

Productivity Commission Inquiry into National Workers' Compensation and Occupational Health and Safety Frameworks

**Submission of Professor Michael Quinlan
School of Industrial Relations and Organisational Behaviour
University of New South Wales, Sydney, NSW 2052
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My full name is Michael Garry Quinlan. Since 1994 I have held a full professorial post in the School of Industrial Relations and Organisational Behaviour at the University of New South Wales in Sydney. Prior to that (1981-1994) I held full-time posts (lecturer, senior lecturer and associate professor) in the School of Industrial Relations at Griffith University in Brisbane. I hold a B.Ec. (hons) (University of Sydney) and a PhD (University of Sydney) and am also a member of the Safety Institute of Australia (the largest health and safety professional/practitioner body in Australia).

My major research areas are industrial relations policy/history and occupational health and safety (especially those aspects that relate industrial relations/management behaviour, work organisation and regulation). I have written and published extensively on both subjects, especially occupational health and safety (OHS). In particular, my research on OHS has explored the intersection of industrial relations, law and OHS and the direct and indirect (ie institutional) OHS effects of changing patterns of work, especially the growth of contingent work arrangements. I have undertaken a number of research projects on the impact of contingent work arrangements (such as contracting out, home-based and temporary work) and have also undertaken a comprehensive review of international research in this area. This research and research reviews have been published in international academic journals. I have also been invited to present my findings to a number of international academic conferences/research workshops as well as several policy maker conferences including a European Union Presidency Conference on Quality of Work (2001). In 2001 I was also asked to write a review of research on the OHS effects of contingent work/precarious employment for World Health Organisation Global Occupational Health Network Newsletter.

I have designed and taught courses dealing with occupational health and safety management at undergraduate and postgraduate level since 1989 (and am co-author of the standard Australian text on the subject). I have also taught subjects on industrial relations policy and comparative industrial relations. My expertise on OHS has been recognised by both industry and government in Australia. Since 1998 I have served on the OHS Editorial Board of CCH Australia (a leading publisher of OHS material used by industry), contributing articles to their publications (see Annexure A) and helping to prepare their contractor safety management manual (writing sections and reviewing others). I am regularly invited to address national and state industry and professional conferences (10 in 2001 and five so far this year). In terms of government, I have made submissions

(including invited submissions) to more than 10 state and federal government inquiries into occupational health and safety or industrial relations. I have served as an expert member on both state and federal government committees and working parties dealing with OHS. I am currently a member of the Research Advisory Panel of the National Occupational Health and Safety Commission and the Occupational Violence Taskforce established by the NSW Department of Health. In 2000 I was appointed by the Motor Accidents Authority of NSW (on behalf of the NSW Government) to conduct an inquiry into safety in the long haul trucking industry (the recommendations of this inquiry are currently under consideration at state and national level).

In 2002 I prepared a research report on developing strategies to address the OHS and workers' compensation effects of changing work arrangements for the NSW government OHS agency (WorkCover NSW). The project entailed detailed interviews with more than 60 senior officers of all but one federal state and territory government agency in Australia (along with an extensive review of government laws, guidance material, data etc and interviews with/submissions from around 40 industry/employer and union representatives. My previous research and this project deals with issues that I believe are of direct relevance to this inquiry.

Though I have views on most issues raised under the terms of reference/scope of the inquiry my written submission will focus on scope items 9 (a), (d), (f), (j) and (k) as identified on page 4 of the issues paper. In particular, the issue I want to take up is the impact of changing work arrangements on the effectiveness of workers' compensation regimes. The growth of these arrangements presents a serious threat to the ongoing efficient management, effectiveness and equity of workers' compensation regimes and this needs to be recognised in any consideration of a more nationally consistent system if that system is to achieve long term credibility. Because the WorkCover NSW report has not been released I cannot disclose its contents in detail. Rather, I provide here an overview of a number of the issues. I am happy to answer detailed questions during the hearing.

Changing Work Arrangements and their effect on OHS

Over the past 30 years, industrialised countries have experienced significant growth in contingent and insecure work arrangements. While much literature speaks of the last two decades as pivotal – and this is true in terms of the extent of the change - the origins of these changes can be traced to the 1970s (and were occasionally identified even then. See for example an early discussion of the emergence of temporary work agencies in Europe by Veldkamp and Raetsen, 1973). The precise mix of casual work, temporary and short-contract employment, leased labour, part-time work, home-based work, own-account self-employment, independent subcontracting and micro-small business employment has varied across countries (see for example Cordova 1986 cited in Vosko, 1997:46), although different statistical recording conventions also play a part here. For example, compared to the USA a greater proportion of the Canadian workforce is self-employed and this gap widened during the 1990s (Manser and Picot, 1999). However, notwithstanding some gaps in the data, especially in areas such as home-based work, the

overall trend over the past 30 years in Western Europe, North America and Australasia is unquestionably that contingent work arrangements have grown substantially (Brewster et al., 1997; De Grip et al., 1997; US Bureau of Labor Statistics, 1995; Quinlan, 1998; Burgess and de Ruyter, 2000).

Between 1973 and 1999 the proportion of the workforce in 21 OECD countries engaged in part-time jobs almost doubled, rising from an average of 8.15% to 15.8% (OECD, 2000: Table E). The average proportion of workforce holding temporary jobs in these countries showed a more modest increase from 9.48% to 11.15% between 1983 and 1994 (Quinlan and Mayhew, 1999:492). Statistical recording conventions in some countries (notably the USA) mean the latter figure almost certainly underestimates the change. It is also possible that the level of security bestowed on 'permanent' jobs by regulatory regimes in different countries affects the level of temporary employment. Even so, a very substantial increase in the number of workers aged 16 to 19 years holding temporary jobs was recorded (from 31.08% in 1983 to 42.25% in 1994).

Relying on the Australian Bureau of Statistics and Eurostat, Campbell and Burgess (2001:173) compiled data on Australia and 14 European Union (EU) countries (excluding Austria) for 1983 to 1998. We have been able to update these data to 1999 using unpublished OECD research. This evidence indicates that the average proportion of the workforce in temporary employment across 15 countries grew from 9.57% in 1983 to 13.75% in 1999, representing an overall increase of 43.68% in 16 years. In some EU countries, notably Belgium and Finland, there has been a rapid expansion of temporary employment in the last 5 years. The OECD (2001) holds unpublished data for several other countries indicating that Iceland (11.1% in 1999), Norway (10.12%), Switzerland (11.84%), Canada (12.09%) and Japan (11.91%) had levels of temporary employment roughly comparable to the EU and Australia average. The level of temporary employment was lower in two central European countries, Hungary (5.2%) and the Czech Republic (8.67%), but considerably higher in two developing countries, Mexico (21.1%) and Turkey (20.73%).

