

Title: Sacked! An Investigation of Young Workers' Dismissal

## **ABSTRACT**

Limited academic attention has been afforded to young workers relative to their adult counterparts. This study addresses a phase of the employment relationship for young people that is very infrequently examined – during or around the time when the relationship ends. It examines the relative frequency of different forms of dismissal and the circumstances preceding the dismissals via a content analysis of 1,259 cases of employee enquiries to a community advocacy organisation in Australia. Results indicate that dismissal was most commonly associated with bullying, harassment, and taking personal leave. Young men, compared to young women, were disproportionately likely to report allegations of misconduct as preceding dismissal, while females experienced higher rates of sexual harassment and discrimination. The research highlights the types and circumstances of dismissal across a range of employment contexts and reveals the complexities of youth employment relationships which may differ from those of the general workforce.

**Keywords:** Young workers, dismissal, labour market, gender, discrimination, harassment

Australia is experiencing a prolonged period of labour market reform, which has seen significant changes to employment conditions over recent years. Workers aged 15-24 may be especially vulnerable in this context which is characterised by significantly altered employment relationships and complicated expectations (Coyle-Shapiro & Kessler 2000; Elton 2008). Research suggests that by virtue of their age, limited experience in the workforce and concentration in tenuous industries such as retail and hospitality, young people are especially susceptible to workplace exploitation (ACTU 2003a; Mourell & Allan 2006; Watson 2005; Young Workers Advisory Service 2005a). Studies also report that young people are facing declining pay and working conditions, greater precariousness of employment and inadequate health and safety protection (ACTU 2003b; Commission for Children and Young People 2008; Fair Employment Advocate 2008; Author 2005; Office of Industrial Relations 2005a). Overall however, limited academic attention has been afforded to young workers, relative to their adult counterparts, much less the nature of employment relationships between young people and their employers.

This study addresses a phase of the employment relationship that is very infrequently examined – during or around the time when the employment relationship ends. The main aims of the study are to determine the types of dismissals experienced by young people and the patterns of circumstances leading to these dismissals. To respond to these aims the study examines the details of 1259 cases involving young workers who reported concerns about the termination of their employment to a community advocacy organisation. The article firstly provides a brief overview of the Australian youth labour market and a summary of the limited literature available which addresses dismissal in employment. The empirical section of the paper, utilising content analysis of short textual accounts related to each case

and subsequent cross-tabs analyses, reports the relative frequencies of different types of dismissal; the patterns of employment circumstances which preceded the dismissals, including gender differences; and the relationships between dismissal categories and circumstances. The findings of the study provide insights into the dismissal experiences of young workers and have important implications for labour market policy and legislation, particularly as they affect young people.

### The Australian Youth Labour Market

Historically, Australia relied on a system of industry awards to regulate terms and conditions of employment, although this practice was thought to inhibit business competitiveness and an increasingly decentralised system of industrial relations has subsequently been implemented (Bacon & Storey 1993). In 1996 the Workplace Relations Act (Cwth) was enacted. A main aim of the Act was to build the competitiveness of workplaces with a key means to achieve this being the enabling of decisions about the employment relationships to be made within the workplace. The Workplace Relations Legislation Amendment (Youth Employment) Act 1999 (Cwth) affirmed the legality of youth wages and their place in “protecting the competitive position of young people in the labour market (Schedule 1, 1). The Workplace Relations Act (1996) and its subsequent amendments, in particular, the Workplace Relations Amendment (WorkChoices) Act 2005 (Cwth) and subsequent 2006 amendments represented the most comprehensive industrial relations reform in almost a century. The vast changes under these new industrial relations laws are detailed elsewhere (see Masterman-Smith & Elton 2007; Stewart 2006). However, some of the significant changes included the reduction of the ‘20 allowable matters’

in award agreements to 5 minimum conditions; the preferencing of individual contracts over collective agreements; and the abolition of unfair dismissal for workplaces with fewer than 100 staff. Recently, the introduction of the Fair Work Act which replaces WorkChoices, has seen the Australian Industrial Relations Commission (AIRC) and AFPC replaced by Fair Work Australia (FWA) and the Office of the Fair Work Ombudsman; the introduction of modern awards and ten National Employment Standards; and the partial restoration of unfair dismissal rights.

In spite of these changes, the Australian industrial landscape, like other industrialised countries, has fundamentally changed under the dual forces of globalisation and neo-liberal politicisation, with workers increasingly being required to navigate and negotiate employment in highly individualised ways within a system that is less regulated and stable. Available research suggests that young workers aged 15 to 24 years – who make up one fifth of Australia's labour force (ABS 2010a) - may be particularly vulnerable in this context. Their patterns of employment vary dramatically from the overall workforce and have changed significantly over the past 25 years. For example, in the early 1980s, around four fifths of youth were employed full time, compared to only half of youth today (ABS 2010b, 2005a). The demand for higher level qualifications to gain full time entry level positions (Mangan & Johnston 1999: 417) has led to much higher numbers of young people combining both study and work. This group accounts for 28 percent of all young workers (ABS 2010b).

Empirical data addressing the conditions of employment for young Australian workers identifies a wide range of detriments. These include working long shifts and/or late hours, pressure to work overtime, lack of supervision, discrimination on the basis of gender, age and ethnicity, bullying, sexual harassment and high rates of workplace injury (ACIRRT 2005; Caritas 2003; Mourell & Allan 2006; Quinlan &

Mayhew 2002). Studies also show that practices such as unpaid overtime and wages, unpaid trial work and illegal wage deductions are especially common among youth (Author 2007; Office of Industrial Relations 2005a). The literature has also documented institutionalised forms of underpayment via the provision of youth wages which are 30-50 percent of the adult minimum (ABS 2009a). Those aged 15-19 have the lowest mean weekly earnings of \$554 per week, compared to \$1153 for full-time employees aged 25-34 years.

Further compounding these circumstances is a low level of youth unionisation, under-developed bargaining skills, uncertainty of the terms under which they are employed, a lesser willingness to challenge unfair work practices and high rates of casualisation (ABS, 2008b; Chase & Harvey 2006; Commission for Children and Young People 2008, 2005; Office of Industrial Relations 2005a). Casual workers often encounter difficulties such as very long or frustratingly short shifts, lack of notice given to attend work, inadequate or inconsistent hours, and the possibility of unilateral dismissal with no avenue for redress (ABS 2005b; Watson 2005). Job security is particularly pertinent to discussions of youth employment because youth represent around 40 percent of the casual labour market (ABS 2006). Importantly, while young people do not always view insecure work as a violation of the employment relationship as older workers do, they still acknowledge the disadvantages of insecure work (Smithson & Lewis 2000).

## Dismissal

Frameworks for describing, measuring, and categorising employee dismissal are varied. While some studies measure dismissal simply as occurring or not occurring

(e.g., Robbins & Voll 2005), others categorise it more specifically as voluntary (resignation) or involuntary (such as direct termination or redundancy) (Rousseau & Aquino 1993). Fair Work Australia (Small Business Dismissal Code) refers to termination of employment without notice as summary dismissal (also known as instant or direct dismissal). Jobwatch (2010), a State Government funded employment rights information centre, also identifies constructive dismissal as a type of termination, where at the instigation of the employer, the employee has no other choice than to resign due to the circumstances at work. Other sources also refer to threatened dismissal (Lawlink 2010; Office of Industrial Relations 2005b). Thus, five distinct types of termination are identified: resignation, direct (summary or instant) dismissal, redundancy, constructive dismissal, and threatened dismissal.

