Lloyd concerning the possible application of WorkChoices.
8. We further enclose a recent USU Update entitled "USU High Court Challenge: WorkChoices Coverage Doubtful".

Constitutional and Coverage concerns

The United Services Union has joined with Unions NSW and the State Governments to challenge the constitutionality of the WorkChoices legislation. Further, in the event that the High Court upholds the legislation there will be continuing doubts regarding the ability for the legislation to cover New South Wales local councils as "municipal corporations". Recent developments in the High Court concerning this issue are addressed in the attached USU circular regarding the High Court challenge.

The Impact on the ability for workers to genuinely bargain

The award system in New South Wales provides a means through which a true safety net of wages and conditions exist in New South Wales local government, regardless of the capacity of various groups to bargain. Recent advances in the area of pay equity and paid maternity leave in the development of the Local Government (State) Award show that the award system provides a genuine means through which advances in these important social entitlements can occur.

The stripping back of the award system, through Workchoices, will inevitably lead to a breakdown in industry bargaining and a breakdown in the capacity for wages and conditions to be established by reference to concepts such as fairness and equity.

The attached statement of Tanya Barton provides a practical analysis of how WorkChoices has the capacity to impact negatively on working women in local government in these areas.

Impact on wages and conditions – with particular consequences for rural communities and small business

In rural and regional districts, WorkChoices will have a negative impact on the enjoyment of decent wages and conditions. This is illustrated in the statements of Neville Pearson and Kristy LeMilliere.

Notably the State award system has provided a means through which a substantial industry dispute concerning the payment of penalty rates in New South Wales local government was resolved in a way that provided fair and reasonable rates for

rural workers. During a period of deregulation of penalty rates from the early 1990s to 2005, the payment of penalty rates at regional centres came under particular pressure. The process of conciliation before the New South Wales Industrial Relation Commission provided a mechanism whereby these imbalances in the payment of penalty rates were resolved.

Reductions in the wages and conditions of workers (under WorkChoices) will, over time, have a particularly negatively impact on regional and rural communities. This occurs as the spending power of workers and their families is reduced - consequently this has a particularly negative impact on locally based small business and the economic viability of rural commercial centres.

Similarly, the erosion of conditions (such as more generous leave entitlements than those available through WorkChoices) can result in workers having less 'free time' to spend in family and community activities. The impact that this can have on the community can be evident in the increased demand and strain on family life and community support networks at a time when less people are available to provide support. Social changes of this nature, combined with the loss of security of employment can increase family and community tensions and stress – the long term impact of such social changes are often underestimated or totally neglected when industrial relations policies and legislation are being developed.

Bargaining power of clerical and administrative workers

The 2001 Census data obtained by the Union suggests that there were around 300,000 clerical and administrative workers employed in the private sector in NSW - approximately 80% of whom were female. Many of these workers are scattered across the state working in very small establishments where individual workers have very limited bargaining power. These workers tend to rely on the State Wage Case Decisions to maintain adequate income levels. In areas where competition for jobs is fierce, the Workchoices legislation poses a particular threat to the ability to maintain fair and equitable wage and conditions without an adequate safety net.

Australian Workplace Agreements are already prevalent in some areas affecting clerical and administrative workers. There is increasing evidence that AWAs are being used to cut pay rates, abolish penalty rates and overtime loading.

Under the new laws many clerical workers can now be sacked without recourse to protection from unfair dismissal because they are employed in organisations with less than 100 employees. The loss of power of the independent umpire and restricted access to workplaces by unions will further undermine the bargaining position of clerical workers and indeed other workers affected by the federal legislation.

The female dominated nature of the clerical and administrative workforce is similar to the gender balance within the energy sector of our membership. A large proportion of our members in the energy sector work in call centres and are predominantly female. The USU is concerned that under WorkChoices their

bargaining power will be reduced – placing more stress on their wages and conditions as a result.

Balancing work and family responsibilities

According to a recent Australian Bureau of Statistics survey (cited in Workplace Express 23rd May, 2006), three out of every five working families rely at least partially on flexible working arrangements to meet their child care needs.

Employees working under New South Wales State Awards have won a range of benefits to help balance work and family responsibilities. For example, the improved employment conditions arise from the State Family Provisions Test Case heard before the State Industrial Relations Commission marks a significant milestone in the improvement of employment rights for working families. However, the actions of the Federal Government cast doubt as to the extent to which these rights will be guaranteed under the new federal industrial relations system.

For more details on impact of the legislation on family life refer to the statements of Tanya Barton and Kristy LeMilliere.

In contrast to the outcomes offered by the federal industrial relations legislation, workers need job security to reduce stress involved in planning and making commitments– such as purchasing a family home. They need to have security of income to be able to pay bills and meet household budgets. Family members need to be able to plan their time and develop routines for supporting and caring for their families and being involved in the community. When trying to balance work and family life, experience of workers shows that WorkChoice legislation really is “no choice”.

Yours faithfully



Brian Harris
General Secretary
Per Ben Kruse, Manager Legal and Industrial

Parliament of Australia Senate – Enquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

Submission by Tanya Barton

Childcare Director
Enmore Children's Centre

I am employed by Marrickville City Council, located in the Inner West of Sydney. I have worked with the Council for 22 years.

I work at the Enmore Children's Centre as the Centre Director.