From 1995 until 2002 the OECD failed to publish statistics on the extent of temporary work, apparently because of the unreliability/inconsistency of the data. Certainly, recording conventions affect the data and some but by no means all of these reflect differentiation on the basis of nationally specific regulatory regimes. For example, the separate employment standards applying to fixed-term contract work in a number of EU countries has been a factor in collecting data (in Australia such workers are, like casuals, denied access to unfair dismissal provisions under federal Workplace Relations Act 1996 but not the laws of some states). In Australia, on the other hand, fixed-term workers have been largely ignored by the ABS although a recent survey estimated at least 3.3% of employed persons held fixed term posts (Waite and Will, 2002: ix). In some countries like the USA, estimates almost certainly considerably understate the extent of such practices by missing large numbers of casual day labourers, illegal immigrants and those working for small labour agencies (for other points see Quinlan, 1998). However, as far as I am aware this has never been questioned. On the other hand, the OECD has accepted suggestions that the extent of temporary work in Australia is grossly overstated. The main

basis for this appears to be a paper produced by staff of the Productivity Commission (Murtough and Waite, 2000. See also Murtough and Waite, 2000a) that claim to identify significant measurement problems associated with the ABS data. Adopting a number of different assumptions (including excluding those casuals working on an ongoing basis) they argued that actual level of casual employment in Australia is about half the ABS derived number. Their own analysis has, however, been the subject of an examination by Campbell and Burgess (2001a) who have published extensively on casual employment (and refereed publications including international journals). It is beyond the scope of this report to summarise the arguments (which is ongoing see Wooden 2001 and Campbell and Burgess, 2001b). However, Campbell and Burgess conclude by dismissing all the adjustments proposed by Murtough and Waite aside from the exclusion of owner-managers in incorporated enterprises. The result of incorporating this exclusion is slight, reducing the shift in casual density from 18.9% to 19.8% in 1988 and 26.4% in 1999 (according to the original ABS data) to a change from 18.2 to 25% (according to revised figure. Campbell and Burgess, 2001a: 24). As they point out, this still amounts to a major increase for the decade (reaching about double the casual density figure for 1982) and one that fully demands the attention of policy makers.

It should be noted that, irrespective of what data source is used, there is a strong gender dimension to both part-time and temporary employment in Australia, with a proportionately greater number of women occupying these jobs than males despite the rapid growth male casual employment (see for example, ABS, 2001). An essentially similar though slightly less prominent pattern has been identified in the EU (see Markey et al, 2001). In Quebec women constitute the majority of part-time workers but not temporary workers (the latter is partly explainable by a substantial increase of 106% in male temporary employment between 1989 and 1994 while the number of female temporary employees actually declined by 28.4%. Desrochers, 2000). Desrochers also substantial gender differences within particular subcategories of temporary work, with women making up the majority of on-call or short-term contract workers while males constituted the majority of seasonal workers. If health effects vary between different subcategories of temporary work (as research by Aronsson et al 2002 indicates – see next chapter) then the gender dimension to this needs to be recognised by policy makers.

As noted elsewhere in this report significant gender differences are not confined to temporary employment but apply to other types of contingent work arrangement such as home-based work. Indeed, it has been suggested that gender has indirectly shaped interest in the subject. Vosko (2000) has argued that the substantial growth of temporary work and the erosion of job security amongst males played no small part in initiating a paradigm shift in terms of perspectives on precarious employment. In other words, prior to the development of large-scale temporary employment amongst males the fact that the majority of women had occupied these types of jobs for many years had evoked little interest on the part of researchers and policy makers.

As far as we are aware, the OECD, ILO and similar agencies do not produce comparable data (published or unpublished) on the prevalence of other contingent work arrangements, including own-account self-employment, telework, home-based work or

labour leasing. Compilation of these data would present considerable difficulties, as many countries do not collect the relevant evidence on a regular basis. Furthermore, even if they did, the problem of ensuring reasonable definitional consistency is likely to prove more challenging than in relation to temporary work. Some categories also present practical difficulties. For example, with regard to labour leasing there is the issue of distinguishing between employment agencies (who see their only task as job placement) and labour leasing firms as well as the need to recognise firms lease their workers out on an informal or occasional basis even though this is not their principal business (for a recent OHS case involving such a firm see *WorkCover Authority of NSW (Inspector Legge) v Coffey Engineering Pty Ltd (no.2)* [2001]).

Having said all this, the evidence that does exist indicates significant growth. For example, a survey by the US Bureau of Labour Statistics (BLS, 1995a&b) found that the number of workers employed by firms supplying temporary help, and employing 20 or more workers, grew by 43% between 1989 and 1994 – a period when overall non-farm employment grew by only 5%. One labour-leasing firm, Manpower, now claims to be the largest single employer in the USA. Similarly, a recent report on temporary agency work in the European Union (Storrie, 2002: 1-2) pointed to its rapid growth, with an estimated 2 million (or 1.2% of the workforce) working in this sector by 1999. Few informed observers doubt the magnitude of some of these changes and it is an intriguing question as to why the issue has not received more attention from the OECD, governments and policy makers. As far as we are aware there is no comparable ABS data on the growth of labour leasing in Australia. The ABS Employment Services Survey of 1998-99 identified 278,937 persons on-hired by businesses as at the end of June 1999 and 1,357 firms mainly engaged in temporary/contract-based job placements (cited in NSW Labour Hire Task Force, 2001:18). However, long-term trend data is not available. Indications of significant growth can be found for specific jurisdictions. In one jurisdiction, South Australia, the WorkCover Corporation undertook a survey that indicated that the labour hire industry had grown by 550% (measured in terms of total remuneration rather than employment) in the decade after 1991. Remuneration figures, while not comparable to employment data, do provide a crude indication of the industry's rapid expansion (for other references to growth see NSW Labour Hire Task Force, 2001: 15-31).

Evidence with regard to the extent of home-based work is fragmentary but also indicates a pattern of growth in those countries for which data exists. In Canada, for example, the proportion of the workforce doing all or part of their work at home increased from 5.8% in 1991 to 9.1% in 1995. Excluding agriculture, the proportion of workers based entirely at home was highest in community services (22%), manufacturing (18%), personal services (14%), retail (11%) and finance, insurance and real estate (7%). See Lipsett and Reesor, 1997 cited in Bernstein et al, 2000:1). As this report as well as British and US research makes clear, there is strong gender dimension to home-based work in terms of occupation, industry, earnings and employment status with women being concentrated in more menial, repetitive and low paid tasks (Quinlan, 1998, ACIRRT 2002). In Australia an ABS survey undertaken in June 2000 indicated that there were almost one million home-based workers and while almost half (48%) were self-employed/operated a business from home it was also estimated that 20% of employed persons worked some

hours from home (cited in ACIRRT, 2002: 6). It is worth noting in passing that a report on homework in Canada (Bernstein et al 2000:2) argues working at home was not a preferred way for women to balance work and family commitments (flexible hours and on-site childcare were favoured options). More often they worked at home because they had no choice. This observation is consistent with findings from a survey of clothing outworkers in Australia where a study by Cregan (2001) found 68% of those she surveyed would have preferred to work outside the home (see also Mayhew and Quinlan, 1999). Further, an ABS survey undertaken in June 2000 found that flexible working arrangements (nominated by 11% of respondents) and childcare or family considerations (nominated by only 4%) were not the major reasons for persons electing to do home-based work with others, such as the need to catch up on work (15%) being more important (cited in ACIRRT, 2002: 7).

Evidence on the extent of call centre employment is sketchy. In 1999 it was estimated that call centres in Australia employed 160,000 workers and had an annual turnover of \$6.5 billion (Call Centre Research cited in Australian Services Union, 2002: 4). A more recent estimate places total employment at 200,000 or about 2.2% of the workforce (cited in Queensland Division of Workplace Health and Safety 2002:5). This is somewhat higher than recent estimates for telecall centre employment in the UK but lower than a 1999 estimate of around 3% of the working population for the USA (HELA, 2001: 6-7 and Di Martino, 2001: 32). There is general agreement amongst industry, unions and regulators in Australia that the industry has expanded rapidly although there is no trend data to confirm this. A report commissioned by the Australian Services Union (2002: 4) stated there were approximately 4000 call centres in Australia, with 48% of these being located in Sydney and 28% in Melbourne. A survey of 658 union and non-union telecall centre workers undertaken as part of this report found that almost 75% of the survey sample were female and just over half those surveyed (51%) had been in their jobs less than three years. The survey found that 56% of respondents worked full-time, 16% were casuals, 15% worked part-time and 13% worked shift (the conflation of several categories of employment status is not explained in the report) but women were more likely to be employed part-time or casually (Australian Services Union, 2002: 8).