Empirical studies of the patterns and details of dismissal in the employment relations literature are scant. Earlier research suggested a number of circumstances may lead to resignation, including the limited availability of training opportunities, low wages and unsatisfying work (Blau & Kahn 1981; Cregan & Johnstone 1993). However, resignations are only one way in which employment relationships end. More recent research addressing dismissal has typically approached the problem from a legal or economic perspective. For example, attention has focussed on the implications of changes to the regulation of employee dismissal under Workchoices (Chapman 2006, Forsyth 2008), and more recently the Fair Work Act (Chapman 2009; Forsyth 2009; Gollan 2009; Lambert 2009). Studies addressing the economic effects of dismissal include work by Freyens and Oslington (2007) on the impact of legislative changes on the organisational cost of dismissal (see also, Klaas, Brown & Heneman 1998; McLeod 2005; Southey 2007). However, this perspective does not consider the phenomenon as a specific interaction between an employer and

employee. Other evidence suggests strong associations between direct or constructive dismissal and workplace sexual harassment (Charlesworth 2006; Hayes 2005; AHRC 2008; Author 2008) and a relationship between resignation and constructive dismissal and workplace bullying (Job Watch 2010; Young Workers Advisory Service 2005b).

Some further insights into the circumstances that precede dismissal can be gained from considering definitions in current and previous legislation. For example, Workchoices legislation permitted genuine operational reasons as a lawful circumstance of dismissal, although Fair Work has narrowed this definition to apply only in the case of genuine redundancies (Forsyth 2009). Furthermore, under both the current and previous provisions, an employer operating a small business (the FWA definition of a small business is an employer of under 15 employees whereas under WorkChoices it was 100 employees) can fairly and legally dismiss employees for circumstances involving serious misconduct or poor performance (Wageline 2006; Chapman 2009). FWA legislation also identifies a number of circumstances that constitute general protection provisions dismissal, such as when it is related to discrimination (on the grounds of sex, pregnancy, race, religion and so on) or statutory leave entitlements (e.g., sick leave, parental leave)<sup>1</sup>. These legal structures provide avenues for redress in certain types of employment relationships and circumstances. However, for the purposes of this study, which examines descriptions of dismissals provided by young people (and not detailed legal cases), we do not distinguish between terminations that may or may not meet specific legal

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<sup>1</sup> Fair Work Australia also specifies two other categories of dismissal: Unfair dismissal (Division 3, Part 3-2), which is termination that is harsh, unjust or unreasonable and not a case of genuine redundancy, and unlawful termination (Section 723), which is very limited in scope and only available if a case cannot be brought under unfair dismissal or general protection provisions dismissal legislation.

specifications. Rather, we categorise and present the patterns of dismissals in relation to how the employment relationship ended and the circumstances preceding this.

A major barrier to the study of dismissal in Australia is that documents related to most proceedings are private and are not made available to the public. Furthermore, the data that is available, earlier through the AIRC and more recently through FWA, constitutes detailed information on a small number of specific cases and does not consistently provide broader statistical patterns of occurrence by socio-demographic categories such as the complainant's age, gender or occupation. Although the AIRC has in the past released statistics on the number of unfair or illegal dismissal cases reported to it annually, this data also lacks the specific detail required to understand the implications for particular groups of employees. Statistics reported to FWA also do not capture information about dismissals that are likely to be unlawful, but are not brought to and contested in a formal jurisdiction. This is an important consideration in the context of youth employment because young workers may have fewer expectations of what an employer is obliged to provide in the case of a casual employment relationship (Van Dyne & Ang 1998) and because of their lesser agency and fewer resources to challenge unfair practices in court. Finally, statutory bodies do not receive information about dismissals that may not meet one of the legal definitions of dismissal, such as those involving short-term casual or probationary employees (disproportionately young people), but which nonetheless involve a termination of the employment relationship. Hence, the nature of dismissal for this group is particularly hidden. The following empirical section presents the methods and findings of the study, detailing the circumstances of employment where dismissal has occurred or been threatened.

## METHODS

The study utilised data made available by the Young Workers Advisory Service (YWAS). YWAS is a Queensland state government supported service that assists young people under 24 years of age to gain information, advice, referral, and representation on work related issues. The principal aim of the research was to identify the frequency of types of dismissal and the patterns of circumstances which lead to a breakdown of the employment relationship between young people and their employers. The data analysis was guided by the following specific research questions:

1. What types of dismissal were reported by young workers in Queensland?
2. What was the relative frequency of dismissal of young people across different occupational groups?
3. What were the circumstances which led to different forms of dismissals?
4. To what extent were the types/circumstances of dismissal gendered?

### Sample

Data consisted of 1,259 cases (64% female, 36% male) involving workplace dismissal reported to YWAS over a three year period from 2002 to 2005. This time period reflected a pre-WorkChoices employment landscape which was arguably similar to contemporary labour market conditions for young people under Fair Work Australia; that is, characterised by deregulation, low levels of unemployment, the ability for employees, even in small organisations, to challenge unfair dismissals, high levels of workforce participation and high rates of temporary work and

casualisation (ABS 2010a, 2005b). The legislative environment governing the employment relationship under the Workplace Relations Act (1996) was, however, more individualised than the current environment in that employers and employees were able to negotiate individual agreements (AWAs) on a one on one basis between employer and employee. These have been removed under Fair Work Australia and there has been a return to a greater focus on collective bargaining at the level of the enterprise.

YWAS employees are both volunteer and paid employees who have industrial relations, law, or social science backgrounds. Employees assist clients via email, phone, and walk-in services, and record details of their client interactions in an electronic database. Enquiries are categorised according to subject matter, such as union issues, health and safety, dismissal and discrimination. Cases utilised for the study consisted of short narratives described by callers aged between 15 and 24 years who resided in urban, regional or rural Queensland at the time the employment issue occurred. They reflected an interaction during a single point of contact between the young person and the industrial officer at which time advice about a suitable course of action was provided. Consistent with privacy protocols and research ethics requirements, cases were fully de-identified (numerically) prior to access by the researchers. Hence, it was neither feasible nor appropriate for individuals to be subsequently contacted to provide clarification about characteristics or circumstances described in cases. On the basis of the advice provided, it is likely that some cases would have subsequently been pursued in legal jurisdictions. However, longer term follow up of actions or outcomes for individual clients is beyond the resource capacity of the organisation and therefore could not be determined as part of this research.

## Procedure and Analysis

The data were firstly categorised according to gender, occupation, type of dismissal, and circumstances leading to the dismissal. Consistent with categories identified in the literature, type of dismissal was coded as 1. direct: involuntary termination for reasons specific to the employee (Freyens & Oslington 2007), 2. threatened: a warning issued by the employer of intent to terminate employment , 3. constructive: where the employee considers that they have no other choice than to resign due to the circumstances at work , 4. resignation: voluntary termination at the initiation of the employee without undue coercion or untenable employment conditions or 5. redundancy: involuntary termination for reasons associated with the general economic environment.