I feel compelled to make this submission to the Senate enquiry because I have grave concerns about the direction in which our society will be heading if the Government's proposed industrial relations legislation becomes law.

There are 13 of us employed at the Centre. With the exception of casual staff, the workforce of the centre is entirely female. We have 40 children at the Centre each day. We support a community of families that live in the area and use the Centre as a part of their ordinary working lives.

My conditions of employment and salary are set by the Local Government (State) Award. I have looked at the WorkChoices policy and am horrified at the huge number of conditions that will be stripped from the State Award, some immediately, and some over the course of the next few years.

One of the most important conditions under threat is our right to skills based pay. The child care industry is a low paid industry. We have a female dominated workforce and because we work with young children we tend not to attract the same level of respect and value that is attributed to other employees, particularly other professionals. But in local government our wages are somewhat better than in the private sector. This is partly because we have skills based career paths. When skills based career paths were introduced in the early 1990s we got pay increases because, for the first time, our jobs were evaluated on the basis of our skills rather than our bargaining power. We still have problems with pay equity, but I am absolutely certain that things will not get any better if skills based career paths are removed from the award. The individual contracts promoted by WorkChoices will make things even worse.

On the 1st of November 2001 I was present at the NSW Industrial Relations Commission when Justice Schmidt handed down a decision approving the inclusion of paid maternity leave in our State Award. There was an extraordinary moment of celebration as the room broke into applause as the Judge gave her decision. The campaign for this entitlement saw women from a diversity of backgrounds from across NSW bring their personal stories before the Commission in support of the argument for paid maternity leave. Initially there was strong resistance from many councils against including this entitlement in the state award. Without the involvement of the Union (the United Services Union), the employer associations (the Local Government & Shires Associations) and the independent umpire (the Industrial Relations Commission) there is no way that this entitlement would now be a common feature of employment in NSW local government. We now have a safety net

entitlement of 9 weeks leave at full pay, or 18 weeks at half pay. You can also use long service at half pay after 5 years at council.

I AM ABSOLUTELY OUTRAGED THAT THE FEDERAL GOVERNMENT NOW PROPOSES TO MAKE PAID MATERNITY LEAVE A NON-ALLOWABLE MATTER IN AWARDS. Sure, these provisions might be protected for a few years while we are in "transition". However, if our Award is converted to become an "agreement" I understand that there is nothing to stop the employers stripping this condition away in the future. I was personally involved in this campaign and I can assure you that many Councils only extended this condition of employment to their female workers because the condition was put in the Award. If it comes out of the award this basic right for working families will be seriously eroded.

Because I work in a child care centre I am in day-to-day contact with working parents. The high cost of living in Sydney means that many families must have both partners working in order to keep the household going and pay for the mortgage. Having access to decent Award conditions is crucial in keeping some kind of balance in the strain between a family's work and home life. On reading through the WorkChoices policy I was astounded to see that Awards clauses dealing with work and family provisions are actually "non-allowable" under the proposed legislation. The Local Government (State) Award has a clause which enables flexibility for work and family responsibilities. The clause means that employers are not allowed to unreasonably withhold an agreement for flexible work and leave arrangements to enable employees to attend to work and family responsibilities. How can the Federal Government take these conditions away from Awards and still maintain that WorkChoices provides for a fairer industrial relations system? I am angry about the misleading advertisements that I see on television and hear on the radio that suggest that workers will be better off under the new system. If you look at the truth of what the Government is doing to our State Award, it just does not stack up.

Our State Award provides for 15 days sick leave, which is cumulative and can be taken either for sick leave or carer's leave. The WorkChoices legislation imposes a standard which only guarantees 10 days cumulative personal leave per year. Additional carer's leave is unpaid. This is another loss for working families.

The list of employment conditions that will be stripped away from the State Award is quite extraordinary. In local government we have a real problem with high levels of casualisation. Management are often tempted to try and move employees from permanent employment onto fixed term contracts. Our Award places restrictions on the employment of casuals and the use of fixed term contracts – I understand that the Workchoices legislation will remove these restrictions, making our work less secure. Mandatory employee consultation is also at risk. The State Award makes it necessary for council to consult with employees and the Union before major changes are introduced, like redundancies. Working in a political environment, particularly at the grassroots level like local government, means that consultation is really important. Otherwise employees can become caught in the cross fire in factional wars between the different political interest groups. We need the protection of the award and a decent system of conciliation and arbitration to protect our rights to a fair and decent work place and secure employment.

Basic entitlements such as long service leave and annual leave will also be removed from the Award resulting in the further loss of conditions. Why should our existing leave entitlements in our award be stripped back?

For me, the greatest impact will probably be in my wages. The Award has provided solid general increases averaging at about 3.5 percent a year over the last 10 years. I have no confidence that the so-called "Fair Pay Commission" will act as a truly independent body in maintaining a decent standard of living for Australian workers.

Last but not least I am worried about the loss of union rights from the award. The State Award provides for some basic Union rights such as allowing access to paid leave to attend accredited union training sessions and the Union's Biennial Conference. These forums enable workers in our industry to develop policy initiatives for the improvement of working conditions and learn how to protect working rights won through the Award and local campaigns. By removing rights to paid leave and other Union rights the WorkChoices proposal is a blatant attempt at robbing Australian workers of a truly independent voice and representation.