Evidence on the extent of telework is, if anything, even sketchier though what evidence exists indicates that telework has expanded significantly over the past decade in many industrialised countries if not quite to the extent of some early projections (for a recent discussion of international evidence see Di Martino, 2001: 29-43). In the USA Labor Force 1997 statistics of 23.3 million working at home (21.5 million as their primary job) 60% used a computer and 35% a modem, giving rise to an rough estimate of between 6 and 10% of the workforce being home-based teleworkers. In Australia, the ABS has conducted a number of surveys since 1998 using two definitions, namely the ability to access the employer's computer from home and a more narrow definition based on having a telework agreement with an employer (both ABS definitions are stricter than those used in a number of other countries). The proportion of the workforce that were teleworkers according to the first definition (access to employer's computer from home) grew from 1.9% in February 1998 to 6.4% (or 544,000 persons) in November 1999. The proportion of the workforce meeting the narrower definition (telework agreement) grew

from 1.6% to 4.8% (or 402,000) in the same period (cited in Di Martino, 2001: 33). Both figures indicate a significant rate of growth and this tends to be mirrored by data from other countries like Canada, Japan and the UK. A recent estimate for telework (which combined those that are home-based, mobile teleworkers, combined home-based/mobile teleworking and occasional teleworking) in EU indicated there were over 15 million teleworkers or around 6% of the workforce. The EU workforce survey (Paoli and Merllie, 2001: 8) found that teleworkers accounted for 10% of self-employed workers and 4% of all employees. It is worth noting in passing that, contrary to the findings in relation to home-based workers surveys of teleworkers tend to indicate that they prefer to work at home (see, for example, Bouhris and Tremblay, 2001; Tremblay, 2001; and Montreuil and Lippel, in press).

In relation to small business there are a number of relatively reliable data sets that indicate the extent of changes in employment shares. In Europe micro-small business (1-9 employees) accounted for 40% of all enterprises (Oliveira, 2001). Reviewing data for the European Union in the years 1993 to 1997 Walters (2001: 35-36) noted that small and micro enterprises (less than 50 employees) accounted for the highest growth in terms of the number of units as well as employees. Medium sized companies experienced both an absolute and relative decline in employment while the number of large firms increased but their overall share of total employment declined. In Australia, private sector small to medium sized firms (ie fewer than 100 employees) increased their share of total employment from 41.6% in 1983-84 to 46.6% in 1994-95 while small firms (with fewer than 20 employees) increased their share from 29 to 32.8% in the same period. These firms accounted for 53% of net new jobs during this period (Revesz and Lattimore, 1997: ix). In the same period, the total employment share of the public sector declined from 26.5% to 21.4%, indicative of budget cuts/downsizing, privatisation and increased outsourcing to the private sector.

Available international data on self-employment presents a mixed picture with substantial growth being recorded in some countries (like the UK from the early 1980s through to 1997. HSC 2001a: 14) while in others the proportion of the workforce in self-employment underwent little change (Quinlan, 1998, Waite and Will, 2001: 19-21). In some western European countries growth in self-employment in non-agricultural sectors was offset by a decline of self-employment in agriculture. The proportion of the non-agricultural workforce that was self-employed averaged across the European Union plus Norway grew from 10.87% in 1980 to 12.54% in 2000 (*euro observer* Update 4'02). In Australia, the level of self-employment (including dependent contractors) underwent little change in the 1990s and represented 13.6% of the workforce as at September 2000 (ABS survey data cited in NOHSC 2002:2). By redistributing owner-managers of incorporated enterprise Waite and Will (2001: 23,32-33) find the proportion of workforce who were own-account workers increased from 9.7% in 1978 to 11.8% in 1998 and using another survey data set (FOES) they also detect a growth in self employment. Although self-employment is found in all industries in two (construction and agriculture, forestry and fishing) well over a third of the workforce was self-employed and personal services the figure was close to 20%.

Evidence on the extent of multiple-jobholding is patchy. In Australia the ABS has carried out surveys on an irregular basis although they do tend to indicate a growth over time, the most recent estimate being that 7% of the workforce hold a second job. As noted elsewhere, workers may hold several part-time jobs or hold a part-time job in addition to their full-time job (instances of workers trying to hold down two full-time jobs are not unknown). Harcourt and Kenna (1997 cited in Dawson et al 2001: 9) estimated that that 250,000 Australian workers (2.8% of the labour force) work full-time and have second job. The combination of a full-time job and a second job is sometimes referred to as moonlighting. The practice of moonlighting appears to be more widespread in the USA where approximately 6% of employed males surveyed in 1993 reported having a second job (Mishel and Bernstein, 1995 cited in Kimmel and Smith Conway, 2001: 89). A study by Kimmel and Smith Conway (2001) found that the typical moonlighter was somewhat poorer than the average worker and the desire to supplement low pay was the primary incentive for taking a second job.

Evidence on the number and use of illegal workers is, as might be expected, very fragmentary though a substantial growth of illegal immigrants (many of whom appear to work in 'legal' jobs [ie not criminal activity] has been reported in Europe, North America and (to a lesser extent) Australia. Like other less socially attractive forms of flexible work, illegal workers have been conspicuously ignored in the prognostications of the OECD and WTO. Recent Immigration Department estimates are that there were around 60,103 illegal immigrants in Australia as at June 30 2001 (and increase from around 58,000 the previous year) but this figure may be an under-estimate as it is only based on persons overstaying their visa and takes no account of other illegal arrivals. Nonetheless, the figure appears small compared to estimates of more than five million illegal immigrants in the European Union and US State Department estimate 300,000 illegal movements from Mexico alone into the USA each year and eight million undocumented workers. The Australian data just cited doesn't include the well over 200,000 backpacker tourists that visit Australia every year, almost all of whom take on casual and seasonal work to supplement their income even though only a minority actually obtain work permits (for sources and a more detailed discussion see chapter 4). Nor does this figure include foreign workers brought to Australia on special short-term work visas - workers who recent reports indicate (such as that involving Indian stonemasons employed in building a temple south of Sydney) may be susceptible to exploitative and illegal employment practices.

Another group of often-illegal workers, typically engaged in contingent jobs (in retailing, hospitality, personal services, manufacturing and delivery), are children. Comparatively little is known about the extent of child labour. Historically, child labour was associated with home-based work (as adult workers in garment making and the like sought to supplement meagre incomes. Quinlan et al 2001a) where its social/regulatory invisibility meant it could survive long after the banning of children from mines and factories. With the renewed growth of home-based work (including its re-emergence in areas like clothing manufacture) has come evidence of a re-emergence of child labour. For example, evidence on child workers as young as seven years of age was presented both to the inquiry into workplace safety by the NSW Legislative Council Standing Committee

on Law and Justice (1998) and Senate Inquiry into the garment industry (SERC, 1996 and 1998). While home-based work represents a shadow-land where exploitation and child labour can flourish, it is by no means the only area where contemporary instances of child labour can be found. An example is the use of children, predominantly as part of casually employed immigrant family groups of farmworkers (mainly working on crops) in the southern USA. In 1998 the Department of Labor estimated that 129,000 14-17 year olds were working on crops, while a Bureau of Census Survey suggested the figure might be as high as 290,000 (cited in PAHO, 1998). Both figures exclude children younger than 14 years although a recent report by the United States General Accounting Office (2000: 6) found clear evidence of children as young as 6 years being employed. Overall, in 1998 there were estimated to be four million child workers in the USA (PAHO, 1998), some in extremely dangerous jobs despite regulatory restrictions because the latter often go un-enforced. Trying to tease out the precise number employed illegally is difficult. Using the Current Population Survey, 1995-97 data, Kruse and Mahony (2000) estimated that 154,000 minors were employed illegally in any week and 301,000 in a year (were predominately white males and received on average \$1.38 per hours less than legally employed young workers), a decline from the 1970s. However, the more recent reports on child employment (including amongst immigrant agricultural workers) just mentioned indicate this may underestimate the extent of illegal child employment. There appears to have been no comparable attempt to estimate the extent and pattern child labour in Australia (the ABS does not collect employment data on persons aged less than 15 years), let alone identify those in high-risk jobs.