Given the absence of an established framework for the circumstances leading to the breakdown of the employment relationship, coding categories for this phase of the analysis were developed inductively. Categories were determined via a content analysis approach carried out by reading a substantial set of cases to identify logical, precise, and distinct divisions of the data which satisfactorily encompassed all circumstances of dismissal evident in the data (Harris 2001; Marshall & Rossman 1995; Silverman 2000). They were 1. workplace bullying and sexual harassment (e.g., physical violence, verbal harassment, uninvited, unwelcome behaviour of a sexual nature); 2. alleged discrimination (e.g., age discrimination, where dismissal occurred immediately following a birthday that would involve a higher pay rate, dismissal related to an employee revealing she was pregnant); 3. leave or personal circumstances (e.g., dismissal following leave for an injury at work); 4. alleged poor

performance (e.g., providing inadequate customer service); 5. alleged theft, misconduct or fraud (e.g., giving discounts to friends); 6. operational reasons (e.g., business going into liquidation); and 7. pay related issues or complaint (e.g., following an employee questioning their rate of pay). Within each of these major categories, sub-categories were identified. For example, 'leave/personal circumstances' was further categorised as (a) sickness/medical condition, (b) injuries, (c) personal reasons, (d) sick/family/ bereavement leave, and (e) unexplained absence.

In order to ensure the integrity of the circumstances categories, 100 randomly selected cases from the raw data were provided to an independent researcher who was 'blinded' to coding categories initially developed for the study, but who had experience in analysing qualitative data. The researcher was asked to read the cases and devise a framework which adequately summarised the types of circumstances which led to dismissal. Seven of the ten categories identified by the additional researcher were consistent with those developed by the authors. Two of the three unmatched categories (sick leave due to medical conditions and unexplained absences from work) could be meaningfully collapsed into 'leave/personal circumstances'. The remaining additional category identified by the coder was bullying which we included in the broader category 'workplace bullying and sexual harassment' because of the similarity in negative behaviors associated with these circumstances.

Occupational information available in the cases was somewhat inconsistent, with approximately 40 percent (N = 475) of cases reporting occupational details that were specific enough to be coded according to the ABS Standard Classification of Occupations (ASCO) (ABS 1997). Although this classification system has been updated in the most recent release by the ABS (2006), the terms used in the earlier

coding categories were used by YWAS staff when recording cases and were therefore adopted for this study. Further, most cases did not document the specialisation of trainees and apprentices and these employees were consequently categorised as a separate category outside of the ASCO parameters. The relationship between 1. gender and type of dismissal, 2. gender and circumstances of dismissal, and 3. type of dismissal and circumstances of dismissal, were tested by importing these categorical variables into SPSS Version 14.0 and conducting cross tabulations and chi-square analysis. The large sample size and associated statistical power resulted in significant results for the models tested; thus the findings were interpreted using adjusted residuals of +/- 2.0 (MacDonald & Gardner 2000) and were only reported when the percentage differences across cells were meaningful.

## **RESULTS**

### Type of Dismissal

In around two-thirds of cases, the employee was directly or unilaterally dismissed from their position. In one-fifth of cases, the dismissal was threatened. Constructive dismissal, where the employer's behavior or conditions of employment were such that the employee had little choice but to leave their job, was evident in 6% of cases. Constructive dismissal often involved involuntary reductions in available hours, highlighting the close nexus between working hours and job security. Redundancies accounted for 5% of the sample and only 4% were resignations. There were no significant gender differences across any of the five dismissal types, compared to the sample as a whole.

## Employee Occupation

Of the cases providing adequate information about their occupational position (N = 475), over half (55%) were employed as either Elementary or Intermediate Clerical, Sales, and Service Workers. Intermediate level employees, the majority of whom were hospitality workers, carers and aides, sales and service employees, clerks, and receptionists, were the most frequent (33.5%). Of the Elementary level workers (22.3% of the total); the majority was employed as sales and service workers. A further one-sixth of codable cases (15.8%) were employed as apprentices and trainees and another 10% of cases were tradespersons. Half of the cases in the tradespersons category worked in food-related trades and the remainder worked in jobs such as hairdressers, horticulturalists, electrical, and automotive tradespersons. Associate professionals accounted for 6.7% of cases, mainly supervisors and managers of sales and service stores and offices. Around the same proportion (6.1%) of young workers were employed as labourers and kitchen-hands. Only 2.5% of cases occupied Intermediate Production and Transport positions such as mobile plant operators and road/rail transport drivers. Professional, qualified, or highly skilled positions were represented least in the sample (less than 3% of cases). See Figure 1 for frequencies of occupational category.

Insert Figure 1 here

## Circumstances Leading to Dismissal

The most frequently occurring circumstance categories were bullying/harassment (19%) and leave/personal circumstances (19%), together accounting for over one third of all cases. Allegations of theft, misconduct, and fraud accounted for a further one fifth of cases (18%). Less frequently reported were cases related to a pay or contract based complaint (14%), allegations of an employee's poor performance at work (12%), alleged discrimination (10%) and operational reasons outside the control of the employee (8%) (see Table 1).

The relationship between dismissal circumstances and gender revealed significant differences in several categories ( $\chi^2 = 32.9$  (6),  $p < .001$ ). Circumstances related to pay and contract issues and alleged theft, fraud, or misconduct were disproportionately reported by males. Conversely, men were under-represented in cases involving alleged discrimination (19% of cases). Poor performance, leave/personal circumstances, operational reasons, and bullying/harassment categories were reported more often by women, but proportionate to the overall sample.

#### Details of Circumstance Categories

Within each major category of circumstances, cases were sub-categorised into distinct themes (see Table 1). Data were also explored for gendered patterns across major and sub-categories of circumstances via cross tabulations and chi square analysis, resulting in a significant model ( $\chi^2 = 114.2$  (31),  $p < .001$ ). These findings are reported below, including relevant examples to illustrate how different forms of dismissal occurred for these young workers.

*Leave or personal circumstances.* Personal or leave circumstances were the most frequently reported category of circumstances (n = 244) leading to dismissal, most commonly related to sickness or a medical condition (42%). In many cases the employee reported taking a single sick day, for example: 'Had a sick day with tonsillitis, provided medical certificate, but told shifts no longer available.' Around one in five employees who were dismissed for sickness explicitly stated that they provided their employer with a medical certificate. Several cases described serious medical problems that clearly restricted the employee's ability to attend work, such as removed wisdom teeth and mental breakdown.

Also commonly reported in this category were work or non-work related injuries (29%). Four-fifths of these injuries occurred during the course of employment and were often associated with occupations involving high physical demands such as trades, cleaning and hospitality. One case states, 'Chemical burns at work to eyes and stomach. Coerced into resigning when put in WorkCover claim.' Another typical case described a male apprentice's experience: 'Required eight weeks off due to work injury - employer agreed then terminated apprenticeship on return.' The remaining cases of injuries occurred outside work or travelling to or from the workplace.

Around one-fifth (19%) of employees in this category were dismissed due to personal reasons, which included an inability to work required hours, inter-office relationships or issues with friends or family members in the workplace. For example, a female sales employee was fired for having a relationship with a co-worker and another for being unable to work weekends in a popular fast-food restaurant due to personal circumstances. Other cases in this category involved

absences from work associated with bereavement leave, carer's leave, attending to an emergency, going on holidays or honeymoon (8%) and unexplained absences (2%).