I urge the Australian Senate to reject the Workchoices legislation.

I would be more than happy to give evidence at the enquiry.

Janya Barton

**SUBMISSION TO THE PARLIAMENT OF AUSTRALIA – SENATE INQUIRY
INTO THE WORKPLACE RELATIONS AMENDMENT (WORKCHOICES)
BILL 2005**

SUBMISSION BY MARTIN WYNNE

STORE KEEPER, BOGAN SHIRE COUNCIL

My name is Martin Wynne, I am employed by Bogan Shire Council as a Store Keeper and have been with the council for 13 years. Bogan Council is located in the North West of New South Wales. Our main town centre is Nyngan. We are a small Council in terms of employees. We have only about 56 permanent employees, if you count contractors at places like the pools, the water cart operators etc, the highest count you might get is about 65 employees. However, we cover a big area of New South Wales and we are responsible for delivering a large range of Government services to the people in our district. Once you get this far west there are not really many State or Federal Government services available, most Government support comes through the local council.

I am extremely concerned about the Workchoices changes that are being pushed through the Federal Parliament. I am as much worried about future generations as I am worried about myself. There is so much confusion due to the fact that the Federal Government has been unwilling to come clean with all the innuendoes and advertising about what the new system will actually mean. It is really hard to make a judgment about these changes without having had the proper time to look at the proposals properly, it just seems to be being rushed through.

At Bogan Shire we work under the Local Government (State) Award. From what I can tell, if the changes go through, our Award will be converted into an agreement and in a couple of years time, we will have to negotiate our own agreement at Bogan, or perhaps even negotiate individually. At the moment, even though we are a small council, we get the benefit of having our conditions of employment and general wage increases set through the industry wide state award negotiations. This is terribly important to us, it doesn't matter whether you are employed at Canterbury or Cobar, Balmain or Bourke, at least you get the same general increases which help keep up with the cost of living. The cost of living in this area is getting increasingly difficult. Petrol prices are going up and your dollar doesn't go far enough as it is. Losing the protection of our State Award will be really difficult.

I also understand that a huge number of award conditions will be "not allowable" under the new system. In the bush there are conditions which I fear we may lose.

For example, in the State Award, we currently have provisions about occupational health and safety. In 2001, we got some improvements through the state award to make sure that all new graders, loaders, back hoes, trucks and rollers had to be fitted with air-conditioning. We have incredible temperatures out on the job. We had employees going off with heat stress and the temperatures are up to 48 degrees while people are working plant and equipment. We took a thermometer out on the road, and found that it was 62 degrees Celsius on the side of the tar road in some locations. Since the award changed Council basically had to make sure that all new items of plant and equipment must have air-conditioning. These days we only have one item of plant that is not air-conditioned. I am concerned that if we lost the ability to maintain occupational health and safety standards through the award, this would have a negative impact on keeping conditions like this. We may just go back to the old ways again.

In the North Western district there are still some councils that camp-out. At Bourke, Cobar, Brewarrina and Warren the distances are so great that employees need to travel out once or twice a week and camp overnight in order to get road works and other work completed in distant locations. The award makes sure that employees get access to minimum standards for caravans and accommodation. Before 1995 there was no requirement that the caravans be air-conditioned. Despite there being a lot of complaints, nothing was done about it. It was only when the award change came in requiring air-conditioning that a lot of employees gained this. I honestly believe that if these types of minimum standards are made "not allowable" then employees in the bush will lose out.

I know there are a lot of other award conditions that will be stripped away from the award over a period of years if we go into the Federal system. I understand we are threatened to lose access to basic things such as salary systems, together with award based long service leave and annual leave requirements and so on. This is terrible.

One of the issues I am most angry about is the loss of unfair dismissal laws. We are well under the 100 employee limit. I know there are quite a few country councils in New South Wales that come under the limit. Just within my area I am pretty sure that Bourke, Brewarrina and Warren all come under the 100 employee limit.

The loss of unfair dismissal laws is just devastating, I think it is un-Australian. As the law is now, people can still be dismissed if they do the wrong thing and employers go about it in a proper way. The loss of unfair dismissal laws will really hurt us in local government. From time to time, my workplace gets quite political. Anyone with an opinion could well be singled out, if we lose

our unfair dismissal laws. I am outspoken person. Over the years I have pointed out when, senior management have tried to use their positions to obtain various items unlawfully. Does this mean that I could be sacked? Under these new laws, if you stand up for fundamental rights you could be dismissed. This is just ridiculous.

I am also concerned that in our area we have a lot of employees with literacy problems. Many of the blokes have left school at 14 or 16 years old and I don't believe the Government has given much thought to this. Employees place a lot of trust in the Union and the Union Delegate to negotiate for them and protect their rights. Employees without good education, and without strong numbers behind them will do worse off under this system.

I urge the Senate to reject the Workchoices legislation. Come to Nyngan and have a look at what these laws will be do to us at this workplace.

Alternatively, I am happy to come to Canberra to address the inquiry.



Martin Wynne

Date: 08/11/05.

Submission to the Parliament of Australia – Senate Enquiry into the Workplace Relations Amendment (Workchoices) Bill 2005

Submission by Narelle Rich
Executive Assistant, Wellington Council

My name is Narelle Rich and I am employed as an executive assistant at Wellington Council. I am 34 years of age. My husband, Ross, and I have one child, Oliver, who is 16 months old. I am pregnant and am due in February.