Knowledge of the extent of voluntary work is based on irregular survey evidence. Nonetheless, the available evidence indicates it is substantial. A survey undertaken by the ABS (1995) identified 2.64 million Australians (19% of the population aged 15 years or more) who contributed some form of voluntary work for an organisation or group. The major areas of voluntary work were sport/recreation (31.4% of respondents), welfare community (29.7%), education/training/youth activities (25.3%) and religious organisations (17.7%). One third of volunteers worked for more than one organisation.

Leaving measurement issues and data problems aside, figures combining available data on several basic categories of contingent work in particular countries illustrate the magnitude of change. In Australia, those holding a casual or temporary job and non-employees (self-employed, subcontractors, etc) constituted less than 30% of the workforce in 1982 but approximately 40% in 1999 (Burgess and de Ruyter, 2000:252). If permanent part-time workers are added, the figure rises to 48%. Similar significant shifts have been identified in other countries in the European Union, Canada (see Lowe, 2001) and the USA (where around 30% of the workforce hold part-time, temporary, on-call, day hire or short term contract positions or are self-employed. Hipple, 2001).

While studies of the health and safety effects of job insecurity and contingent work arrangements can be identified as early as the 1960s there has been a rapid escalation of published research since the mid 1990s, mirroring growing concern at the expansion of the employment arrangements. The first review of this research was presented to a EU workshop organised by Gunnar Aronsson and Kerstin Isaksson at the Foundation for

Improving Living and Working Conditions in Dublin in May 2000 and a year later (in revised form) to WorkCongress5 held in Adelaide before being published in the same year (Quinlan et al 2001a&b). This review sought to identify all studies that measured OHS amongst contingent workers or the effects of job insecurity on worker health and wellbeing. It was based on a search of relevant journals along with more selective searching of books, research monographs and government reports (where this involved detailed scientific analysis). The review, covering more than 90 studies (mostly undertaken in Europe, North America and Australasia though with some studies from Asia, Africa and South America), found a clear adverse association between precarious employment and OHS, with over 80% of studies finding these work arrangements were associated with inferior OHS outcomes. Later and more specialised reviews of available research on the OHS effects of job insecurity and the safety effects of contingent work largely served to confirm the initial findings.

Since WorkCongress5 we have been able to more than double the number of studies in our database (covering the period 1966-2002), in part reflecting both studies missed from the initial review and also studies published after the first review was completed. Of these 188 studies 53 were undertaken in the USA, 25 in the UK, 21 in Sweden, 19 in Australia, 18 in Canada, 16 in Finland, 12 in France, 5 in Germany, 5 in Denmark, 4 in Brazil, two each in Norway, the EU, Spain and South Africa, and one study each in Belgium, Ireland, China, Poland, Egypt, Japan, Netherlands, Switzerland and Zimbabwe. Along with population-based studies, there were a number of industry specific studies, including 38 covering manufacturing, 29 in healthcare, 23 in the public sector, 10 each in financial/personal services and construction, 9 in transport, 7 in retail/hospitality, 5 in post/telecommunications/media, 4 in mining/oil, 2 in power generation, and 1 in maritime/fishing.

The reviewed studies used a range of methodologies and OHS indices. Thirty-nine used secondary data analysis, 62 were longitudinal studies, 75 were cross sectional surveys, 9 were qualitative case studies and a further 9 used some other method. The range of OHS indices used by these studies included injury rates, blood pressure, self-reported injury and health (such as the General Health Questionnaire or GHQ), sickness absence, knowledge/compliance with OHS law & policies. Grouping these indices it was found that 57 used objective health measures, 105 used subjective health measures, 17 measured sickness absence (using either or subjective measures), 14 measured legal knowledge/compliance and 10 measured organisational policies/training. The total just given exceed 188 as some studies covered more than one country or used multiple categories, methods or indices

Of the 188 studies examined 29 were deemed to be indeterminate because they lacked a control or benchmark or the results were too ambiguous to interpret. Of the remainder (159) 141 or 88.6% of determinate studies (& 77.9% of all studies) linked precarious employment to inferior OHS outcomes in terms of higher injury rates, hazard exposures, disease and work-related stress. Turn specifically to the latter, it can be noted that 74 of 188 studies used some indicator of work-related stress (such as the GHQ). Four of these

74 studies were deemed indeterminate. Of the remaining 70, 63 (or 90% of determinate studies and 85% of all studies) linked precarious employment to worse stress outcomes.

As in previous reviews, studies were broken down according to the particular type of precarious employment they examined (some studies examined several categories simultaneously) as well as the more generalized notion of job insecurity. The review identified 96 studies of downsizing/job insecurity. Of these 81 found adverse OHS effects, 8 had nil/positive results and 9 were indeterminate. In relation to outsourcing and home-based work the review identified 36 studies. Of these 27 studies found adverse OHS outcomes while the remaining 9 were indeterminate. Of the 36 studies of temporary or leased workers included in the review 19 found adverse OHS outcomes, 6 were nil/positive and 11 were deemed indeterminate. The review included 16 studies of small business (mainly micro small business) and of these 8 found adverse OHS outcomes while the remaining 8 were indeterminate.

The review separated out telecall centre and teleworkers not because they represent a distinct category of contingent work but because they represent a relatively new and significant area of employment often associated with contingent work arrangements (most notably temporary employees and home-based subcontract workers). Only five studies measuring OHS amongst telework/telecall workers could be identified and all but one were indeterminate because the lack of a control group (the exception did identify significantly inferior health outcomes for telecall workers compared to those completing the same tasks in a more conventional work setting).

The review also included studies measuring OHS outcomes amongst permanent part-time workers, although whether these workers could be categorized as precarious or contingent is questionable. In the end the review identified 10 studies all but one of which found OHS outcomes that were nil/positive in comparison to control groups of permanent part-time workers. Hence, this was the only category of workers in the review where the findings did not match those of the overall results.

In sum, the updated review served to reinforce the results of earlier reviews. While this was a narrative rather than meta review and no attempt was made to exclude methodologically weaker studies the vast majority of those studies reviewed were substantial pieces of scholarship published in leading international journals. The research database does help to identify areas of relative neglect. More research is needed on the service sector (eg hospitality, telecall centres); outsourcing/home-based work (especially health effects and hazard exposures), temporary work, leased labour, micro small business, part-time work, multiple jobholding and the safety (as opposed to health effects) of downsizing. There is also a need to explore the relationship between contingent work and gender, work/life balance and shiftwork/long hours. Further, we also need research on the wider social implications of precarious employment for cost externalities, regulatory frameworks and occupational health management systems. Finally, it should be recognised that the growth of precarious employment poses some major challenges to conventional data sources and research methods. The rapid job churning associated with temporary employment in some industries (like hospitality, road

transport or food processing) will make cohort studies virtually impossible, make epidemiological studies very difficult and is likely to render official data sources (like workers' compensation claims, death certificates and like) less accurate. Control groups may be difficult to establish where, for example, an industry is largely casualised and permanent workers undertake different tasks. Not least, in some industries the intense competition between different categories of workers (such as employee and subcontract truck drivers) will tend diminish OHS outcomes overall, thereby partly obscuring the effects that are due to changes in work arrangements (indeed understating such effects).