*Bullying and harassment.* Cases reporting concerns about workplace bullying and harassment of a sexual nature (n = 233) revealed several distinct sub-themes. Sexual harassment was frequently reported, affecting around one-quarter (24%) of all clients who were bullied or harassed. Frequently, cases revealed that the young person had tolerated the circumstances for an extended period of time. There was also a reluctance by young people to report the problem internally and for those who did make a formal complaint, cases showed evidence of ineffective or negative responses by employers. An example of a case describing sexual harassment was one where a female employee was dismissed after refusing the sexual advances made by her employer. Cases typically involved touching, kissing, or inappropriate comments or questions, often by managers. A small number of bullying and harassment cases involved physical abuse, such as a staff member being hit with a ruler when they made mistakes and new employees being assaulted and having their property damaged by colleagues. Another 21% of cases in this category experienced verbal abuse, such as managers berating an employee in front of customers or colleagues. The remaining cases (46%) involved general bullying behavior or unfair treatment. For example, many employees experienced long term mistreatment or bullying by co-workers or their manager, which resulted in their having no choice but to leave their employment. An overwhelming majority (85%) of sexually harassed clients were female. Other types of harassment (physical, verbal, unspecified) were reported proportionately by gender (see Table 1).

*Alleged theft, misconduct and fraud.* There were 288 cases of alleged theft, misconduct and fraud. Misconduct, which constituted more than half (57%) of this circumstance category included cases where employees were accused of assault, such as physical harm and threats against colleagues and management. Cases reporting misconduct also included allegations of disobedience by employees such as, 'Failed to remove nose ring when asked', and 'Did not attend induction training as requested.' A smaller number of employees who reported allegations of misconduct were dismissed due to drug and alcohol related incidents such as smoking marijuana at work or arriving at the workplace under the influence of alcohol. Damage to property such as stock or a company car was also described. While some cases of damage appeared to be intentional, the majority were apparently accidental. The remaining misconduct cases included events such as, 'Allowed a friend to enter the office without permission', 'Personal use of the internet', and 'Improper reporting of hours on the timesheet.'

A number of fraud (2%) and much more frequently, theft related cases (41%) also arose as sub-themes in this circumstance category. One employee was constructively dismissed after he was accused of fraudulent work practices. Theft-related cases typically involved allegations of stealing goods or money, giving away stock, or providing discounts to customers. One read, 'Caught giving discount to friend and threatened with dismissal.' In many cases, accusations were made without evidence to substantiate claims. Compared to the sample as a whole, men were significantly more likely to report dismissal due to misconduct (50%) than women. The remaining sub-categories (theft, fraud) were reported proportionately to the gender distribution of the overall sample.

*Pay or Contract Related Issue.* The most frequently occurring cases in pay/contract-related issues (n=177) were those that reported a direct cancellation or change to the employee's contract (44%). Typical cases included: 'Forced to sign declaration changing to casual', and 'Demoted to day shift operator with no notice or warnings after six years.' A further 27% of cases in this category made a complaint or query to their employer about their rate of pay, such as questioning their award entitlements. Another 24% of cases queried how to recover unpaid money from employers, such as superannuation, wages, or annual leave, and were dismissed or threatened with dismissal as a result of these enquiries. In one case, a female employee at a club had her final week's pay withheld as she did not provide a week's notice of her resignation, despite being on a casual contract. Men were significantly more likely than women to report dismissal following a pay or contract related issue which arose in their workplace.

*Alleged Poor Performance.* In cases where employees had been dismissed due to poor performance (n=151), young people most frequently reported that their employers had alleged unsatisfactory work practices (71%). More specific, but less frequently reported concerns around poor performance included accusations of an unsatisfactory attitude (8%), less than optimal communication (5%), and inaccuracies in work duties (17%). Cases regarding an unsatisfactory attitude often involved the employer telling the employee they were acting unhappily, angry or 'bitchy' at work. Typical of the cases pertaining to communication issues was one involving a personal care assistant 'Not listening well and not taking infection control measures.' Errors in accuracy at work included cases such as a counter assistant who 'Made mistakes on the cash register', and a trainee who 'Forgot to sign the previous week's timesheet.'

*Alleged Discrimination.* Most cases in this category (n=120) involved discrimination on grounds that are prohibited under Australian legislation such as the Fair Work Act 2009, Sex Discrimination Act 1984, the Age Discrimination Act 2004 and the Racial Discrimination Act 1975. State jurisdictions adopt a similar approach (Ronalds & Pepper 2004). Some further cases (based on appearance and health) are not listed as grounds under the current federal legislation.

The most common sub-category of discrimination, accounting for 49% of all alleged discrimination cases, was related to pregnancy. One example was an employee of an Australian airline who was experiencing morning sickness at work. She discussed her pregnancy and the potential of reducing her hours to part-time with her manager, only to be dismissed and then re-hired as a casual employee. Many other employees had their hours involuntarily reduced or their employment terminated after they revealed they were pregnant or their pregnancy became known. In approximately one-third of the alleged pregnancy discrimination cases, the relationship between employer and employee became strained when the employee took leave associated with morning sickness or other physical complications of pregnancy.

Other types of discrimination that occurred frequently were on the grounds of disability (12%), gender (11%), age (8%), and appearance (8%). A typical case described a male cleaner who was dismissed because of his learning disability and where reasonable accommodations did not appear to have been made by the employer. Age discrimination occurred when employees were deemed either too old or young for the position. Several cases were reported as coinciding with a birthday after which time the employees' pay rates would increase. A few cases involved

discrimination based on race, health status, criminal history and personal issues (11% in total).

Most cases of discrimination on the grounds of gender were reported by women (though two were reported by men), who described being singled out, abused, or disadvantaged because they were female. Employees who reported that they were disadvantaged in the workplace on the basis of their physical appearance were exclusively women. Complaints included, 'Fired for being too fat', and 'Boss's wife dismissed her for being too pretty'.

*Operational Reasons.* The final and least frequently occurring circumstance category was dismissal due to operational reasons (n=106), the most common sub-category being operational reasons where employers indicated the reduced availability of working hours (32%). This was closely followed by a change in management or ownership of the business (24%). One employee felt her position was threatened when the '...Business partner sold his share of the company and all staff were made casual.' Other themes included the position becoming redundant (13%), the employer reporting that the business was struggling financially and as a consequence could no longer afford staff (15%), closure or liquidation (13%), and organisational restructure (3%).

Insert Table 1 here

*Relationships between Types and Circumstances of Dismissal*

The relationship between types and circumstances of dismissal were tested and revealed a significant model ( $\chi^2 = 432.2$  (24),  $p < .001$ ). Cases reported as discrimination and pay issues showed a similar pattern of types of dismissal to the overall sample. However, those involving accusations of poor performance, theft and misconduct, and leave/personal circumstances were significantly over-represented in the 'direct dismissal' category and significantly under-represented in the 'threatened dismissal' category. This suggests that when employers had reasons to believe the employee had been dishonest or performing poorly, or where they took leave that the employer believed was inappropriate, employees were more likely to be dismissed unilaterally. Conversely, cases involving bullying and harassment and operational circumstances were significantly under-represented in the 'direct dismissal' category and over-represented in 'constructive dismissals'. This finding and the details revealed in cases involving bullying suggests that rather than being dismissed outright, bullying and harassment led, over time, to what was perceived as a toxic work environment from which young people needed to eventually extract themselves. The over-representation of operational circumstance cases in the 'constructive dismissal' category suggests either employer uncertainty about or impatience of dismissal legislation requirements. Rather than risk the legal consequences of unfair dismissal or the financial cost and time burden of legal direct dismissal, employers appeared to opt for coercing employees to resign. Operational circumstance cases were also under-represented in the direct dismissal category yet over-represented in 'redundancies'. This finding is unsurprising given that redundancies, by definition, are related to business downsizing or failure. Table 2 illustrates the circumstances reported within each category of dismissal type.