On investigating the WorkChoices proposal I have found that paid maternity leave will not be allowable in awards. The Government has not guaranteed paid maternity leave by law. The Government is only guaranteeing unpaid maternity leave of 12 months, which we already get through State legislation. When Oliver was born I had 6 months off work, of which 9 weeks was paid. Those first couple of months with continuing pay were really important. You need this time to be able to recover from pregnancy and childbirth. Having paid time off work was really important, it's expensive having a baby.

When Oliver was born my husband was in full-time employment with Origin Energy. However Ross has since been made redundant and is now employed in a casual job with a labour hire company. Ross has been lucky enough to get continuing work for the last few weeks, but he hasn't any job security and could be finished up at any time.

Under these circumstances it is all the more important for me to have access to a secure well-paid job and have paid time away from work when the new baby comes.

From what I can tell of the WorkChoices policy paid maternity leave may be preserved in our State Award for a couple more years as a "transitional" condition. So hopefully I will still get access to this entitlement early next year. But after that paid maternity leave will be not allowable in an award. You'll have to bargain for it either in an enterprise agreement or individually, which is a joke. What if the council does not agree? My council can be pretty tough on employment conditions, younger women at my work place may well lose this entitlement altogether. Younger women starting out with a family will have real problems if this basic entitlement is lost. Why would the Federal Government want to take something like that away? They certainly don't tell you that in the ads you see on TV.

I am aware of the Federal Government's proposal to reduce the Award safety net standard for sick and carer's leave. In NSW Local Government our Award currently provides for 15 days accumulative sick and carer's leave. I understand as a result of the Workchoices policy, over a period of time this standard may well be reduced to 10 days personal leave which is the only paid personal leave guaranteed in the Federal legislation.

Given my family responsibilities I do not think that this amount of leave is enough for employees who have young children. Certainly if I were to have any difficulties with the pregnancy I would really need to be in a position to ensure that I can gain access to my current full accrual of leave if it is necessary.

I find the idea that employees will be encouraged to trade off annual leave a terrible idea. Family time is important, you can't be expected to live, eat and breathe at work, you need time away from your work environment to live a real and meaningful life.

The removal of Union rights and conditions is an awful part of the legislation. Under the Federal Government's proposal really basic Union rights such as access to paid trade union training leave and the right for union delegates to participate on local consultative committees will be removed.

Up until we had the baby, I was the consultative committee representative on Wellington Council and have been a Delegate for the United Services Union.

A few years ago, in 2000, we had a really difficult industrial dispute at Wellington about weekend penalty rates. Council advertised some new and vacant positions on a Monday to Sunday open spread of hours removing all right of access to penalty rates. The council thought they had found a loophole in the award. They said they had "assessed the market." Because we had high unemployment rate they knew that people would accept jobs working weekends in parks and gardens and water treatment even though they wouldn't get any penalty rates at all.

There was a big argument about this in the consultative committee and it was only because we had Union representation that we were able to stop the vacant positions being filled and take the dispute to the NSW Industrial Relations Commission. After a hearing at the NSW Industrial Relations Commission Commissioner Patterson made a decision that forced Council back to the bargaining table. I believe that if we did not have local union representation on our consultative committee Council would have just gone ahead and employed these young workers in jobs without any penalty rates at all.

Unfortunately, employers cannot always be trusted to pay a fair and decent rate and if the market enables them to drive down wages and conditions then sometimes this is exactly what they will do.

Sometimes employers will also try to force changes through without consultation. Our State award has strong rights ensuring consultation with the union about workplace change. These provisions have been important in protecting our conditions. I understand that the new workplace laws will remove rights to union consultation and representation in local committees. At places like Wellington I have no doubt that this will disadvantage workers.

The same goes for salary systems. I believe that if skills based salary systems are taken out of our Award Councils will be less willing to conduct annual salary reviews and less willing to provide people with career progression based upon the skills used on the job. I understand that these are threatened in the award as well.

All in all I think that the changes proposed by John Howard and Kevin Andrews are the very worst thing that could happen to Australian workers. I know that over a short period of time workers in local government in NSW will be very much worse off. I urge the Senate to reject these laws.

I would be very happy to attend the Senate Inquiry please make sure that you conduct a proper investigation of these laws. Do not just push them through to satisfy the agenda of the Liberal Party and their mates in big business.

Mareille RCL

Submission to the Parliament of Australia – Senate Enquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

Submission by Kristy LeMilliere
Secretary, Moree Plains Council

My name is Kristy LeMilliere, I am employed as a Secretary/Personal Assistant at Moree Plains Council. I have been employed by the Council for 5 years. I am secretary to a council director.

I value my work with the Council. However, my family responsibilities are also a very important part of my life. I have a 3 year old son, Steven, who attends daycare. My husband works as a fitter/machiner and because we are not high paid employees we need both our wages to get by. I am worried that the WorkChoices laws will have a terrible impact on our way of life.

As an Aboriginal employee I am well aware of the fact that Aboriginals in my district have much difficulty getting work, there is high unemployment among my people. When we do get work, we tend to be employed in lesser-paid jobs. The good thing about skills based career paths is that at least you can be sure that your wage rate will be based on the skills used on the job. The State Award makes sure that council pays us according to a skills based salary system and although from time to time we have trouble getting management to do our annual assessments, when they are done they are based on skills. Skills based career paths is another thing that John Howard wants to remove from the state award. I am really worried that if we lose skills based pay then we will be more prone to discrimination.

