

Queensland Working Women's Service Inc

PO Box 10554 Adelaide Street Brisbane Qld 4000

Ph (07) 3211 1440 Fax (07) 3211 1449

Freecall 1800 621 458 Website: www.qwws.org.au

Annual Report 2006/2007

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The Queensland Working Women's Service Inc (QWWS) wishes to express our thanks to the organisations, individuals, members and Management Committee who have supported QWWS during 2006.

QWWS received funding in this period from:

Department of Employment and Industrial Relations (Qld) Schedule 1 QWWS and Schedule 2 YWAS.

Office of the Employment Advocate (part of year)

QWWS Objectives

- **Provide accessible services that support women from diverse backgrounds throughout Queensland to make informed choices about issues that affect them in the workplace.**
- **Take appropriate action to assist women to achieve workplace justice.**
- **Increase both women's knowledge and confidence in the workplace and community understanding of workplace issues.**
- **Foster complementary relationships with women's sector organisations and other work-related services provided by unions, government and other agencies to enhance the status of women.**
- **Seek opportunities to build the capacity and sustainability of the organisation to further the above objectives.**

From the President

Alison McClintock

QWWS Management Committee President and Chairperson

My third year as Chair of the QWWS Management Committee has seen the Service and Committee go through a period of consolidation and growth. Having a period of funding certainty has allowed us to analyse what we do well, how services are delivered and what we can do to improve them. The development of strategic and operational plans, in consultation with staff and the Committee, has focused attention onto our core business to deliver effective and efficient services. Valuing our past and working towards the future to ensure the ongoing viability of QWWS and YWAS. This has meant some changes in how we deliver our services while keeping true to our aims and objectives and who we are.

The QWWS 1800 number and website make it possible for us to deliver a statewide service with over 60% of services provided to women and young people in regional/remote areas. The expedient website access has enabled us to reach new clients and provide advocacy to others. Both the website and the information sheets we produce have been redesigned and updated. Additionally regional visits to Rockhampton, Mackay, Cairns, Townsville and Bundaberg have allowed the direct promotion of the Service and what it can offer.

I congratulate the staff on their hard work, professionalism and care in meeting the challenges and delivering a competent service in our current Industrial Relations environment. The staff has kept abreast of the changes and what they mean for our clients in many complex cases. We continue to have good relationships with the various commissions and also employer representatives, which assists our clients in reaching good negotiated outcomes in the various circumstances that present. Staff changes have seen us farewell some long-term staff and Committee and welcome new ones. Thank you to all for their commitment and teamwork.



Management Committee

Prepared by Acting Director – Deidre Morrow

The Queensland Working Women's Service Inc has now operated for over 13 years with the ongoing commitment and work of a volunteer Management Committee. The Management Committee is made up of representatives from a broad range of organisations and individuals and meets every second month.

Elected Management Committee

<i>Alison McClintock, (Chair)</i>	<i>Ordinary/Individual member.</i>
<i>Elaine Martin (Treasurer)</i>	<i>Australian Workers Union</i>
<i>Anna Herzog (Secretary)</i>	<i>Australian Services Union</i>
<i>Behice Bagdas</i>	<i>Multicultural Development Association</i>
<i>Kaye Broadbent</i>	<i>Griffith University</i>
<i>Julianna Virine</i>	<i>Queensland Council of Unions</i>
<i>Kerriann Dear</i>	<i>Director, QWWS</i>
<i>Evangeline Kannis</i>	<i>Ordinary/Individual member</i>
<i>Annie Cowling</i>	<i>Plumbers Union</i>
<i>Janai Meizner</i>	<i>QWWS Staff Representatives</i>

Other stakeholders/consultants

<i>Loretta Gibbs</i>	<i>QWWS/YWAS Financial Controller</i>
<i>Aaron Allegretto</i>	<i>Young Workers Advisory Service up to December 2006</i>
<i>Sharon Large</i>	<i>Young Workers Advisory Service since January 2007</i>
<i>Marjolein Broers</i>	<i>Department of Employment and Industrial Relations</i>

Committee achievements

July and September Strategic planning

July Consultative Committee Meeting re implementation of the Certified Agreement.

November 2006: 2005/2006 Annual General Meeting GM with, Guest Speaker, Paula McDonald QUT

March 2007 Review of operations and restructure.

Special Projects

Prepared by Acting Director Deidre Morrow

Security for Women (S4W)

Kerriann Dear as Director of QWWS has been an active participant in this project since its inception. QWWS is a member organization of S4W, one of the four National Secretariats advising the federal Office for Women on issues that affect all Australian women.

The main activity in the period has been our contribution to the National Foundation for Women report on Women and Work Choices (the 'What Women Want' project). This project has supported research by the Women in Social & Economic Research unit (WiSER), Curtin University of Technology, The Human Rights and Equal Opportunity Commission (HREOC), the Women's Electoral Lobby (WEL), and The National Foundation for Australian Women (NFAW). Janai Meizner attended and engaged in one of the national 'roundtables' informing this report. This report was launched in June in Melbourne at a meeting of the four national secretariats. This year, Teresa Chase (Acting Senior Industrial Officer for QWWS) attended the joint secretariat meeting. Here, all four secretariats, including Security for Women, passed a resolution demanding the establishment (upon the formation of government at the next federal election) of an expert committee to investigate the introduction of a system of universal paid maternity leave for all Australian women. QWWS has written to key senators and members of parliament, including the Prime Minister, the Leader of the Opposition and key ministers outlining our clear support for a system of universal paid maternity leave and pointing out what we see as key issues for Australian working women.