Insert Table 2 here

## **DISCUSSION**

This study investigated 1259 cases of enquiries by young workers to a community advocacy organisation about employee dismissal. The findings reveal insights into the employment relationship at a stage that is little understood - during or around the time when the relationship is discontinued. Specifically, a content analysis of these cases identified the patterns of types of dismissal and the various circumstances surrounding the termination of employment across work settings where young people are typically employed. Results indicate that dismissals are both frequent and gendered and that protections for youth are currently inadequate, with many cases indicating a concerning tendency for employers of youth to breach fundamental responsibilities.

### **Dismissal Frequent and Gendered**

The large number of dismissal-related calls received by YWAS over the three year period suggests both a high incidence of dismissal and a critical need for cost-free advice and advocacy for young workers. However, prior research on some of the work-related concerns reported in the data indicates that the number of complaints may represent only a small proportion of actual incidences (Marquis & Filiatrault 2002). For example, studies of sexual harassment reporting behaviours consistently conclude that far fewer individuals who experience sexual harassment actually submit a formal complaint (Illies, Hauserman, Schwochau & Stibal 2003). Reporting

is inhibited by factors such as fear of job loss, especially if employed in a casual capacity as many young people are, fear of retribution or retaliation, reluctance to be viewed as a victim, self doubt or the fear of being seen as 'too sensitive', the belief that the harasser will not receive any penalty, lack of knowledge of rights, and lack of accessibility of external supports such as unions or counselling professionals (Dziech & Hawkins 1998; Illies et al, 2003; Wear, Aultman & Borgers 2007). This evidence related to sexual harassment may not be able to be extrapolated uniformly across other dismissal circumstances in this study, but it is suggestive of under-reporting of workplace problems generally.

A potential and related limitation of the study is that the findings may not be representative of all young people who experience dismissal because the cases were derived from individuals whose employment was terminated *and* who reported it. Other young people may experience dismissal but respond to it in different ways such as seeking compensation directly or finding alternative employment. Research studying consumer complaint behaviour for example, indicates that 'complainers' are usually typified as assertive, sophisticated, and knowledgeable about their area of complaint (Marquis & Filiatrault 2002). This description seems far from the typical young worker, who is more often described as passive, unskilled, and inexperienced in their employment rights and conditions (Commission for Children and Young People 2005; Office of Industrial Relations 2005a). Callers who reported and/or sought advice about dismissal from an organization whose main function is to provide advice to young workers on their rights and entitlements and what action can be taken, may therefore represent a distinct segment of the youth labour market; perhaps a more confident, outspoken and proactive group than their 'non-complaining' counterparts. However, the fact that YWAS is a community

organisation, rather than a government, union or legal service, may be construed by young people as being an independent, non-threatening, first point of contact for enquiry. This proposition suggests that many YWAS callers may contact the service despite being reticent to make a formal complaint elsewhere and may therefore reflect a broad cross-section of young workers and their experiences, across the community.

Two-thirds of the dismissals reported to the organisation were from young women<sup>2</sup>. There are at least two possible explanations for this. The first is that women are more likely than men to complain when they experience a problem in their workplace. Sortirin (2000), for example, suggests men tend not to complain as frequently as women as they are conditioned in childhood to be stoic, tough, and to not express emotion. This assertion cannot be confirmed from this data which was limited to reported, rather than actual occurrences and aside from sexual harassment discussed previously, there is limited previous research that explores gender differences in the reporting of employment concerns. Another explanation for the gendered patterns of reporting is that women actually experience more employment problems than men. The significantly higher rates of discrimination (particularly on the grounds of pregnancy, gender, and appearance) and sexual harassment experienced by women in this and other studies would support this conjecture (Pershing 2003; Savery & Gledhill 1988). Young women are also more likely to be employed in precarious industries that are characterised by poorer working conditions, low union membership and high rates of part-time and insecure, casualised employment (ABS 2009b; ACTU, 2003b; Author 2005) which may lead to discord in the employment relationship. Indeed, over half the sample in this study

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<sup>2</sup> This gendered pattern is identical to that of calls made to YWAS on all work-related issues, including a range of other concerns not associated with dismissal.

was employed in elementary and intermediate level clerical, service, and sales positions – mostly in retail and hospitality.

#### Protections for Youth Inadequate

Workplace bullying is a problem that was frequently reported in the data as preceding the termination of the employment relationship, particularly constructive dismissals. Bullying is currently not defined or covered explicitly in existing Australian legislation in the same way as other negative workplace behaviors such as discrimination. Nonetheless, an employer who allows bullying to occur in the workplace may be in breach of state occupational health and safety requirements for failing to provide a safe work environment and supervision (Burns 2004). Bullying is thought to affect around one in five young workers (ACTU 2003b; Office of Industrial Relations 2005a) which is particularly concerning given the lack of definition and coverage provided in the law (Burns 2004). However, the introduction of the *Work Health and Safety Act* in January 2012 (which will replace existing, inconsistent state legislation) should afford stronger protections for vulnerable young employees against bullying in the workplace (Althofer 2010).

Young employees reported discrimination on a range of grounds. Particularly concerning was the high number of young women dismissed while pregnant, though dismissals were also associated with age, gender, race, and disability. These grounds are prohibited under the sections of the Fair Work Act 2009 concerning general protection provisions dismissal, although discrimination on the ground of physical features (weight, size, or other bodily characteristic) is only unlawful under the Victorian Equal Opportunity Act 1995 (HREOC 2007; Ronalds & Pepper 2004). The

frequency of behaviours reported in the data which may constitute discrimination suggests that the oversight required to prevent such occurrences involving young people is less than effective. Overseeing legal workplace practice is of course complex and made more so by the significant number of small employers in Australia and the increasingly circumscribed involvement of unions (ABS 2008a). However, the extent of the problem indicated in the data suggests there is a consequent need for more vigilant monitoring of workplaces which employ young people. There may also be a role for parents, schools and community groups in educating youth about their rights and responsibilities in employment.

Other areas where young employees experienced significant problems that led to dismissal were in relation to raising questions about their rate of pay or their formal contractual arrangements. The Fair Work Act 2009 and previous legislation prohibits an employer from dismissing an employee on the grounds that they have filed a complaint or participated in proceedings against an employer. Failure to correctly remunerate employees can also involve serious financial consequences for employers. Despite these protections and the fact that many reported cases of underpayment had well-founded grounds for seeking formal redress, the findings demonstrate that an employer can often treat a young worker unfavorably with few repercussions. Dismissal may sometimes be an expeditious course of action for employers because fair processes such as adequate warnings for misconduct or poor performance, providing a period of notice, paying out leave, or offering a redundancy, are more complex and costly than instant or constructive dismissal. Employers are also likely to be aware that there is a low possibility that their misdemeanors will ever be reported or challenged, particularly in the case of young people who often lack knowledge of their rights and have a poor understanding of the

industrial relations system (Commission for Children and Young People 2008; Author 2007). Youth are also susceptible to unfair treatment when they are casually employed and unskilled (ABS 2005b; Watson 2005) and are thus easily replaced.