I know that the Government ads promise that workers will be happier and better off under these changes and that discrimination and so on will still be illegal. The problem is, that Award conditions, such as skills based pay, play an important role in making sure that these basic working rights are actually applied at work and that we are treated equally. If we lose these rights in the award, then you'll only get decent treatment if you can negotiate an agreement. The difference is that the state award provides me and everyone else at council with a real guarantee that we will be treated fairly.

I am really angry about the fact that the Government wants employees to bargain individually. There are six support officers in my area, I believe we should all be paid the same based upon the work we do. Individual bargaining is not fair.

The thing I am perhaps most angry about is the fact that in the glossy TV ads the Government says that our working rights are going to be "protected by law". When you look at what is actually happening they are only guaranteeing our right for unpaid maternity leave. As a council worker in NSW, our State Award guarantees me and all other women in NSW local government right of access to paid maternity leave if nine weeks on full pay or eighteen weeks on half pay. You can also use you long service leave and take that at half pay while you are looking after the new baby. The working rules being put in place by the Government will mean that paid maternity leave will not be guaranteed in Awards. In a few years time, if for some reason we can't get an agreement for paid maternity leave, then it will disappear. This is absolutely disgraceful.

When Steven was born I was one of the first employees in our area to get access to paid maternity leave. Paid maternity leave helped our family at a time when we just wouldn't be

able to live on the one wage. We are planning to have another 2 children and if paid maternity leave is taken away then we'll have real trouble getting by. I can't afford not to work. But I can't afford not to be with my family. This could leave us in a very difficult situation, we'd have to think carefully before having another child.

Our State Award provides 15 days a year sick and carer's leave. The leave is accumulated. The Workchoices policy will eventually remove these conditions from Awards leaving lesser safety net of only 10 days cumulative paid personal leave a year.

Carer's leave is very important for me. Because my husband works, if my boy becomes ill at the child care centre I have to be able to take carer's leave to look after him. Losing 5 days paid leave per year out of the award is absolutely disgusting.

The same thing goes for flexible working conditions. Our State Award was recently changed so that the Council could not unreasonably refuse my request for access to flexible working conditions. Normally my job is worked from 8.30 am to 5.00 pm but they had to agree to change these hours to 8.00 am to 4.30 pm to suit my family commitments. This allows me to spend longer time with my child in the afternoons.

I understand that if the changes go through then my Award right to flexible working conditions will eventually be taken away. I will be left with the ability to "negotiate" flexible working arrangements through an individual contract. But what if you can't get an agreement that suits your family needs? This is another area where we will lose conditions.

The Government also wants to enable employees to trade away two weeks out of our four weeks annual leave. I like to have four to six weeks off over Christmas to be with my family. If we are unable to get access to decent wage increases through our annual salary reviews and so on, we could be put in a situation where they perhaps there is no choice other than to trade away this basic entitlement. This is absolutely disgusting.

If all this isn't enough, I have learned that the Senate Inquiry is only going to go for a few days. These changes are absolutely enormous and should not be allowed to occur without a proper and open process. You should come to Moree to look at how these changes will affect my community. If that is not possible, I would like to come to the Senate Enquiry and tell you what these changes will actually mean. I will need to make arrangements for Steven to travel with me.



Date: 7/11/05

Submission to the Parliament of Australia – Senate Enquiry into the Workplace Relations Amendment (Workchoices) Bill 2005

Submission by Neville Pearson
Plant Operator Armidale Dumaresq Council

My name is Neville Pearson, I am employed as a plant operator (Grader Driver) with Armidale Dumaresq Council in the New England district of NSW.

I am a member of the National Party and I am very concerned about the federal industrial changes. Who gave John Howard the mandate to take away our rights to Awards and have the independent Industrial Relations Commission removed in NSW?

For the last 26 years my conditions of employment have been set by our Local Government (State) Award. The Award has provided me and my workmates with regular general increases and establishes decent conditions giving employees a fair go.

I am concerned that conditions of employment that are supposedly "protected by law" in Workchoices will actually result in a reduction of many working conditions that we currently enjoy in our State Award. Over time Workchoices will reduce the local government community standard in a large number of areas.

Our State Award currently provides for 15 days sick leave to be accrued each year. This paid leave can be used for the illness of the employee or for carer's leave. Workchoices establishes a lesser standard of 10 days paid personal leave.

Workchoices enables employees to cash out annual leave. Most working people in my area are under enough pressure already to work harder to keep up with rising prices. The increase in fuel prices is hitting us hard. Our 4 weeks annual leave is a basic part of the Australian way of life. Employees should not be put under pressure to trade away basic a basic entitlement like your annual leave. If you live in the bush, how will you ever get the chance to travel to have a decent break if you are left with only two weeks leave? This is a ridiculous attack on the Australian way of life.

Women in our industry have fought for years to earn the right to paid maternity leave in our Award. It is unbelievable that John Howard is now proposing to make paid maternity leave unallowable in Awards. Why get rid of this? I thought John Howard believed in supporting working Australians.