Auspice of the Young Workers Advisory Service (YWAS)

QWWS continues to auspice YWAS. We are entering the second year of the three-year funding grant secured in July 2006.

Training in Communities (TIC) Program. (Atherton)

This program provides training in Language Literacy and Numeracy.

The focus is to boost the skills profile of Queenslanders and improve their chances of employment. Funded by the Department of Employment and Training.

As part of the QWWS review and strategic planning the Management Committee has taken the decision not to auspice a new project in the area. The basis of the decision is that the project is not linked to our core duties under our new funding arrangements and is not sufficiently linked to our objectives to be undertaken as non-core business.

The current project is expected to reach completion in October 2007.

Employment Law Network (ELN)

Sharon Large has represented QWWS/YWAS in this network.

The ELN is linked to the National Association of Community Legal Centres (NACLC's) and consists of representatives of Community Legal Centres (CLC's) and mainstream, women's and youth employment rights services around Australia.

'Talking About Work' project

This project, initiated by Security for Women is aimed at determining the key issues surrounding work for women, clarifying what they want to know about work, exploring what services would assist them, and identifying what skills they want to develop to assist them in dealing with the world of work. QWWS is currently establishing a focus group of young women workers to contribute to this report. The focus group of 10-12 young women will be drawn from a school in the Brisbane region.

Staff

Prepared by Acting Director Deidre Morrow

At the end of 2006 we said farewell to Aaron Allegretto and Josh Keech. Staff and clients alike miss Aaron and Josh's contribution and skills.

The QWWS Certified Agreement offers flexibility to staff to take unpaid leave. Chris Lou (Administration Officer) has taken advantage of this arrangement and is now the proud parent of her second child. Linda Gong is filling the position on a temporary basis.

In January we welcomed Sharon Large as YWAS co-ordinator and Andrew Marsden Industrial Officer. Since Kerriann Dear took leave in March 2007 we have welcomed Gary James Industrial Officer on a temporary basis until January 2008. Teresa Chase is the Acting Senior Industrial officer and Deidre Morrow the Acting Director in the same period.

Volunteer Induction Program

The Volunteer Induction program has been operating since the end of 2004. We have been able to open the advisory line on Monday evenings subject to availability of supervisory staff and volunteers.

The volunteers undertaking the program are provided with a structured induction and/or placement to gain work experience in the areas of either administration or information, referral, advice and support to women and young people on all work related matters. At the end of the Industrial Officer program, the participants should be capable of performing an intake or advisory role

Over the past 12 months the following volunteers participated in the program:

Ricky Lingwoodcock
Rocky Clifford
Terri Butler
Kellie Gesah

Placements

We have been fortunate to have two placements from the Department of Employment and Industrial Relations - Kellie Gesah until January 2007 and currently Brendon Davis.

Director's Report

Prepared by Acting Director Deidre Morrow

Funding

QWWS and YWAS are in the second year of a three-year grant from the Queensland Department of Employment and Industrial Relations.

The Services continue to deliver Queensland Wide advisory and advocacy services.

During the first half of 2007 the Director Kerriann Dear conducted a review of the services and hence made the recommendation that the continuation of part time positions in Gladstone and Atherton were not the most effective model for delivery of services to regional Queensland. The Management Committee subsequently made offers of voluntary redundancies to the incumbents of these positions. These offers were accepted. The positions ceased operation as of 31 July 2007.

Activities

(1) Submissions:

Several government bodies have launched inquiries this year – mostly focusing on the changes to federal industrial relations laws. The information that QWWS has collected from our clients has informed the following submissions and contributions to reports:

- Submission to the Queensland Industrial Relations Commission's Pay Equity Inquiry;
- National Foundation for Australian Women Report on Women and Work Choices: "What Women Want";
- Submission to the Australian Fair Pay Commission's inquiry into the Federal Junior Minimum Wage

The basis of QWWS' and YWAS' submissions has been that despite legislative protections a substantial number of Australian women and young workers in a wide range of industries, occupations and employment arrangements experience serious problems in Australian workplaces. We have strongly asserted that the removal of existing protections and entitlements under the Work Choices Legislation could have a disproportionately negative impact on the status of women in the workforce including on gender pay equity, work and family balance and women's effective participation in bargaining processes to determine conditions of employment. This in turn could have longer-term consequences on women's capacity for economic independence, retirement and dependence on welfare.

(2) Negotiation Skills Seminars

A series of seminars in conjunction with the Office for Women on Negotiation Skills were conducted between April and June 2007. QWWS staff presented these seminars in Brisbane, Townsville, Rockhampton, Bundaberg and Mackay. The seminars aimed to teach working women skills necessary to the negotiation of better terms and conditions in the workplace. As individual contracts become more common, working women will need the skills necessary to directly bargain with their employers.