Notwithstanding these caveats, it must now be accepted that is a large and compelling body of evidence that a number of pervasive flexible work arrangements pose a serious threat to the maintenance of existing standards of OHS. It should be noted that such an overwhelming result is unusual for a large review of scientific research. It also important to note that methodology, indices or country where the research was undertaken exerted no discernible influence on these results. This suggests that regulatory and other institutional differences as well existing policy responses are exerting a minimal effect on these outcomes – an observation with significant policy implications. The remainder of this paper will consider the regulatory challenges posed by these work arrangements and the attempt by government agencies and others to meet these challenges.

REGULATORY CHALLENGES

A relatively small number of the studies reviewed above as well as other literature identified significant OHS regulatory issues in relation to precarious employment, notably lower knowledge of or compliance with legislative requirements amongst subcontractors, temporary workers and those engaging them and less willingness to raise OHS issues or access entitlements (like workers' compensation) amongst contingent workers (see for example Aronsson, 1999; Johnstone et al 2001; Walters, 2001). The problems have also been raised in a number of reports prepared for government agencies in Europe, North America and Australasia, though often at a generic level or in connection to only one aspect of contingent work such as temporary employment or telework (see for example Pennings et al, 1996; Synthesis Report, 1997; EFILWC, 1997; WCB of BC, 1997; and European Agency for Safety and Health at Work 2002). In 2001 I was commissioned by an Australian state government OHS agency (the WorkCover Authority of New South Wales) to undertake research and prepare a report on the regulatory challenges – both with regard to prevention and workers compensation/rehabilitation posed by changing work arrangements and assess the strategic solutions being developed to address these. The project covered all state, territory and federal government OHS jurisdictions (not just New South Wales), and received the active cooperation of all relevant government agencies. As part of this process I met with 10 of the 12 tripartite industry reference groups (IRG's) established in New South Wales, conducted both focus group and individual interviews (using a semi-structured questionnaire) with 63 regulatory staff (both policy and operational) in 9 of the 10 jurisdictions and 40 senior employer/industry and union representatives. I also conducted a relatively exhaustive search of relevant government material (legislation/regulations, codes, guidance material, information bulletins, internal and

public reports, prosecution reports and workers compensation claims data pertaining to several jurisdictions over the past five years). This information was augmented by a more selective collection of employer/industry association and union material and workplace visits. I also obtained and perused a number of reports on the issue prepared by or for government agencies in Europe, Canada, the USA and New Zealand.

The evidence collected in the report (Quinlan, 2003) based on this project indicated that precarious employment and job insecurity were creating serious problems for existing OHS regulatory regimes in Australia. Unlike many other countries (apart from Canada) Australian OHS and workers compensation legislation is largely state/province based. However, like Canada, the United Kingdom and many other European countries the legislative framework uses a mixture of process and prescriptive standards based on general duty provisions that set broad behavioural standards for an array of parties (employers, workers, contractors, designers, manufacturers, suppliers and others). Effectively, the general duties require employers to undertake risk assessment (like the EU this is specifically mandated in NSW), to maintain a safe system of work (including adequate plant and equipment, training of workers and work organisation), and to take adequate consideration of any major change in work process (and this could include downsizing). Further, like the European Union and Norway the legislation mandates worker involvement in OHS through elected employee health and safety representatives or HSRs (there are well over 50,000 of these in Australia at present) and joint worker/employer OHS committees at the workplace. In short, OHS legislation in Australia is broadly similar to that found in many other industrialised countries (including the recent focus on promoting systematic OHS management) and, in very general terms, the same applies to workers compensation legislation (with the exception of those countries where this has been integrated into social security). It is important to make this point because reading overseas reports and other international evidence indicated that many of the problematic issues I identified in relation to Australia are by no means unique. Indeed, there is clear evidence a number I am about to describe are being experienced in other countries. While we need more research to explore the extent of the similarities and where and how differences arise I think the Australian evidence I am about to describe provides a template for both research and an emerging policy debate.

The problems identified in my review were extensive and can only be briefly summarized here.

Prevention

Turning first to preventative legislation and policy a number of points can be made.

The general duty provisions in Australia OHS statutes establish a hierarchy of responsibility (as between the principal and a subcontractor) as well as web of multiple or shared responsibilities (as in the case of labour leasing firm and its host and on multi-employer worksites). While this would seem well-suited to meeting the challenges posed by changing work arrangements (and indeed it is certainly superior to a legislative framework that fails to recognise or address these complexities) the evidence uncovered in the course of research indicated that the growth of

precarious employment was associated with a fracturing of statutory responsibilities (at least in the eyes of those being regulated) that was undermining the effective implementation of the legislation.

Subcontracting (especially multi-tiered or pyramid subcontracting), labour leasing and much home-based work (where self-employment or subcontracting is entailed) introduce third parties into the work arrangement as opposed to the relatively simple and direct employer/employee relationship that have been the overwhelming focus of OHS regulatory regimes in the past. In two jurisdictions design flaws in the legislative duties limited coverage of certain subcontracting arrangements (on relating to work undertaken by subcontractors outside the employers place of work and another limited the capacity to pursue legislative responsibility more than one step in the subcontracting chain) though other jurisdictions have used deeming and other special provisions to clarify legislative coverage. However, even where changes to work organisation have not exposed gaps in statutory coverage, the introduction of third parties creates more complicated and potentially attenuated webs of legal responsibility that place heavier logistical demands on the inspectorate. For example, monitoring to see if there is an integrated OHS management system becomes more difficult on multi-employer sites or those making extensive use of subcontractors or home-based workers and there is a commensurately greater risk of instances of ‘paper compliance’ escaping undetected. Further, conducting workplace inspections is nothing short of a logistical nightmare in the case of mobile workers, literally thousands of home-based workers and temporary workplaces (like a telecall centre established for a marketing campaign that may last only a few months). Finally, where a breach is detected or serious incident occurs the inspectorate can face greater difficulty in identifying the parties to prosecute (such as the principal contractor) and their legal status (especially where the ‘corporate veil’ of shelf companies is used) or the precise employment status of the worker (and this may have implications for the relevant provision to be used in legal proceedings). Further, the existence of third parties make determining the share of responsibility and who to pursue in legal proceedings (more than one party can be prosecuted) more time-consuming.

It should be noted here, that as in the USA, specialist advice has been provided to some employers by legal firms and others about how to configure their organisation or their workforce in order to minimize their ‘exposure’ to a raft of statutory requirements (relating to taxation and industrial relations as well as OHS and workers compensation). For example, in one case a taxi firm configured itself as a trust and its workers as beneficiaries of that trust. While this represents an extreme case it highlights the element of calculated regulatory evasion that is at least a partial contributor to the growth of precarious employment. Even where there has been no calculated regulatory evasion growth of these work arrangements increases the potential risk of ignorance or misunderstandings in terms of meeting legislative requirements. Regulators expressed concern that employers often presumed outsourcing an activity or leasing a worker diminished their responsibility (it doesn’t) and that short-term nature of temporary employment affected their attitudes to the need to provide adequate induction and training or to ensure these workers were represented by HSRs or on workplace committees).