Youth unemployment was, at the time of the study, a significant issue and remains so to the current time. As at February 2003 the unemployment rate of young persons aged 15-19 years was 17.6% and for young persons aged 20-24 years 9.8% (ABS 2003). This compared with a national average for all ages of 6.7%.

Unemployment rates for these age groups have since fallen, as have participation rates, though to a lesser extent. The focus, therefore, on the competitiveness of youth employment and the affirmation of youth wages in the Workplace Relations Legislation Amendment (Youth Employment) Act 1999 (Cwth) could be argued as warranted given that the 15-19 year age group experienced the highest unemployment of all age groups. The application of youth wages is highly contentious and the effectiveness of youth wages in addressing youth unemployment is difficult to assess. There is some limited evidence to suggest, however, that increases in youth wages may lead to a decrease in youth employment (Daley, Nguyen-Hong, Eldridge, Gabbitas & McCalman 1998). The findings from this study in regard to the dismissal of young workers approaching adult wage status suggest a need to balance the focus of legislation on both the employment of young people and the quality of that employment. Legislation framed too strongly around competition may be detrimental where such policy is not supported by policy initiatives that protect the quality of young people's working lives. Such policies include youth employment education, subsidised on-the-job training schemes, stronger investigatory and punitive powers associated with the investigation of discrimination and harassment cases and stronger protection from unfair dismissal.

## The Progression of Events that Lead to Workplace Dismissal

The data showed that the final termination of employment was very often the culmination of a series of incidents that were inconvenient (or perceived to be inconvenient) to the usual flow of work and business, or that threatened maximum productivity. Such events included employees becoming pregnant, taking time off for injuries, illness, or family responsibilities, or when employees queried their rate of pay or made a complaint of bullying. To some extent, these interruptions to ideal conditions in the work environment are inevitable, yet it is likely that the level of tolerance of various employers to these disruptions varies. Some youth were apparently dismissed after a single day of absence, while in other cases, particularly those involving sexual harassment and allegations of poor performance, lengthy time frames were described. As the conflict continued, the perspectives of obligations between employers and employees became increasingly incongruent (Coyle-Shapiro & Kessler 2000), the trust between employer and employee broke down, and a cessation of the employment relationship resulted.

Other circumstances leading to dismissals, such as theft or misconduct, and allegations of poor performance, also appeared to evolve as a cascading series of events which led to a terminal deterioration in the employment relationship. Kidder (2005) has argued that prior research on employee misconduct focuses on how individual characteristics influence deviant behaviors, while neglecting situational factors and that even the most honest and ethical employee can resort to misconduct if they feel a serious breach of trust has occurred. While certain acts of misconduct evident in the data appeared to be self serving, circumstances prior to the alleged

dishonesty may be relevant, such as an act of betrayal by the employer that leads to demonstrations of retaliation or 'deviant' behaviors (Elangovan & Shapiro 1998). The data cannot confirm this possibility, and is limited by the fact that it does not allow for consideration of the employer's tale of events. However, the fact that assistance from an external agency was sought by employees accused of misconduct lends confidence to the conclusion that false accusations are sometimes made. Furthermore, many cases of alleged misconduct or theft were unsubstantiated and may have been used as convenient justifications for dismissals where other factors were at play, such as imminent pay rises associated with increased age, the requirement to pay sick leave, or perceptions of reduced commitment associated with pregnancy. Certain cases involving employees who were dismissed for poor performance may also have been masking other employer motivations. Allegations of theft, misconduct, or poor performance, if false, are particularly punitive because they not only result in loss of employment, but may also have a substantial impact on the reputation and future job prospects of the person involved.

## **CONCLUSION**

The findings revealed in this study contribute to a little explored area of the youth employment literature. An improved understanding of workplace problems that affect youth is fundamental for informing education strategies which raise young people's awareness of their employment rights and facilitate their agency in negotiating employment relationships. The study revealed patterns of different forms of dismissal and the circumstances which evolved and culminate in termination. Circumstances involving bullying, harassment, and discrimination, as well as dismissal following questioning pay and contract details, and taking leave for illness or injury, emerged

as concerning trends. Consistent with previous work (e.g., Illies et al. 2003; AHRC 2008), young women are at particularly high risk of dismissal following sexual harassment and discrimination on the basis of pregnancy. The findings also demonstrated a range of poor outcomes in situations where employers exploit the vulnerability of young employees and capitalise on their inexperience, limited representation, and relative difficulty in seeking legal redress (ABS, 2008b; Chase & Harvey 2006; Commission for Children and Young People 2008, 2005; Office of Industrial Relations 2005a). While services such as YWAS recognise and appropriately respond to young employees, by the time a young worker contacts the service, the damage is often done. Thus, while the value of support provided by such services is not in question, policy and legislation need to consider how to prevent such situations from occurring in the first place and to reassure young people that their expectations of a fair and safe workplace must be satisfied.

## References

- Althofer, B. (2010) Workplace Bullying and the Work Health and Safety Act 2012, *Safety Concepts – Safety at Work*, June 30, available from [www.safetyconcepts.com.au](http://www.safetyconcepts.com.au), (accessed 23 July 2010).
- Australian Bureau of Statistics (ABS) (2010a) *Labour Force Australia, June 2010*, Australia, cat. 6202.0 (Canberra, ABS).
- Australian Bureau of Statistics (ABS) (2010b) *Australian Social Trends, March 2010, Are Young People Learning or Earning?* Australia, cat. 4102.0 (Canberra, ABS).
- Australian Bureau of Statistics (ABS) (2009a) *Employee Earnings, Benefits and Trade Union Membership, August*, Australia, cat. 6310.0. (Canberra, ABS).
- Australian Bureau of Statistics (ABS) (2009b) *Australian Social Trends, June 2009, Casual Employees*, Australia, cat. 4102.0 (Canberra, ABS).
- Australian Bureau of Statistics (ABS) (2008a) *Australian Social Trends*, Australia, cat. 4102.0 (Canberra, ABS).
- Australian Bureau of Statistics (ABS) (2006) *Casual employees— Year Book Australia 2006*, Cat No. 1301.0 (Canberra, ABS).
- Australian Bureau of Statistics (ABS) (2005a) *Year book Australia*, cat. 1301.0 (Canberra, ABS).
- Australian Bureau of Statistics (ABS) (2005b) *Australian Social Trends*, Australia, cat. 4102.0 (Canberra, ABS).
- Australian Bureau of Statistics (ABS) (2003) *Labour Force, Australia*, cat. 6203.0 (Canberra, ABS).