(3) "Our Work Our lives" Conference 2007 – Adelaide SA

Janoi Meizner and Teresa Chase will present a paper on behalf of QWWS:

Title of paper:

"Would someone please let me back in?: How women fare on attempting to return to work after maternity or parental leave".

Abstract:

We examine the situation faced by women who have taken a period of paid or unpaid maternity or parental leave and who attempt to return to their jobs. We also examine difficulties women face in terms of a lack of knowledge of the intricate and often confusing legislative rights and obligation concerning maternity and parental leave. All state and federal governments have enacted legislation protecting the jobs of women who take a period of maternity or parental leave. The Federal government has boldly called their protection a 'Guarantee'. However, there is often an unexpected struggle when women announce their readiness to return from leave and take up their job again. We examine, through a number of case studies drawn from clients of the

Queensland Working Women's Service, the nature of these difficulties. We consider whether the protections provided by law are sufficient in terms of protecting the jobs of women returning from leave. We present a number of case studies that demonstrate the difficulties faced in negotiating flexibility in returning to work as well as flexibility prior to going on leave. Finally, we consider the worth of a legislated right to request part time work for women with family responsibilities, and the impact a universal system of paid maternity leave might have on the lack of certainty faced by women attempting to return to work from maternity or parental leave.

(4) New website design

Please go to our great website.

www.qwws.org.au

Thanks to designer Joel Collins and staff contributions.

(5) Projects for 2007

New design and production of Posters, brochures and bumper stickers

Further discussions and activities with the Consultative Committee in regard to implementation of our Certified agreement.

Regional visits

YWAS Coordinator's Report

Prepared by Sharon Large

My report mainly focuses on the activities of YWAS over the previous 6 months, which has been the timeframe of my appointment to the Coordinators position. Aaron Allegretto resigned from the position in December 2006 and left a strong legacy to uphold. I have discovered through my various contacts with Government Departments; Community Organisations; Schools and Regional visits that YWAS has an exceptional reputation within these groups. My aim as the new Coordinator is to continue to guide YWAS from strength to strength ensuring that the services viability and credibility is maintained as well as improvements wherever possible.

Over the last six months I have been focusing on establishing and maintaining key relationships within the community and industrial relations sector; promoting the activities of YWAS in various forums as well as exploring innovative ways in which the service can reach young people who are disadvantaged/marginalized whereby they would be less likely to become aware of the services provided by YWAS hence not likely to have access to our service. With this in mind, we have embarked on providing information/educational sessions over and above our usual target areas such as schools and I will talk about some of these initiatives throughout my report.

I would like to strongly acknowledge the commitment and dedication that staff show to young people supporting them through their experiences of workplace issues, it is the staff who are on a daily basis responding at the cold face providing a professional; supportive delivery of service to our client base.

I have a strong commitment to the staff of YWAS in fostering a supportive working environment maintaining a strong team spirit acknowledging that without our valued staff YWAS could not continue to operate at such a high level.

Current Staff of YWAS

Teresa Chase – Full-time Industrial Officer – currently Acting Senior IR Officer for QWWS
Andrew Marsden – Full-time Industrial Officer
Gary James – Part-time Temporary Industrial Officer
Brendon Davis – Wageline Placement Worker – Industrial Officer
Sharon Large – Full-time Coordinator

Service Delivery

Advisory Line

YWAS have responded in total to 1335 telephone advisory calls over the previous year.

General Inquiries – 226

Specialised Assistance – 1283

The service continues to provide support and relief for individual young workers in relation to verbal, emotional and financial abuse at work, discrimination at work, unfair and unlawful dismissal and the associated conditions of distress, misfortune; sense of helplessness; potential homelessness and poverty.

Information/educational sessions

We provided 120 information sessions to young people attending secondary schools. In previous years YWAS has focused on providing information/educational sessions in relation to employment issues to students within the mainstream educational system.

Over the last six months in addition to school talks, we have expanded our information sessions to young people who may be at risk or are already at risk as a result of no longer attending secondary education due to individual difficulties faced with participating in mainstream education. The programs we have linked into are the Get Set For Work Programs as well as students who are studying Cert 1 in Workplace Education. Furthermore we have been guest speakers at various TAFE Institutes providing information to students enrolled in Youth Studies who are likely on completion to be supporting young people with various issues inclusive of employment related matters.

We have received evaluation forms from 45 of these locations all containing very good feedback. We also receive positive verbal feedback from teachers/program managers, and are often requested to return on multiple occasions.

We are well and truly meeting our required key performance indicators as per our Funding Service Agreement. I would like to highlight that there is much time that does go into the coordination of school talks in an endeavour to deliver these sessions smoothly.

Media Promotional Activities

Combined we have engaged in 227 Media/Promotional Activities. These activities are inclusive of:

Media/Press Releases to various media sources
Television and radio appearances
Mail out of promotional material such as brochures
Participating in various Network/Reference Group meetings

Web Site Visits

From the period of October 2006 and September 2007 there has been 11 880 visits to the YWAS Web Site.

The daily average visits per month are between 21-45.

There is a steady increase each month indicating that much information is being sort in relation to young people's employment matters via access to our site.