Since the early 1990s there have been huge changes and increases in accountability in NSW local government. We are responsible for a big range of services that the other levels of government can't or won't do. As our responsibilities have increased and our skills have grown the State Award has given us access to skills based career paths. We now have a skills based salary system which gives every employees a salary range and an annual skills assessment. But, this didn't come easy and we had to fight every inch of the way to make council comply with the award. I honestly believe that if the requirement for skill reviews was not in the award, then we'd never have the chance for a pay rise. I am outraged that the WorkChoices changes propose to abolish skills based career paths from our State Award. Employees will not get a fair days pay for the work we do. It will mean lower wages.

My Union, the United Services Union, makes sure that the rights of all Local Government workers in NSW are represented when we negotiate with Council and when we negotiate our new Awards. John Howard is actually going to prohibit a whole range of Award conditions that we currently have that make sure we get decent Union representation. These include:

- Trade Union Training Leave
- Union Conference Leave
- Union representation on local Consultative Committees

The Local Government (State) Award has meant that I have had access to decent general pay rises that by and large have kept up with the cost of living during my employment. I am concerned that I will not get decent wage increases under John Howard's new laws. I am worried that my superannuation account will stagnate and will not be able to keep up with the cost of living.

I cannot imagine how my children and their families will cope with these changes.

I have been a member of the National Party since I was 18 years old and I have been a Delegate for the party in Armidale, working for 16 hours a day as a booth operator during election times. There will be no more of that given what John Howard is doing to me and my fellow workers.

I would welcome the opportunity to discuss these concerns with the Inquiry.

Yours faithfully

N. K. Pearson J. P.

Neville Pearson

Date: *4/11/05*

Media release

24 October 2005

LOCAL GOVERNMENT ASSOCIATION OF NSW

LOCAL GOVERNMENT OPPOSES WORKPLACE CHANGES

The Local Government Association of NSW annual conference in Mudgee today opposed the Australian workplace relations package announced by the Federal Government, and will send its resolution to the Prime Minister.

The conference endorsed the prospect of a fighting fund to challenge the changes if necessary.

The Association also opposed federal legislation which would result in council staff (more than 50,000 in NSW) being transferred from a state to a federal industrial award.

The Association also expressed its support for the stand taken by maintenance workers employed by Boeing Australia at the RAAF base at Williamstown, and endorsed their right to choose a collective agreement and be represented by a trade union if they chose it in their interests.

The four-day annual conference opened yesterday with 700 attendees, including 291 voting delegates representing 73 metropolitan and regional councils in NSW.

Other resolutions endorsed today by the conference are:-

- The NSW Government abolish land tax conditional upon the Federal Government restoring the \$9 billion in GST collections which are dispersed to other states.
- The *Companion Animals Act* be amended to allow individual councils to ban all restricted breeds and cross breeds of restricted dogs or a total ban on these breeds across the state within three years.
- The Association establish a working party involving the insurance industry to consider funding fire services in NSW through a rate-based levy (charges are currently imposed on councils depending on their land unimproved capital value).
- Callan Park remain a specialised mental health facility and the Minister for Planning release promised funds for the development of the Callan Park masterplan.
- The Association executive form a working party to determine what action is needed to address the social issues associated with crimes committed by children younger than 10 years of age.
- The Federal Government be requested to provide financial assistance to local government to defray the costs of conducting citizenship ceremonies (an annual cost of \$100,000 to Blacktown City Council).
- Enforce financial contributions from graffiti vandals for the cost of restoration and requirement for repeat offenders to participate in local community service projects.
- The State Government be requested to introduce state-wide legislation in public places, particularly near children's playgrounds, sporting fields and swimming pools to eliminate the risks associated with passive smoking.
- The State Government to enact legislation to provide for rebates to self-funded employees equivalent to those for existing eligible pensioners provided it is fully reimbursed from the State Government.
- The Association lobby the State Government to enact legislation to facilitate large scale undergrounding of cables in urban NSW at no cost to local government.
- Establishment of a working party jointly with the NSW Shires Association to explore options for one representative local government body in NSW.

[See LGA 2005 conference business paper on our Web site www.lgsa.org.au Resolutions 1-84 decided today, and can advise outcome but not amendments text]

Media Officer Michael Ross 0419 406 400
Media comment: Cr Genia McCaffery 0419 404 867

M E D I A R E L E A S E

Minister for Local Government, Territories and Roads

THE HON. JIM LLOYD MP

L126 05

Wednesday 2 November 2005

WORKCHOICES WILL NOT HARM COUNCILS: MINISTER

Federal Minister for Local Government, Territories and Roads, Jim Lloyd today refuted claims by Gosford City Council that the Australian Government's proposed new workplace relations system – WorkChoices, would have a detrimental affect on Councils.

Gosford City Council moved a motion at the NSW Local Government conference in Mudgee last week stating *"that the Local Government Association opposes the proposed change to the Federal Government's Workplace Relations Act whereby council staff would be transferred from a state to federal award."* (See attached)

"This motion is a politically motivated stunt put forward by Gosford Labor Councillor Jim MacFadyen," Mr Lloyd said.

"I suggest the Council get their facts straight prior to moving such motions, as this particular motion contains a number of factual inaccuracies," Mr Lloyd said.