- Australian Bureau of Statistics (ABS) (1997) *Australian Standard Classification of Occupations, second edition*, cat. 1220.0 (Canberra, ABS).
- ACIRRT (2005) *Young People and Work Survey*, Sydney: ACIRRT.
- Australian Council of Trade Unions (ACTU) (2003a) *Future of Work-Young People and Unions - Congress 2003* (Melbourne, ACTU).
- Australian Council of Trade Unions (ACTU) (2003b) *Young People and Unions Background Paper - Congress 2003* (Melbourne, ACTU).
- Australian Human Rights Commission [AHRC] (2008). *Sexual Harassment: Serious Business. Results of the 2008 Sexual Harassment National Telephone Survey*, (Sydney, AHRC).
- Bacon, N. and Storey, J. (1993) Individualization of the employment relationship and the implications for trade unions, *Employee Relations*, 15(1): 2-18.
- Blau, F. and Kahn, L. (1981) Race and Sex Differences in Quits by Young Workers, *Industrial and Labour Relations Review*, 34, 563-577.
- Burns, J. (2004) White Collar Bullies, *Human Resources Magazine*, 30 June.
- Caritas. (2003) *Protecting Children at Work*, Wellington: Caritas.
- Chapman, A. (2009) Protections in Relation to Dismissal: From the Workplace Relations Act to the Fair Work Act. *UNSW Law Journal*, 32(3) 746-771.
- Chapman, A. (2006) Unfair Dismissal Law and WorkChoices: From Safety Net Standard to Legal Privilege, *The Economic and Labour Relations Review*, 16 (2) 237-264.
- Charlesworth, S. (2006) A snapshot of sex discrimination in employment: Disputes and understandings, in S. Charlesworth, K. Douglas, M. Fastenau and S. Cartwright (Eds.), *Women and Work 2005*, pp. 81-98, *Current RMIT University Research*. Melbourne: RMIT Publishing.

- Chase, T. and Harvey, D. (2006) The effects of the unfair dismissal changes on young (women) workers, Paper presented at the *Our Work – Our Lives: National Conference on Women and Industrial Relations*, 13 July 2006, Brisbane, Australia.
- Commission for Children and Young People (NSW) (2008) *Making the Working World Work Better for Kids*, Report for the NSW Commission for Children and Young People, December 2008.
- Commission for Children and Young People (QLD) (2005) *Queensland Review of Child Labour: Summary of Findings*, April 2005.
- Coyle-Shapiro, J. and Kessler, I. (2000) Consequences of the psychological contract for the employment relationship: A large scale survey, *Journal of Management Studies*, 37(7): 903-930.
- Cregan, C. and Johnstone, S. (1993) Young Workers and Quit Behaviour, *Applied Economics*, 25, 25-33.
- Daley, A. Nguyen-Hong, D., Eldridge, D. Gabbitas, O. & McCalman, P. (1998) Youth Wages and Employment, *Productivity Commission Staff Research Paper*, Ausinfo, Canberra, October
- Dziech, B. and Hawkins, M. (1998) *Sexual harassment in higher education. Reflections and new perspectives*, New York: Garland Publishing.
- Elangovan, A. R. and Shapiro, D. L. (1998) Betrayal of trust in organisations, *Academy of Management Review*, 23(3): 547-567.
- Elton, J. (2008) Forward with fairness as an industrial relations strategy for women working in minimum conditions sectors, Proceedings of the *22nd Conference of the Association of Industrial Relations Academics of Australia and New Zealand*, Melbourne, 143-154.

- Fair Employment Advocate (2008) Vulnerable Workers: Young People, *Fair Employment Discussion Paper 3*, Perth (WA), 6–21.
- Forsyth, A. (2009) Protection Against Economic Dismissals: Australian Law Compared with Five other OECD Countries, *Journal of Industrial Relations*, 51(5) 723-731.
- Forsyth, A. (2008) Australian Regulation of Economic Dismissals, *Sydney Law Review*, 36, 506-536.
- Freyens, B. and Oslington, P. (2007) Dismissal Costs and Their Impact on Employment: Evidence from Australian Small and Medium Enterprises, *Economic Record*, 83 (260) 1-15.
- Gollan, P. (2009) Australian Industrial Relations Reform in Perspective: Beyond WorkChoices and Future Prospects under the Fair Work Act 2009, *Asia Pacific Journal of Human Resources*, 47(3) 260-269.
- Harris, H. (2001) Content analysis of secondary data: a study of courage in managerial decision making, *Journal of Business Ethics*, 34(3/4): 191-209.
- Hayes, P. (2005) Taking it seriously: Contemporary experiences of sexual harassment in the workplace, *Women Against Violence: An Australian Feminist Journal*, 16, 54-55.
- Human Rights and Equal Opportunity Commission (HREOC) (2007) *A Guide to Australia's Anti-Discrimination Laws*, HREOC, Sydney, 24 January, available from [www.hreoc.gov.au](http://www.hreoc.gov.au) (accessed 23 July 2010).
- Human Rights and Equal Opportunity Commission (HREOC) (2004) *Sexual Harassment 20 years on: Sexual Harassment in the Australian Workplace*. HREOC, Sydney.

- Illies, R., Hauserman, N., Schwochau, S. and Stibal, J. (2003) Reported incidence rates of work-related sexual harassment in the United States: Using meta-analysis to explain reported rate disparities. *Personnel Psychology*, 56(3), 607-618.
- Job Watch (2010) *Constructive dismissal*, Job Watch, Employment Rights Legal Centre, Melbourne, available from: [www.jobwatch.org.au](http://www.jobwatch.org.au), (accessed 19 July 2010).
- Kidder, D. (2005) A multi-theory examination of employee misconduct, *Journal of Business Ethics*, 57(4): 389-398.
- Klaas, B., Brown, M. and Heneman, H. (1998) The Determinants of Organisations Usage of Employee Dismissal: Evidence from Australia, *Journal of Labour Research*, 19 (1) 149-164.
- Lambert, C. (2009) When can an employee claim dismissal is unfair? *Law Society Journal (NSW)*, 47 (September), 62-65.
- Lawlink (2010) Unfair Dismissals, *Industrial Relations Commission*, available from: [www.lawlink.nsw.gov.au](http://www.lawlink.nsw.gov.au) (accessed 19 July 2010).
- MacDonald, P. & Gardner, R. (2000) Type I error rate comparisons of post hoc procedures for I×J chi-square tables. *Educational and Psychological Measurement*, 60(5), 735-754.
- MacLeod, W.B. (2005) Regulation or Markets? The Case of Employment Contracts, *CESifo Economic Studies*, 51(1) 1-46.
- Mangan, J. and Johnston, J. (1999) Minimum wages, training wages and youth employment, *International Journal of Social Economics*, 26(1/2/3): 415-429.

- Marquis, M. and Filiatrault, P. (2002) Understanding complaining behaviors through consumer's self-consciousness disposition, *Psychology and Marketing*, 19(3): 267-292.
- Marshall, C. and Rossman, G. (1995) *Designing Qualitative Research*, Sage Publishing: Thousand Oaks, California.
- Masterman-Smith, H. and Elton, J. (2007) Cheap labour – The Australian way, Paper presented at the *21st Conference of the Association of Industrial Relations Academics of Australia and New Zealand*, Auckland, New Zealand, 7–9 February.
- Author (2008).
- Author (2007).
- Author (2005).
- Mourell, M and Allan, C. (2005) The statutory regulation of child labour in Queensland, in M Baird, R Cooper and M Westcott (eds), *Reworking Work: Proceedings of the 19th Conference of the Association of Industrial Relations Academics of Australia and New Zealand*, AIRAANZ, 2005, 395.
- Office of Industrial Relations (2005a) *Young People and Work Survey 2005. Summary and Key Findings*, New South Wales Department of Commerce, Sydney.
- Office of Industrial Relations (2005b) *Unfair dismissal*, NSW Department of Commerce, Sydney.
- Pershing, J. (2003) Why women don't report sexual harassment: A case study of an elite military institution, *Gender Issues*, 21(4): 3-30.