Responding to Contemporary Workplace Issues

My Space on the Web

The National retailers Association (NRA) who are represented on the YWAS Steering Committee are responding to issues of employees use of My Space in a manner allegedly damaging to employers/businesses by assisting employers to develop Policies and Procedures to guide them in addressing this issue.

YWAS in response to this emerging theme have developed a Fact Sheet to be placed on our Website providing information to young people about the consequences of their employment if engaging in inappropriate behaviour. I believe that our joint response in addressing this issue will be beneficial for all parties in the employment relationship.

Case Work

YWAS Industrial Officers have advocated on behalf of young people in both Industrial and Anti-Discrimination Commissions. Staff has represented/advocated on behalf of young people in 90 cases over the previous twelve months. There are two levels of case work depending on the requirements of the case; level 2 casework involves the provision of intensive assistance.

In the last year there has been a total of **\$73,940** recovered in compensation for young people

Regional Visits

YWAS traveled to 3 regional areas this year; Cairns; Mackay; Bundaberg. We presented numerous school talks and made connection with relevant community based organisations maintaining and developing relationships for referral purposes. We received positive evaluation feedback forms from most of the schools we attended. It is apparent through our regional agency visits that YWAS is certainly on the map, with most agencies recognizing our name and having brochures readily available for their client groups.

YWAS turns 5



On the 15 April this year YWAS turned five years old. The following is a snapshot of figures that shows just how valuable our services are to young people throughout Queensland.

Telephone Advisory – **17,112**

Case Work - **757**

Information sessions - **440**

Total Compensation recovered - **\$1,009,516.45**

This is an incredible achievement by past and present staff.

Current Issues for Young People

The following employment/workplace issues are the most common issues reported by young people contacting YWAS over the previous year.

Pay and conditions - 449

Unfair Dismissal and Unlawful Dismissal - 379

Bullying and Harassment - 194

Sexual Harassment - 92

Discrimination – Although no funding is received from the respective State and Federal Departments of Attorney General and Justice, we continue to provide where resources allow, support and advocacy to young people who have grounds to lodge complaints with the Queensland Anti-Discrimination Commission and the Human Rights and Equal Opportunity Commission. The common grounds of discrimination complaints over the previous year have been based on pregnancy; age and impairment.

Outreach Service



In exploring innovative ways with how we can reach more young people with employment related issues who are marginalized/disadvantaged within the community, YWAS are very excited to announce that they are currently in negotiations with Brisbane Youth Service (BYS) in the development of an Outreach Model of Service whereby we will work in partnership with BYS to deliver services to young people with employment related issues.

This model allows YWAS to be based once a fortnight in the BTS Drop In Centre. During opening hours of their Drop In Centre BYS has up to 200 young people visit to access various services. This will be an invaluable opportunity to provide information; support; referrals; advocacy and representation to young people on employment issues who are at a high risk of homelessness or are already homeless. This is a completely new approach to reach this target group for YWAS. Our Industrial Officer's are very enthusiastic to provide a service in this capacity for young people who are in this unfortunate predicament.

Responses to WorkChoices 18 months later

There is no doubt that young people have been disadvantaged as a result of changes to the Federal Industrial Relations system in March 2006. Many have faced the realisation that there is no unfair dismissal protection if you work for a business with less than 100 employees and are a Constitutional Corporation or have not met the 6-month qualifying period.

There has also been an increase in AWA's being offered to young people, which in some cases dramatically reduce the entitlements they had whilst employed under the safety net of an Industry Award. Up until the proclamation of the amendments to the Child Employment Act, a real concern was that there was a possibility of parent's signing off on their child's AWA not realising that they were potentially signing away their child's employment conditions.

In an attempt to further safeguard young people in their employment relationship, the Queensland State Government passed Amendments to the Child Employment Act 2006 that became effective from 18 April 2007.

The two main changes to this Act are;

There are now Unfair Dismissal Provisions for people under the age of 18 regardless of whether the business is a Constitutional Corporation with less than 100 employees. This also applies to Apprenticeships and Traineeships.

The 'No Disadvantage Test' will once again apply to young people under 18 whereby if they are employed under a Federal Industrial Instrument such as an AWA they must have conditions that are not below the State Industrial Instrument. Although YWAS is pleased that these amendments have been made, there are still many hurdles for young people to jump in terms of accessing information and acquiring knowledge on their appropriate wages and conditions.

As these amendments are provisions for under 18, there are, of course, still concerns for the group between the ages of 18-25.

Our response to WorkChoices

As WorkChoices is fundamentally designed to strip away award conditions and have a national industrial relations system using Australian Workplace Agreements (AWA's), individual contracts as the preferred industrial instrument. A major concern for YWAS in our role of advocating for young workers rights, is that we recognise that young workers are more vulnerable for various reasons such as their age; low skilled profession; imbalance of power, limited life/work experience and lack of knowledge of industrial relations they will be susceptible to unscrupulous employers and more likely to sign away their conditions unknowingly.

In this new system, employees are increasingly responsible for bargaining for their own interests. While many employees (and particularly young employees in retail and hospitality industries) will remain covered by the award system, where fair terms and conditions of employment are already determined by union and employer negotiations, an increasing number of workers are being asked to negotiate their own wages, leave entitlements and other employment conditions.

