

## **Women's Legal Centre (ACT & Region) Submission to the Select Committee on Working Families in the ACT**

February 2007

The Women's Legal Centre (WLC) thanks the committee for the opportunity to make a late submission to the inquiry into the effect on working families of changes to industrial relations legislation. The WLC has read the committee's Interim Report of March 2006 and makes this submission with particular reference to the impact of the *Workplace Relations Amendment (Workchoices) Act 2005* (the Workchoices legislation).

The WLC is a community legal centre for women in the ACT and region. We had contact with almost 1000 women and provided 2700 instances of legal advice and information in the 2005/06 year. We also handled 49 more complex cases in the 2005/06 year. We specialise in discrimination, employment and family law. We believe that our client work places us in a good position to comment on the impact of the Workchoices legislation. The following client stories illustrate the negative impact of the legislation, particularly for employees working in businesses with less than 100 employees. These clients were advised in the period from September to November 2006.

### **Client Story 1**

Our client was a permanent employee in a small business of five employees. She was dismissed without notice for "asking too many questions". We advised her about her right to payment in lieu of notice. She had moved to the ACT to take up the position and had therefore suffered significant financial loss as a result of the unfair dismissal. Prior to the Workchoices legislation, we would have advised her to do an unfair dismissal claim to obtain financial compensation. She was a 37 year old worker from a culturally and linguistically diverse background.

### **Client Story 2**

Our client had worked for an employer with less than 100 employees for 11 years. The employer restructured its business and effectively bullied the client into accepting a redundancy. We assisted the client to negotiate the redundancy package. Prior to the Workchoices legislation, we would have advised the client about a possible constructive unfair dismissal claim. Our client was over 60 years of age.

### **Client Story 3**

Our client was a 50 year old worker with 20 years experience in a particular industry, who was working in a business with 5 employees. She was dismissed without notice and without reasons being given. We advised her about her right to payment in lieu of notice. Prior to the Workchoices legislation, we would have advised her about a claim for unfair dismissal. Our client was 54 years of age.

### **Client Story 4**

Our client had worked for an employer with less than 100 employees for 16 years. A new supervisor made various allegations against our client to management. Our client was not given an opportunity to respond to the allegations and felt that she had no choice but to resign. We advised her about negotiating with the employer to obtain a reference that she needed to find other work. Prior to the Workchoices legislation, we would have advised her about a constructive unfair dismissal claim. She had a disabled husband, who was financially dependant on her. Our client was over 40 years of age.

These client stories illustrate the particular difficulty with the Workchoices legislation's exclusion of businesses with less than 100 employees from unfair dismissal claims. The financial impact of this exclusion is being borne by working families in the ACT and region, some of whom are in very difficult financial circumstances. The workers involved in these situations were particularly vulnerable due to their age and cultural background.

The WLC's experience with other employment and discrimination matters since the Workchoices legislation is that employers sense a shift in their favour in the industrial relations environment. We are seeing more cases of dismissal without notice and without paying full leave and other entitlements. While workers still have remedies in relation to such matters, it can take some time to recover these monies and workers bear the financial impact in the meantime.

The WLC also continues to see a disturbing number of sex, pregnancy and family responsibilities discrimination matters. Again, while workers have remedies under ACT and Commonwealth legislation, the process of enforcing such remedies takes time with workers bearing the financial and emotional impact in the meantime.

On the basis of our experience with clients, the WLC believes that the following fears and concerns expressed to the committee and detailed at paragraph 5.11 of the Interim Report have been borne out in the 10 months since the Workchoices legislation commenced operation:

- A reduction in the ability to balance family and working commitments
- A loss of family friendly conditions
- The lack of bargaining power of the average worker
- The removal of unfair dismissal laws for a substantial section of the work force

The WLC supports the suggestions in the ACTCOSS submission that the ACT government should strengthen its discrimination laws to provide opportunities for the resolution of problems of discrimination in relation to employment and strengthen its human rights legislation to ensure that social, economic and cultural rights are included. The WLC also supports the ACT Human Rights Office (now the Human Rights Commission) submission that the Discrimination Act could be strengthened in relation to employer's obligations to accommodate employees' family responsibilities.

The WLC is grateful for the opportunity to address the committee on these matters.