- Quinlan, M and Mayhew, C. (2002) Fordism in the fast food industry: Pervasive management control and occupational health and safety risks for young temporary workers, *Sociology of Health and Illness*, 24 (3): 261-84.
- Robbins, W. and Voll, G. (2005) The case for unfair dismissal reform: A review of the evidence, *Australian Bulletin of Labour*, 31(3): 238-255.
- Ronalds, C. and Pepper, R. (2004) *Discrimination law and practice (2nd ed.)* Federation Press: Sydney.
- Rousseau, D. and Aquino, K. (1993) Fairness in implied contract, *Human Performance*, 6(2): 135-149.
- Savery, L. and Gledhill, K. (1988) Sexual harassment of women in industry and commerce by co-workers: Some Australian evidence, *Personnel Review*, 17(6): 34-38.
- Silverman, D. (2000) *Doing qualitative research* Sage Publications, London.
- Smithson, J. and Lewis, S. (2000) Is job insecurity changing the psychological contract? *Personnel Review*, 29(5/6): 680-698.
- Sortirin, P. (2000) All they do is bitch bitch bitch: Political and interactional features of women's office talk, *Women and Language*, 23(2): 19-25.
- Southey, K. (2007) The Achilles' Heel of Unfair Dismissal Arbitration in Australian SMEs, paper presented to *International Entrepreneurship - 30th Institute for Small Business & Entrepreneurship Conference*, Glasgow, Scotland, 7-9 November.
- Stewart, A. (2006) WorkChoices in overview: Big bang or slow burn? *Economic and Labour Relations Review*, 16 (2) 25 – 61.
- Van Dyne, J. & Ang, S. (1998) Organisational citizenship behavior of contingent workers in Singapore, *Academy of Management Journal*, 41(6): 692-703.

Wageline (2006) *Other reasons for dismissal*, previously available from:

[http://www.wageline.qld.gov.au/endingemployment/other\\_dismissal](http://www.wageline.qld.gov.au/endingemployment/other_dismissal)

(accessed 16 April 2007).

Watson, I. (2005) Contented Casuals in Inferior Jobs? Reassessing Casual

Employment in Australia, *Journal of Industrial Relations*, 47(4), 371-392.

Wear, D., Aultman, J. and Borgers, N. (2007) Rethorising sexual harassment in

medical education: Women students' perceptions at five US medical schools.

*Teaching and Learning in Medicine*, 19 (1), 20-29.

Young Workers Advisory Service (2005a) Inquiry into workplace relations

amendment 'WorkChoices' bill 2005, *Submission to Senate Employment*,

*Workplace Relations and Education References Committee*. Young Workers

Advisory Service, Brisbane.

Young Workers Advisory Service (2005b) *Annual Report 2004-2005*, Young

Workers Advisory Service, Brisbane.

## TABLES AND FIGURES

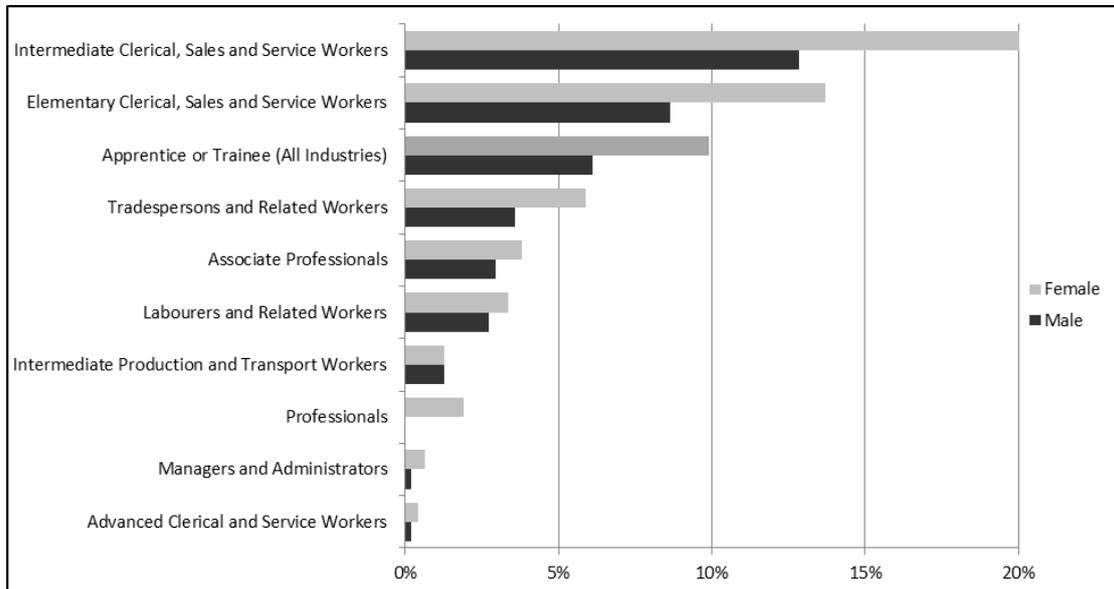


Figure 1: Occupation according to ABS Classification (N=475)

Table 1: Proportion of Circumstance Categories and Sub-categories (N=1,259)

Circumstances categories and sub-categories	N	%	Male (%)	Female (%)	% of Category Total
Leave / Personal Circumstances	244	19	32	68	
Sick leave			31	69	42
Injury			47	53	29
Personal leave			28	72	19
Other leave			35	65	8
Unexplained absence			25	75	2
Bullying / Harassment	233	19	29	71	
Unspecified harassment			31	69	46
Sexual harassment			15*	85*	24
Verbal harassment			38	62	21
Physical harassment			60	40	9
Theft, misconduct or fraud	228	18	41*	59	
Misconduct			50*	50*	57
Theft			34	66	41
Fraud			50	50	2
Pay / Contract related issue or complaint	177	14	42*	58	
Contract changed or cancelled			45	55	44
Complaint about rate of pay			41	59	27
Complaint about wages owing			64*	36*	24
Repayment of monies to employer			13	87	5
Alleged Poor performance	151	12	32	68	
General performance issues			36	64	71
Errors or inaccuracy			33	67	16
Poor attitude			33	67	8
Poor communication			57	43	5
Alleged Discrimination	120	10	18*	88*	
Pregnancy			0*	100*	49
Disability			79	21	12
Gender			15	85	11
Age			50	50	8
Appearance			0*	100*	8
Health			14	86	6
Race			75	25	3
Personal			0	100	2
Operational Reasons	106	8	31	69	
Less hours or work available			32	68	32
Changed manager / owner			33	67	24
Financial reasons			46	54	15
Position redundant			18	82	13
Business liquidated			27	73	13
Organisational restructure			67	33	3

\*Indicates where frequencies were significantly greater or lesser than expected compared to gender patterns of the sample.

Table 2: Proportion of Circumstances Categories occurring within each Type of Dismissal (%) (N=1,259)

Type Circumstance	Direct	Constructive	Redundancy	Resignation	Threatened	Total
Sample total	66	6	5	4	19	100
Discrimination	65	6	3	3	23	100
Poor performance	82*	1	0	2	15*	100
Theft, misconduct	81*	1	0	4	14*	100
Bullying, harassment	42*	23*	0	9	25	100
Leave, personal	80*	2	5	0	13*	100
Operational Reasons	41*	3	32*	5	20	100
Pay issue	59	3	5	7	26	100

*Please note:* For comparison, the mean proportion of types of dismissal in the total sample is shown in bold.

\*Indicates where frequencies of circumstance categories were significantly greater or lesser than expected compared to frequencies of dismissal type.