With this in mind YWAS with support from the Department of Employment and Industrial Relations produced an interactive CD – 'A Fair Go For Young People' – Negotiating in Your Workplace, designed for teachers; youth workers and other

relevant services working with young people to deliver this information session providing relevant information pertaining to the current industrial relations system and knowledge on how to approach and engage in a negotiation.

Over 100 CD's were distributed with good feedback received from recipients. This was a one off project and the material has a natural expiration timeline due to legislative changes

Future Directions

- Implementation and delivery of Outreach Program in partnership with Brisbane Youth Service.
-
- Regional visits to schools and community services.
-
- Submission for Youth Week 2008
-
- Submission to the Australian Fair Pay Commission on youth and minimum wage. (Dependent on Election outcome)
-
- Sub-Committee to explore YWAS becoming an Incorporated Association.
-
- Database upgrade – capacity to draw more detailed and reflective data.

Sincere thanks to the YWAS Steering for their ongoing participation and support. We look forward to your continued involvement over the next year.

Nyree Hatzimihail – Cannon Hill Anglican College

David Powell – Youth Affairs Network Queensland

Nick Tindley – National Retail Association

Joan Schmidt – Department of Education Training and the Arts

Carolynne Berry – Department of Employment and Industrial Relations

Matthew Simpson – Commission for Children and Young People

James Hudson – University of Qld

Kerriann Dear – Qld Working Women's Service

Deidre Morrow – Qld Working Women's Service

QWWS Senior Industrial Officers' Report

Prepared by Deidre Morrow and Teresa Chase

Service Delivery

1. Provision of a telephone advice "advisory-line" for women on employment matters and issues in a timely, effective and responsive manner.

In this period QWWS provided a telephone advisory service between 9am and 4.00 pm Monday Tuesday Wednesday and Friday's and 9.00am to 1.00pm Thursdays. Two regional offices in Gladstone and Atherton operated 10 and 12 hours respectively per week. However, over 90% of regional clients were assisted via the Brisbane Office.

Client demand for services via the operation of the advisory remained steady. Since July 2006, QWWS has also trialed a Monday night advisory line with the assistance of a volunteer. The evening advisory line has not been as successful as hoped, despite promotion through the QWWS website, on our telephone answering service and through industrial officers advising callers of the 'after-hours' service.

2. Casework assistance

This includes assistance with responding to workplace issues, advice on contracts, negotiating conditions of employment or leave, mediation, dispute resolution but is focused on advocacy and representation in relevant industrial relations commissions where a claim is accepted.

QWWS assisted over 140 women with representation or intensive support during the period.

Without funding through the respective Department's of Justice and Attorney General the capacity of the service to assist at the Anti-Discrimination Commission Queensland or the Human Rights and Equal Opportunity commission is strictly limited with a priority on industrial relations matters. Despite restricted capacity QWWS assisted women with matters involving Sexual Harassment and discrimination in the workplace.

During the period, QWWS assisted casework clients in recovering \$252,100.57 of owed entitlements or compensation for unfair dismissal or discrimination. Reinstatement, apologies and the provision of positive references were also sought and achieved by many clients.

During this period, QWWS also took 2 matters through to full hearings at the Australian and Queensland Industrial Relations Tribunals. One of these cases (Food and Agriculture Laboratories of Australia Pty Ltd AND Suzanne Irvine 2006 183 QGIG 887-891 (24 November 2006)) concerned the recovery of redundancy payments owed to an employee who was not offered acceptable alternative employment after the sale of a business. This case was successful. The second case (Annette Megna v No 1 Riverside Quay (SEQ) Pty Ltd [2006] AIRC 519 (24 August 2006)) was an unfair dismissal case which fell under the jurisdiction of the new Workplace Relations Act. The case concerned constructive dismissal. Ultimately the case was unsuccessful. In it's decision, the Commission applied a very strict interpretation of the new section in the Workplace Relations Act concerning constructive dismissal (which now requires that an employee be 'forced' to resign, as opposed to the previous requirement that he/she simply have 'no other option than to resign'). This case received a fair degree of attention from sources reporting on Industrial Relations news and case precedents.

3. Community outreach to women on workplace issues.

During the period, QWWS delivered 63 Training Seminars and information sessions to groups of women in the community to increase awareness of workplace issues, preparing for and re-entering work and negotiating skills in the workplace. Groups and organisations receiving seminars included:

- Kingston East Neighbourhood Centre
- Access Services Inc
- Qld Department of Public Works
- Business and Professional Women of Australia (BPW)
- Eagleby Special Education Learning Centre
- Royal Blind Foundation

QWWS was also involved in the following seminars:

- Women and Careers seminar (Cairns)
- Co-hosted (with Griffith University) the first seminar of the new 'Gender and Work' Seminar Series.

Regular seminars were scheduled in conjunction with TAFE.

QWWS has developed workshops that have been promoted throughout the community on numerous subjects:

Workshop topics for 2006/2007 included:

- *Basic Rights at work and starting work*
- *Workplace Negotiation Skills Seminars (with Office for Women)*
- *Workplace Harassment;*
- *Preventing Sexual Harassment and Discrimination at work;*
- *Work Choices and Women*

4. Client Statistics

How many clients have we helped?