Mr Lloyd highlighted the inaccuracies as follows:

1. A move to the federal system by Councils does not mean the "abolition" of state awards. For employers who transfer to the federal system, state awards will also transfer as traditional federal agreements for three years. After that, they have the choice of switching to an EBA under the federal system or transfer to the most appropriate federal award.
2. Councils may not come under the new system as they are currently not constitutional corporations which means they will remain under the NSW system under their existing NSW award and there will be no change.
3. Moving to the federal system does not mean Councils will be forced onto either collective agreements or individual contracts (AWAs). If councils wish to stay on an award they are free to do so.
4. There is no evidence that "collective agreements or individual contracts (AWAs)" will result in "more casual work, less security and poorer working conditions. Workers on AWAs under the federal system currently earn, on average, 13% more than those on collective agreements and 100% more than those on awards.
5. General wage increases will continue to exist under the federal system, with wage rises to be determined by the new Australian Fair Pay Commission. There is still nothing to stop councils awarding whatever wage rises they like to their own staff.
6. The federal Industrial Relations Commission will continue to exist as an 'independent umpire'. If councils wish to have the AIRC handle their disputes they are free to do so.

7. Skills-based career structures will continue to exist under the new system. There will still be scope for annual salary progression and "the ability to improve wages to recognise changes in work value and pay equity"
8. These reforms will not "make our society more like the United States ... where the minimum wage is just over \$5.00 per hour and hasn't changed in 8 years" - Minimum wages in Australia cannot fall below their current levels and will be regularly reviewed and adjusted by the Fair Pay Commission.

"WorkChoices represents a necessary next step in the modernisation of Australia's workplace relations system. The proposed changes are evolutionary and build on past changes in the workplace relations system.

"The changes in the WorkChoices legislation are a rational step towards a more flexible, simpler and fair workplace relations system."

Media Contact: Fiona Telford 02 6277 7060

shareholders as it is on employee productivity. Thus, under the proposed changes the risk of shareholder or employer investment is transferred to individual workers when they will be contractually isolated from collective representation.

10 - Gosford

* Proposed changes to Workplace Relations Act

That the Local Government Association opposes the proposed change to the Federal Government's *Workplace Relations Act* whereby council staff would be transferred from a state to federal award.

Note from Council: The Federal Government intends to use its power to pass laws that will override state award rights, following its gaining of control of both Houses of Parliament. The Federal Government has made it clear it intends to abolish state awards by using the constitutional corporations power to override NSW state laws. This will mean the end of general industry wage increases, with employees being forced onto either collective agreements or individual contracts (AWAs), which will result in more casual work, less security and poorer working conditions that are negotiated on an individual basis. The state award provides general wage increases and employment security for workers throughout the whole state. The Federal Government will abolish the role of the Industrial Relations Commission in setting wages, leaving it with a very limited role, thereby removing the independent umpire. Instead it will establish a new government-appointed pay commission to set a single adult minimum wage on a periodic basis and adjust award structures. This will mean the end of skills-based career structures, annual salary progression and the ability to improve wages to recognise changes in work value and pay equity. With the abolition of unfair dismissal rights, almost 4 million employees working in small to medium sized workplaces will lose protection from unfair dismissal under the proposal. These changes will affect Local Government areas and up to 99 per cent of all private sector firms. These changes will make our society more like the United States where millions of working poor struggle on low wages in jobs without protection or hope - a system where the minimum wage is just over \$5.00 per hour and hasn't changed in 8 years. The state award provides decent general wage increases and good working conditions for Local Government employees and the Local Government Association should oppose the Federal Government's proposed changes to the *Workplace Relations Act*.

11 - Leichhardt

* Opposition to Federal Industrial Relations changes

That this conference:

- 1 is opposed to the Howard government's industrial relations changes which will turn back the clock a hundred years, undermining wages and conditions and eroding fundamental rights of workers to organise collectively and take industrial action;
- 2 calls for a campaign in support of a referendum that puts the right to strike and to organise in a republican constitution;
- 3 calls for a ban on employers who engage workers on Australian Workplace Agreements from working on local government contracts; and

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done



USU High Court Challenge: WorkChoices Coverage Doubtful

In a dramatic turn of events the Solicitor-General for the Commonwealth Government has told the High Court that the Federal Government's WorkChoices laws may not apply to local councils, charitable institutions and religious organisations. The admission has enormous implications for thousands of USU members.

After six days of legal argument the Union expects it will be some months before the Court hands down a decision. However, given the recent comments made by the Commonwealth Solicitor-General a follow up case, specific to local government and other USU industries now seems increasingly likely giving the Court the opportunity to confirm the exceptions to WorkChoices already flagged by the Solicitor-General.

Historic constitutional challenge

The current proceedings are one of the largest constitutional challenges in Australian history. The USU has proudly joined battle with Unions NSW and State Governments against the Commonwealth Government in an effort to protect employees from the federal industrial relations changes. If our constitutional challenge succeeds, the legislation could be struck down in its entirety.

This case not only deals with the Howard Government's implementation of a new industrial relations system, but also deals with the relationship between the State and Federal Governments. If the Federal Government is able to regulate industrial relations in this manner, then there is a real fear that the Howard Government will have the power to legislate for such things as health, education and other activities carried out by corporations.