In relation to the last point it should be noted that with some notable exceptions (such as the NSW Risk Assessment Regulation 2001) existing laws and guidance material on worker involvement largely presume a permanent work arrangement between employer and employees and as such

take little or no account of the presence of subcontractors, leased or temporary workers. The laws only refer to employees or are worded in ways that provide scope for ambiguity (for example failing to specify when subcontractors should be included in workplace health and safety committees). Further, there has been a failure to recognise that workplace size thresholds for establishing a committee or the appointment of a HSR (both de facto and de jure) represent a more critical limitation on worker involvement as downsizing, outsourcing and other practices reduce the number of workers in particular workplaces. These shifts have been compounded by declines in union density (as unions provide critical logistical support to HSRs) while also making it more difficult for unions to maintain a presence in existing workplaces (something exacerbated by changes to federal industrial relations legislation since 1996). Perhaps at least equally important, the project failed to find one jurisdiction/government agency in Australia that has actively monitored compliance with or enforced regulatory requirements in relation to worker involvement. Regulators recognised the problems posed by extensive use of subcontractors (as have some employers) in terms of obtaining representative input on committees from workers and examples were also cited where temporary workers were grossly under-represented on committees (there are clear logistical incentives for this situation to arise). Available evidence suggests, the problems precarious employment poses for worker representation under existing OHS regulatory regimes just described are by no means confined to Australia. These problems pose a potentially serious limitation for systematic OHS management currently being promoted by many industrialised countries (Saksvik and Quinlan, 2003).

Further, arguably contributing to employer etc ignorance of their general duty responsibilities where contingent workers are involved has been the lead-time for inspectoral agencies adapting their guidance material and enforcement practices to meet these challenges. Surveying existing materials revealed major gaps in regulations, codes and guides/information to parties in terms of clarifying responsibilities in relation particular work arrangements or categories of workers. At present no Australian agency has produced guidance material on downsizing/restructuring although regulators acknowledged such changes could clearly fall with the meaning of major changes to work processes (under the general duty provisions), that in general employers failed to consult workers adequately and they were aware of instances where changes led to a serious deterioration in OHS. As in the USA staffing levels are being included as a risk factor in some guidance material on occupational violence but this is limit of activity thus far. Only one jurisdiction (Victoria) has produced generic information to advise employers of their responsibilities in relation to temporary workers and the production of generic material on home-based work is also exceptional. Given some recent initiatives, the situation is slightly better in relation to subcontracting, labour leasing and telecall center work. Relatively detailed guidance material has been produced in relation to specific industries and sectors (such as government and more notably construction) and reference to temporary and leased workers can also be increasingly found in industry-specific documentation (like hospitality and agriculture) or at-risk categories of workers (notably young workers, seasonal harvest workers and immigrant workers). It is worth noting that, as in a number of EU countries, Canada and the USA, both young workers and small business have received considerably increased attention from inspectorates (though most of the guidance material still fails to identify the concentration of young workers in temporary jobs or the fact that many small businesses are subcontractors).

Given the pervasive use of contingent workers across many industries the efforts just described leave substantial gaps. What is needed is a comprehensive array of both generic guidance material and more detailed industry/sector specific guides (that take account of the particular configuration of work arrangements in that industry). Again, examination of OHS agency websites in the USA, Canada and the UK indicated that gaps in guidance material were by no means confined to Australia. The European Union has produced a directive on temporary workers (first drafted almost a decade ago) but, as with attempts at uniform regulation of the working hours of self-employed truck drivers, this has not proved a simple process, suggesting similar delays will accompany efforts to develop directives on other issues like downsizing, leased workers, subcontractors and telework.

Turning to the question of enforcement, it can be noted that notwithstanding the logistical problems already identified, OHS agencies in Australia have increasingly sought to target and publicize their prosecutions in ways that would both clarify legal obligations and have a deterrent effect. With regard to subcontracting and leased workers in particular, this activity appears to have had some effect (in terms of awareness raising and the activities of individual employers and industry associations). For example, there are a growing number of cases where both the leasing firm and the host employer have been fined substantial sums as a result of serious incidents. At the same time, this has raised questions about whether large labour-leasing firms can actually undertake adequate risk assessment for the diverse and shifting array of workers they provide. Further, rapid turnover amongst small leasing firms and contractors in some industries considerably weakens the 'learning' effect of these prosecutions. In an admittedly extreme case, a new and small leasing firm managed to help 'kill' the first worker it supplied. While both it and host employer were prosecuted and the former went out of business numerous others will take its place entering the industry equally ignorant of their OHS responsibilities.

In some areas, such as downsizing, prosecutions are virtually unknown because it has been put in the 'too hard' basket in terms of proving a case (although prosecutions may be launched using other grounds). Some targeted and publicized prosecutions are beginning to occur in relation to directly engaged temporary workers (ie as distinct from leased workers discussed above), especially younger workers, and with regard to homecare workers and telecall centers. But, by and large home-based work has not been the subject of active enforcement. Overall, enforcement is even patchier in terms of coverage than the production of codes and guidance material. Again, from what could be deduced from an internet-based search of agency and related web sites the situation appears to be similar in Europe and North America.

Workers Compensation/Rehabilitation Effects

The possibility that precarious employment poses serious problems for workers compensation regimes has received far less attention than is the case with prevention even though by late 1990s there was evidence to suggest these challenges were by no means insignificant (Quinlan and Mayhew, 1999). Investigations revealed a number of problems being experienced by Australian jurisdictions.

First, there was a decline in formal coverage of workers due to growth of types of work arrangement (mainly self-employed subcontractors, including some home-based workers) that

were either excluded from cover or for whom cover was entirely voluntary. Each jurisdiction tends to include special categories of self-employed workers who deemed to have coverage under workers compensation (such as clothing outworkers) but these deeming provisions were found to be relatively ineffective and additional elements of confusion were created by further 'innovations' in work arrangements, workers shifting between categories and inconsistent definitions of 'worker' under workers compensation, OHS and industrial relations statutes.

Second, almost certainly greater than the decline in formal coverage was the drop in effective coverage (ie the failure to make claims) amongst eligible workers (such as temporary or leased employees) due to ignorance of their entitlements (enhanced where there are genuine ambiguities referred to above), fears for job insecurity or lost income, job churning (making linking a claim to an episode of employment more difficult) and regular shifts in employment status. In Australia fewer than half injured workers make a workers' compensation claim (many relying on medicare, social security or their own resources) and claim rate is substantially lower amongst part-time workers (the closest surrogate we have for contingent workers. See ABS, 1994,2001). At the same time, there is Canadian and US evidence that temporary workers have higher claim rates than their permanently employed counterparts (see for example Butler et al, 1998 and Shannon and Lowe, 2002). There are ways of reconciling this apparent contradiction but the issue requires further research.

Third, the last two problems have in turn created additional administrative demands on workers' compensation agencies in terms of determining whether a worker is eligible for workers compensation or who is an eligible worker's employer in the case of self-employment, subcontracting or leasing arrangements (ie the third party issue already raised in relation to prevention). The growing incidence of multiple jobholding also poses additional administrative problems for workers compensation authorities. Essentially identical problems have been identified in other countries such as Canada and the USA (see WCB of BC, 1997 and Quinlan and Mayhew, 1999).

Fourth, agencies were increasingly concerned that the growth of small business, subcontractors, temporary workers, labour leasing and home-based work was adversely affecting premium collection as a result of failure to take out cover and (more importantly) under-insurance (due to understating workforce/payroll, outsourcing high-risk groups or manipulation of occupational categories for premium calculation purposes). Agencies were having address more and better targeted resources in an effort to combat this fraud. Again, these problems have been identified in other countries such as the USA (Quinlan and Mayhew, 1999).

Fifth and finally, agencies were concerned that their attempts to secure a return to work were being hampered by these work changes because such measures are more difficult for small business and it was difficult to get employers to take the same responsibility for temporary or leased workers as could be expected in relation to permanent workers. Australia, unlike many European countries, does not mandate occupational health services but the growth of contingent work has created difficulties for private health service providers. This finding mirrors the experience of a number of European countries such as France where services are mandatory (Rondeau Du Noyer & Lasfargues 1990).