Over the 12 months 2006/2007 QWWS received a total of **3443 client queries**. These included **2381** specialised assistance calls, **132** casework and 749 general query clients. YWAS also conducted **63** training seminars and information sessions and **113** media/promotional activities.

Client background

- 1.4% of clients were from Aboriginal or Torres Strait Islander backgrounds.
- 5.6 % of clients were from culturally and linguistically diverse backgrounds.

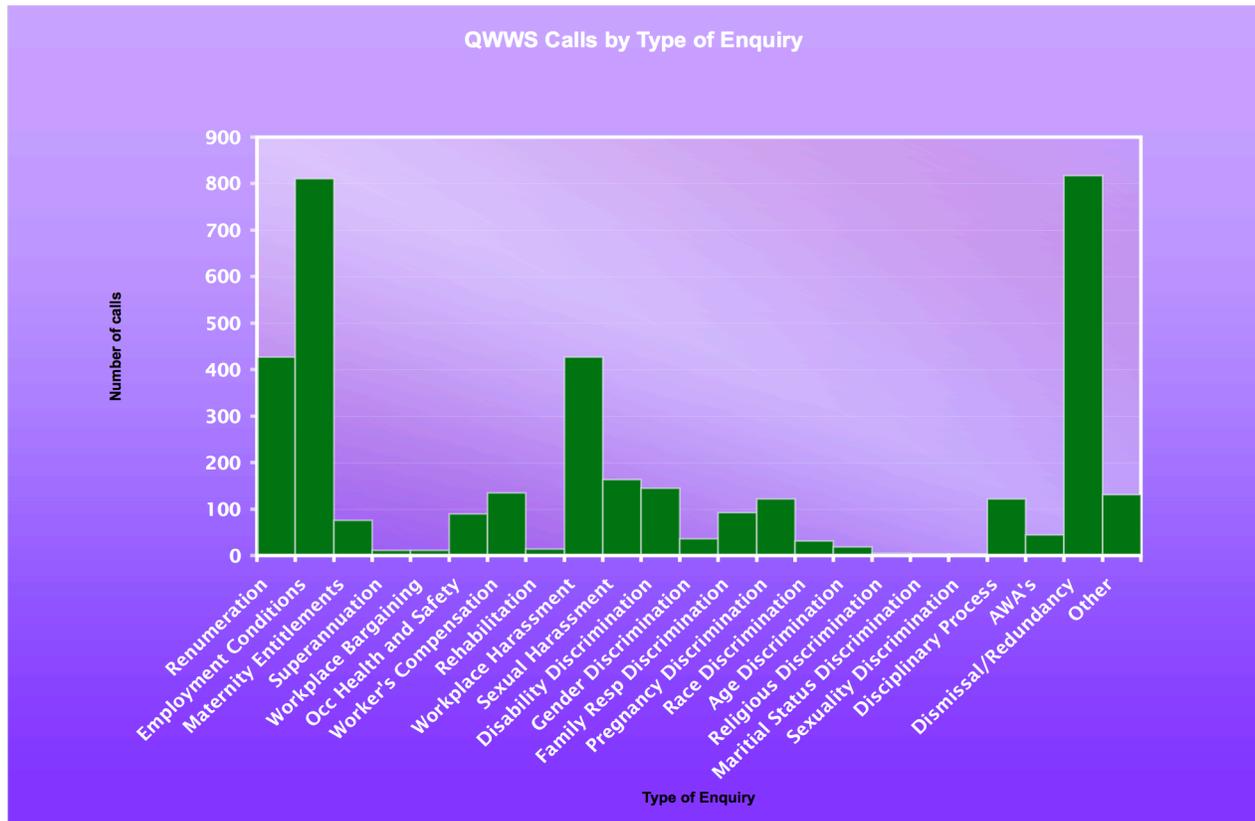
- 70.3 % of clients were from an English-speaking background.
- The remainder did not identify.

Where do our clients live?

- 60% of client queries came from rural and regional areas in 2006/2007.
- 20% came from the Brisbane city area.
- 20% of client queries did not identify their residence.

What were the issues our clients called about?

The majority of QWWS callers called about dismissal or redundancy, employment conditions or remuneration issues. This follows the trend of previous years. Workplace harassment and sexual harassment issues followed as the next most common reason for calls to QWWS. (see chart next page). Naturally, clients will often call about more than one issue. Currently, the QWWS database does not allow the drawing of comprehensive data on the frequency of multiple types of enquiry.



Client Feedback

QWWS conducted regular client evaluations during the 2006/2007 period. Of clients surveyed:

- 92%** agreed or strongly agreed that the information provided was relevant and easily understood.
- 98 %** agreed that QWWS staff conducted themselves in a professional manner.
- 91%** of **casework** clients agreed or strongly agreed that QWWS involvement assisted them to achieve better outcomes

Some comments from clients include:

"QWWS staff are passionate and understanding while remaining extremely professional".

"(Staff member) was empathetic, helpful and supportive"

"Knowledgeable and helpful at all times"

"They are helping people in a professional manner with a friendly approach"

"I would like to sincerely thank (staff member) for their guidance and professionalism and patience. Without this support I would not have been able to go into the employment arena with my self-esteem intact".