Existing doubts about WorkChoices & Local Government

However, even if the Federal Government's WorkChoices legislation survives the current High Court proceedings, it is likely there will be continuing uncertainty concerning the application of the laws to "municipal corporations." From the beginning the Court has made it clear that even if WorkChoices is found to be

From Ben Kruse
USU Manager, Legal & Industrial

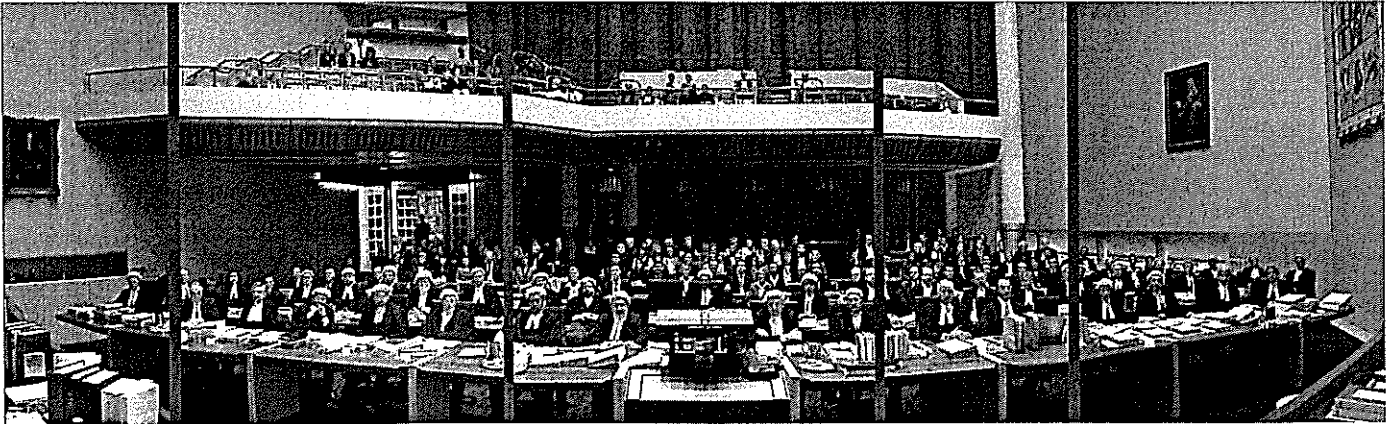
valid, the laws can only apply to "foreign corporations and trading or financial corporations." So where does that leave local councils? Councils are not foreign or financial institutions. Nor do we believe that local councils are trading corporations. Importantly, the influential High Court case of St George County Council supports this view. In November last year even the Federal Minister for Local Government, Jim Lloyd said, "councils may not come under the new system as they are not constitutional corporations."

Recent developments

Recent developments in the High Court provide further support for the exclusion of local councils from WorkChoices. On 10 May the Commonwealth Solicitor-General told the Court that where the principal activity of a corporation "is concerned with the exercise of governmental authority, as in the case of a municipal council" then the trade activity may be not be such as to characterise the corporation as a trading corporation. For example, the Solicitor-General

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said, "one would not say because it collects garbage and charges for it a municipal corporation becomes a trading corporation."

Charitable & religious institutions also in doubt

The potential exclusions extend to charities and religious institutions where the Commonwealth Solicitor General said that a non-trade purpose might be "...so dominant that the fact that a small part of the activities may constitute trading activities does not change it. A religious institution might be a good example of that. The fact that there is a church shop outside the church is unlikely to make the religious institution a trading corporation and one can say the same thing about charities and, for that matter, municipal councils."

Non-profit public interest activities

Ultimately it is not surprising that more and more of the constitutional stakeholders are supporting the exclusion of public and community service activities from WorkChoices. If WorkChoices is aimed at regulating trading corporations, then it is only sensible that the non-profit

related public interest activities of community and governmental organisations such as churches, councils and charities be regarded as falling outside these laws.

When will we know for sure?

Increasingly it seems that there is merit in the USU's campaign to protect major state awards such as the Local Government (State) Award and the Clerical & Administrative Employees (State) Award from the federal IR changes. However a decision will not be made in the current case for some months and it now seems likely that further proceedings could run well into 2007.

What happens in the meantime?

The USU maintains that our state awards and agreements still form the foundation of our industrial conditions in NSW. However, to resolve uncertainly the Union encourages employers to enter into referral agreements. We are also continuing negotiations with bodies such as the Local Government & Shires Associations concerning the implementation of common law deeds to protect your rights at work.

▲ **The High Court: The current proceedings are one of the largest constitutional challenges in Australian history.**

Want to Read More?

Hear what the High Court had to say about the WorkChoices legislation by reading the transcripts.

Day One Transcript:

<http://www.austlii.edu.au/au/other/HCATrans/2006/215.html>

Day Two Transcript:

<http://www.austlii.edu.au/au/other/HCATrans/2006/216.html>

Day Three Transcript:

<http://www.austlii.edu.au/au/other/HCATrans/2006/217.html>

Day Four Transcript:

<http://www.austlii.edu.au/au/other/HCATrans/2006/218.html>

Day Five Transcript:

<http://www.austlii.edu.au/au/other/HCATrans/2006/233.html>

Day Six Transcript:

<http://www.austlii.edu.au/au/other/HCATrans/2006/235.html>

These links are also available with one click at the USU website www.usu.org.au

THE USU: FIGHTING FOR YOUR RIGHTS AT WORK