Other Regulatory Effects

In addition to the problems just identified there are other less apparent but arguably significant regulatory and institutional effects.

First, the drop in coverage of workers under workers compensation (and claims suppression to the extent it occurred) has resulted in cost shifting to the general health care and social security system. The same process could occur even in countries where workers compensation is integrated into social security if, as is the case in some, a differential level of payment for work-related injuries provides an incentive to shift work injuries into the non-work category of social security. This represents an effective externalization of the costs of work-related injury and disease placing an additional financial burden on government and the community, putting the families of affected workers at a social disadvantage (due to financial burdens and stress), and entailing a set of socially disruptive incentives.

Second, loss of coverage and changed claims behaviour has potentially serious implications for the accuracy of workers compensation claims data and its consequent value as a guide for preventative interventions and workers compensation/rehabilitation strategies. At the very least, the data becomes less comprehensive but in some cases at least these changes can contribute to serious distortions in terms of the level or nature of risks (for example, in construction, agriculture and road transport a significant number of occupational fatalities involve self-employed workers). Moreover, the use of subcontractors and leased workers can affect the overall claims experience of an industry or employer, providing a potentially misleading impression of improved performance (a problem also identified by Swedish research. See Blank et al, 1995). It is important to note that the growth of precarious employment is also likely to impact adversely on other surveillance and reporting systems. For example, more volatile or mobile workplaces, job churning in particular industries (like hospitality) and more complicated work histories are not conducive to clinical diagnosis of work-related illnesses, cohort or epidemiological studies, or the accurate recording of occupation on death certificates. Again these issues have a wide resonance. In her study of the French nuclear industry Thebaud Mony (2000) found that subcontractors received 80% of the total workforce radiation exposure and this had significant implications for both the identification of hazard exposures, management responses and deficiencies in regulatory responses. Whatever the problems precarious employment poses for the recognition and treatment of injuries can be multiplied when attention is turned to hazardous substance exposures and the threats to worker health and wellbeing arising from psychosocial factors.

Third, the growth of precarious employment poses a number of indirect problems in relation to the maintenance of minimum labour standards, a regulatory framework that representations a foundation for OHS and workers compensation law – a nexus more clearly understood by social and labour reformers 100 years ago than it is today (Quinlan et al, 2001a). Self-employed subcontractors in Australia (and many other countries for that matter) do not enjoy the regulatory protections of employees with regard to minimum wages, maximum hours of work and other conditions (like annual, long service and maternity leave; sickness absence etc). The WorkCover project reinforced other evidence that in several industries such as home-based clothing manufacture, road transport and construction the absence of minimum standards and the consequent competition for work (including employees) was undermining OHS by encouraging

hazardous work practices (long hours, corner cutting etc) and diminishing compliance with OHS and workers compensation legislation. Again, similar problems have been identified in Europe and North America (for examples in trucking see Quinlan 2001). The mismatch in key definitions (eg worker) under industrial relations, OHS and workers compensation statutes already referred to exacerbated these problems by promoting ambiguity amongst key parties and making it more difficult for inspectorates covering these spheres to integrate their enforcement activities.

Fourth and finally, there is increasing evidence the growth of precarious employment is imposing an array of externalities on the community. While some contingent jobs are well paid the vast majority are not and even some of those that are or well paid are extremely vulnerable to changes to market demand (see the recent experience of the information technology industry). Job insecurity has wide-ranging direct health effects on various categories of workers (Ferrie, 1999). Researchers have pointed to other indirect effects on workers and the community, with a number of studies finding adverse spillover effects on family and non-work roles (See Mauno and Kinnunen, 1999; Burke and Greenglass, 1999; and Shannon et al 2001). Others have argued that the workplace and social dislocation associated with downsizing and job insecurity is conducive to an increase in violence both within and outside the workplace (see Schwebel, 1997 and Neuman and Baron, 1998). There is growing evidence (see for example Barling and Mendelson, 1999) that a succession of short term or insecure jobs (including the cobbling together of several part-time jobs by workers that some human resource management spin doctors have labeled portfolio employment) can have adverse implications in terms of poverty/budgeting, accommodation (purchase or rent), the health and education of these worker's children, and welfare and pension entitlements (especially where these are contribution-based). Two critical arguments used in support of flexible work arrangements is that they are more family friendly and also enhance the capacity of persons to find jobs therefore reducing unemployment (a related argument is that this process also provides a more even spread of income opportunities rather than a more bifurcated divide between the permanently employed and the unemployed). With the exception of permanent part-time work (and even here there are exceptions due to split shifts or other factors), there is little evidence to justify claims of family-friendliness. Rather, there is mounting evidence that the long or unsocial hours, lack of bargaining power and pressures associated with many contingent jobs have deleterious effects of work/family balance (though changes to permanent full-time jobs are indicating a deterioration in work/non-work balance highlight the point made earlier by interaction or associated effects, as in the case where permanent workers are called on supervise temporary workers as part of their routine tasks).

With regard to the second argument (ie the alleged unemployment reduction effect) it might be suggested this is a socially beneficial change because of the compelling evidence surrounding the adverse health effects of unemployment. However, as has been noted elsewhere (Bohle et al 2001) even if we ignore other externalities referred to above and, further, confine our examination to the health effects of job insecurity the purported overall health advantage of promoting employment at the expense of working conditions is questionable. We now have compelling evidence (ie 84 out of 96 studies) that job insecurity has serious measurable and, in many cases, long term effects on worker health and psychological wellbeing. These effects may not be -on average- of the same order as those experiencing long-term unemployment although this presumption needs to be tested especially in the light of selection effects (see Mastekaasa, 1996) and research on the 'skidding' effects of retrenchment and the impact of lengthy episodes of intermittent work and

unemployment. See Claussen et al, 1993). However, even if the presumption holds the number of persons experiencing job insecurity is now much larger than the number of unemployed in most if not all industrialised countries. So it is more than likely that any health gains from reduced unemployment have been swamped by the losses associated with job insecurity. What is equally disturbing is that this consideration (or the costs of other externalities for that matter) appear to have been ignored by governments when introducing policies promoting flexible employment and even as the evidence mounts neo-liberal policy advocates remain conspicuously silent. For those of us who believe that policy should be informed by evidence this is a disturbing example of what appears to be a growing disjunction between policy discourse and its effects on the community.

Workers' compensation coverage, worker knowledge of entitlements and claims behaviour

Introduction: Setting the Scene

In most industrialised countries workers' compensation coverage does not extend to every conceivable category of worker and there are also categories of workers for whom coverage is ambiguous. One example is self-employed workers, who are largely excluded from workers' compensation coverage in many countries. Of probably greater importance but often overlooked is evidence of significant disparities in claims behaviour amongst categories of workers who *are* formally covered by workers' compensation. Research on the last issue is fragmentary but there is a body of evidence on the extent of non-claiming for compensable injury. A number of US studies (Cone et al., 1991; Stout and Bell, 1991; and Leigh et al, 1996 all cited by Committee on the Health and Safety Implications of Child Labour and others, 1998:179) found that between 30 and 60% of work-related fatalities are not incorporated in workers' compensation records. A similar if not more pronounced pattern has been identified in relation to non-fatal injuries. Several studies suggest the problem is more pronounced for some types of injuries, for particular groups of workers or where workers fear victimisation/diminished job prospects (Biddle, 1998 and Dembe and Boden, 1999). Parker et al (1994), for example, found 67% of eligible injuries amongst adolescent workers did not result in workers' compensation claims.