6. Media/Promotional Activities

QWWS engaged in 113 media and promotional activities in the 2006/7 year, including:

- Regional visits to Townsville, Rockhampton, Mackay and Bundaberg promoting the service to community organizations and government bodies.
- Attendance at the Logan Jobs and Business Expo
- Media release to Sunday Mail regarding the impact of Work Choices on women with pregnancy and family responsibility issues
- Media releases to MX (inner Brisbane free paper), the Courier Mail, Sunday Mail and Workplace Express regarding AWA's and the new Fairness Test
- Meeting with the Welfare Rights Centre and Centrelink to discuss what QWWS can do for clients and referral processes those organisations can use.

Projects for 2007/2008

- Ongoing facilitation of forums organised by the Queensland Association of School Tuck shops (QAST). These forums are concerned with developing knowledge of IR rights and obligations amongst employers and employees in school tuckshops.
- Participation in the S4W Paid Maternity Leave campaign through attendance at planned 'small business roundtables'. These roundtables are intended to sure-up the support of small business for a system of universal paid maternity leave.
- Continuation of the facilitation of and reporting on 'Talking About Work' focus groups with young women.
- Establishment of evening advisory service in conjunction with a community legal centre. QWWS hopes to establish this at the premises of the community legal centre with the aim of providing specialist (non-legal) industrial relations advice to women calling an after-hours legal advisory line.

Hot Topics

(1) Amendments to the Child Employment Act 2006

Prepared by Brendon Davis

There have been significant changes affecting young workers in Queensland this year. The two main changes brought about by amendments to the Child Employment Act (Qld) 2006

1. Unfair Dismissal Provisions for people under the age of 18
2. No disadvantage test for people under the age of 18

1. Changes to Unfair Dismissal (Part 2B of CEA):

- Effective from 18 April 2007
- Applies to a child (someone under the age of 18) employed by a constitutional corporation.
- A child may make application for unfair dismissal, notice, stand down, severance or other separation benefits that they would otherwise be entitled to under the Industrial Relations Act 1999.
- (E.g. To apply for unfair dismissal must be casual for more than 12 months on a regular and systematic basis or on a permanent basis for at least 3 months.)
- the child can apply to the QIRC or the Magistrates court.
- Follow normal QIRC unfair dismissal process OR can lodge with Industrial magistrates court.
- Also applies to Apprenticeships/traineeships (new clause added under definition of work (Section 8 (4)).

2. 'No Disadvantage Test' (Part 2A of Child Employment Act 2006)

Applies to:

- Children employed by a constitutional corporation; and
- Work under a Federal industrial instrument or Common Law contract;
- And the agreement commenced after 26 March 2006
- Will also apply to children who were working under a NAPSA that has been terminated/expired.
- Also applies to Apprenticeships and Traineeships (new clause added under definition of work)

The 'no disadvantage test' will be applied to the relevant state award or order and the child is not to be disadvantaged in relation to employment conditions.

The employer must also display a copy of the state award or order in the workplace and keep time and wages records as per Section 366 of the Industrial Relations Act 1999.

Process:

- An inspector may apply the 'no disadvantage test' and issue a compliance notice to the employer.
- The inspector can then apply to the QIRC to make a ruling on the disadvantage to the employee.
- The employer can remedy breach or appeal to the QIRC within 21 days (as per chap 9 Div 5 of IR Act 99)
- QIRC can make order for a remedy (underpaid wages)
- Can also apply to Magistrates court.

Other Amendments

Industrial Relations Act 1999:

Long Service Leave (Section 43 4 (d):

Has been amended to provide that Long Service Leave can be paid to employees who:

- Are on Fixed term rolling contracts for more than 7 years who have reasonable expectation of ongoing employment; and
- Have not been given a new contract

Workers Compensation and Rehabilitation Act (Qld) 2003:

- State IR Inspectors have the power to enforce and monitor compliance under chapter 4 part 6.
- This is the section that refers to protection of injured workers for 12 months after the injury.

(2) Independent Contractors

Prepared by Teresa Chase

In July 2006, the Independent Contractors Bill was introduced into the Federal parliament. This bill aims to regulate the way independent contractors and the self-employed are engaged, and, supposedly, to eradicate 'sham' contracting arrangements. During 2005 and 2006, the Queensland Working Women's Service and the Young Workers Advisory Service has continued to receive complaints and enquiries from workers who have been engaged as contractors yet whose

working arrangements demonstrate that they might in fact be employees. Some examples include:

'James':

James was initially employed as a trolley collector on a casual part time basis. His employer gave him a uniform and directed him to attend certain shifts. Essentially, James' employer had control over him and his duties. After one month of work, James' employer provided him with an ABN and told him he was now an independent contractor. James had never signed any consent to this. While the ABN was eventually cancelled through a complaint made to the Australian Taxation Office, James' employer fired him soon after.

'Robert':

Robert (14) was also a trolley collector. He was told he had to get an ABN and become an independent contractor. One of the terms of his contract was that his parents were to be held liable (for up to \$5000) for any damage to cars or other property in the supermarket. Again, Robert was subject to the control of his employer.

Many of the concerns of young workers employed as independent contractors revolve around confusion over what their status means. For many young workers, a job is a job, and the delineation between an employment contract and a contract for services (an independent contracting arrangement) is often unclear:

'Janet':

Janet worked as a counter-hand in a takeaway shop. She was engaged as a casual for one week. Her boss then told her she had to get an ABN to continue working there. Janet did not understand the differences between the two types of engagement and accepted her employer's decision. Janet did not understand that, as an independent contractor, she would have to get her own insurance for work-related injuries, pay her own tax and organise her own superannuation.

The way the law has defined an independent contracting arrangement has always been complex, relying on a number of legal tests to determine employee or contractor status. The relatively complicated interplay between (state and federal) industrial legislation and commercial law regarding independent contracting arrangements has also made determining one's status a challenge.

The federal government's Independent Contractors Bill purports to simplify and unify the law relating to independent contractors. However, it also removes some of the existing protections in state industrial laws:

- s.7(1) (a) of the bill, for example, overrules state laws that allow for contractors to be 'deemed' employees if the circumstances warrant it.
- s. 7 (1) (b) overrules state laws that allow for the conferral of 'workplace relations' rights or entitlements (such as penalty rates, leave entitlements and remuneration) on independent contractors.
- s7(c) of the bill eradicates state (and previous federal) power to declare contracts unfair. These powers have, up until now, been exercised by the Industrial Relations Commissions. The Queensland Industrial Relations Commission's powers, for example, included the power to declare contract for services to be unfair, taking into consideration:

(a) the relative bargaining power of the parties to the contract and, if applicable, anyone acting for the parties; or

(b) whether any undue influence or pressure was exerted on, or any unfair tactics were used against, a party to the contract; or

(c) an industrial instrument or this Act; or

(d) the Queensland minimum wage; or

(e) anything else the commission considers relevant.

(Industrial Relations Act (Qld) 1999, s 276 (2))

YWAS' and QWWS' experience is that workers, and particularly young workers need access not only to education about the very real differences between independent contractors and employees, but also access to a user-friendly complaints process that takes into account all the circumstances of the contract and it's creation. The Independent Contractors Bill does not permit the consideration of matters such as the minimum wage in declaring a contract for services fair or otherwise. This particular matter had, up until now, been able to be considered by the Industrial Relations Commissions. Furthermore, the Bill allows for the consideration of:

"...whether the terms of the contract and the total remuneration provided ... are commensurate with the terms of, and remuneration provided under, other services contracts relating to the performance of similar work in the particular industry." (Independent Contractors Bill 2006, s 15 (2)).

This may allow the independent contracts to be deemed fair at the whim of market forces. Read in conjunction with the Work Choices legislation (in

particular, s 23 (d), which allows the Australian Fair Pay Commission to set:

"...minimum wages for junior employees... that ensure those employees are competitive in the labour market",

YWAS believes there are real risks that 'market forces' and competitiveness will become guiding indicia of 'fairness' for young independent contractors.

Perhaps of even greater concern is the fact that the bill moves the power to investigate unfair contracts from the Industrial Relations jurisdiction to the (ultimately more costly and less lay-friendly) Federal Court or Federal magistrates Court. This can only be detrimental to young workers, for whom the legal system can often be a difficult maze to negotiate. For 'Andrew', a 12 year old who was offered work to stuff envelopes for an accounting company, but told he must get an ABN and be an independent contractor, accessing the court system would be prohibitive. Andrew would, however, have benefited from the soon-to-be defunct 'deeming' powers of the Queensland Industrial Relations Commission (QIRC).

YWAS is concerned that young workers will suffer disproportionately with the introduction of a law that does not allow a body to simply review, vary or set aside a contract that is unfair. Similarly, the removal of the QIRC's (and other commissions) powers to deem an arrangement to be an employment, rather than an independent contracting arrangement, leaves young, often inexperienced workers at risk of further exploitation by unscrupulous employers.

Queensland Workplace Rights Ombudsman

Prepared by Deidre Morrow

It is very important to note that there are now two Ombudsmen in relation to our workplaces.

The federal government's Workplace Ombudsman's Office has replaced the Office of Workplace Services and its function is to investigate compliance with the Workplace Relations Act (1996)

The Queensland Government's Workplace Ombudsman is Mr. Don Brown who was appointed in July 2007. The function of the Office is to investigate actions of Queensland employers. This is irrespective of what legislation an employer is covered by (federal or state). An important benefit to Queensland workers is the

function to investigate and publicise unlawful, unfair or inappropriate industrial relations and other work-related matters.

QWWS now have a formal referral process to the QWRO for cases assessed as having merit yet failing to meet Work Choices jurisdictional requirements for running an unfair dismissal case.

Queensland Working Women's Service Inc
P O Box 10554 Adelaide St
Brisbane
Queensland 4000
Phone: 1800 621 458
Email: qwws@qwws.org.au
Website: www.qwws.org.au

Young Workers Advisory Service
P O Box 10554 Adelaide St
Brisbane
Queensland 4000
Phone: 1800 232 000
Email: ywas@ywas.org
Website: www.ywas.org