A number of Australian studies draw a connection between a reduced likelihood of lodging claims and precarious employment. A study of 309 injured workers (randomly selected from 76 organisations on the basis of geographic location, industry and occupation) in Queensland revealed that 27% did not lodge workers' compensation claims (James, 1993a:33-56). James found under-reporting was highest amongst four categories of workers namely those who were unskilled workers, occupationally mobile, self-employed or geographically isolated. (James, 1993:48-53). Later studies by James and others (James et al, 1992; James, 1993b; Mayhew and Wyatt, 1995; Mayhew and Quinlan, 1997) comparing work-related hospital admissions with workers' compensation claims, identified a significant discrepancy with the latter substantially understating the level of serious injury, especially amongst building and road transport workers. A US study of builders reached similar conclusions, finding only 45.1% of hospital treatments resulted in workers' compensation claims (Zwerling et al, 1996).

It is more than coincidental that workers found least likely to lodge compensation claims are either directly identified as contingent workers or belong to groups (like recent immigrants and women) who are concentrated in precarious jobs. This pattern is reinforced by surveys carried out by government agencies. In 1993 the WorkCover Authority of New South Wales (hereafter referred to as WorkCover NSW) commissioned the Australian Bureau of Statistics (ABS, 1994) to survey approximately 8,800 randomly selected employed persons. The main findings of this survey were that of the 8.3% reporting a work-related injury or illness in the previous 12 months only 47% applied for workers' compensation. Of those not making a claim, about half (49.4%) failed to seek any treatment whatsoever, many presumably because the injury was not regarded as serious (see Table 1). However, 50.6% of non-claimants did seek treatment/support elsewhere. They utilised (see ABS, 1994:7) an overlapping mixture of the national publicly funded health care system or Medicare (43%), regular sick leave entitlements (39.6%), personal private health insurance (15.6%) and government social security benefits (7.4%).

Table 1: NSW injured workers who did not apply for workers' compensation by reason why they did not apply, October 1993

Main reason for not applying for workers' compensation	Males			Females		Persons
	Number ('000)	Per cent Of Workers	Number ('000)	Per cent of workers	Number ('000)	Per cent of workers
Self-employed - not eligible	13.5	0.9	*4.1	0.4	17.7	14.4
Minor injury - not necessary	39.5	2.7	24.8	2.2	64.3	52.3
Not aware of workers' compensation	*2.3	*0.2	*1.0	*0.1	*3.3	*2.6
Afraid of possible retrenchment	*5.2	*0.3	*4.8	*0.4	10.0	8.1
Did not think eligible	7.3	0.5	*6.3	*0.6	13.7	11.1
Concerned about what others might think	*2.0	*0.1	*1.7	*0.2	*3.6	*2.9
Other	6.9	0.5	*3.7	0.3	10.6	8.6
All	76.7	5.2	46.3	4.2	123.0	100.0

* Estimate is subject to sampling variability between 25 and 50 per cent.

Source: Australian Bureau of Statistics, 1994, Cat. No.6301.1, p7.

In short, this study revealed a significant gap in workers' compensation insurance cover. It also revealed that a considerable number of workers lacked a clear knowledge of their entitlements (other studies indicate similar uncertainty about claims procedures. See Stewart, 1994). Overall, 82% of employed persons stated they knew they were covered by workers' compensation but 47% were not sure as to which system (state, federal or other specified scheme) covered them. Those aware of their coverage had derived this knowledge from employers (43.9%); brochures, posters and reading material (22.6%); unions (19.6%), discussions with friends (18.7%) and other (13.7%. See ABS, 1994:4). While no similar breakdown is available for those unclear about their entitlements, the ABS survey did indicate that uncertainty was especially pronounced amongst non-English speaking immigrant workers, especially recently arrived groups from the Middle East and Asia (ABS, 1994:4 Table 1.3). Knowledge also varied significantly between different industries and occupations. Only 41% of those employed in forestry, fishing, agriculture and hunting reported they were aware of their workers' compensation coverage compared to over 95% of workers in electricity, gas, water, communication and public administration. In relation to occupational groups, uncertainty was greatest amongst sales and personnel services (10% were unsure of their coverage) followed by labourers and related unskilled workers (8.5%). Uncertainty amongst retail workers would seem more than coincidental with its propensity to employ young inexperienced workers on a casual part-time basis.

The ABS survey also examined why a significant proportion of injured workers did not make compensation claims. As Table 1 indicates, apart from minor injuries the primary reasons given by injured workers for not making a workers' compensation claim were self-employed/not eligible (14.4%), did not think eligible (11.1%), fear of retrenchment (8.1%), concern at what others might think (2.9%) and not aware of workers' compensation (2.6%). Table 1 shows that these problems were more pronounced for female workers. Overall, the first ABS study indicated a significant number of injured workers fail to make workers compensation claims and industry and occupational status as well as ignorance and fear are important contributors to this. These findings are consistent with overseas evidence. For example a study of US warehouse workers by McAllister (1998) found temporary agency workers did not report job-related injuries because they feared this would adversely effect their relationship with both the host organisation and the agency.

In 2000 the ABS undertook a national survey that also provided evidence on the extent of gap between the incidence of work-related injuries and workers' compensation claims data. This report found that of 477,800 persons experiencing a work-related injury or illness in the year to September 2000 68% received some form of financial assistance. Of these 58% received workers' compensation while 21% received employer-provided sick leave and 20% received Medicare benefits. In other words, of those receiving an injury or illness at work 39.5% received workers' compensation - a figure considerably lower than that disclosed in the 1993 survey. Over half (54%) of those who did not apply for workers' compensation received no form of financial assistance. Of those not applying for workers' compensation, 127,400 (or 49%) stated the main reason for this was the minor

nature of the injury, 36,800 (or 14%) state they were not covered or were unaware of workers' compensation, 22,400 (8.6%) did not think they were eligible (see Table 2). Of the remainder, 10,900 (4.2%) feared a claim would impact on their employment prospects, 17,300 (6.7%) felt making a claim would entail too much effort, 11,500 (4.4%) had their costs met by the employer and 33,500 (12.9%) were unsure. Given some changes in categorisation it is impossible to compare all these responses with the 1993 survey although a number of the results are clearly similar. What can be stated is that the minor nature of an injury or illness only explains about half of those failing to make claims. Over a quarter of those who did not make a claim did so because they believed they were not eligible, were unaware of workers' compensation or feared it would affect their employment prospects (Table 2). Females were less likely to be unaware of workers' compensation than males but more likely to believe they were ineligible (9.2%) or to fear a claim would damage their employment prospects (6%).

Unlike the earlier ABS survey the 2000 survey did attempt some crude breakdowns on the basis of employment status (see Table 3). Not surprisingly the survey found that very few own-account self-employed workers applied for workers' compensation. More interesting perhaps was the breakdown between full-time and part-time workers. Of the 375,700 full-time workers injured at work 177,600 (or 47.3%) applied for workers' compensation and 154,600 (or 87% of those who applied) received workers' compensation. On the other hand, of 101,200 part-time workers injured at work only 39,100 (or 38.6%) applied for workers' compensation and of these 33,800 (86.4%) actually received it. Thus, while part-time workers were almost as likely to receive workers' compensation when they applied for it they were significantly less likely to make a workers' compensation claim than full-time workers (lodging around 23% fewer applications). In the absence of data demonstrating that part-time workers experience fewer serious injuries the reasons for this must be seen to lie within the workers' compensation system itself. This conclusion is reinforced by considerable inter-jurisdiction variations in claims behaviour identified by a subsequent NOHSC (2002: 14-16) analysis of the data. The study (NOHSC, 2002: 15) found South Australians (80%) were most likely to apply for workers' compensation followed by NSW (72%), Tasmania (70%), Victoria (64%), Western Australia (63%) and Queensland (59%). There were also some significant jurisdictional differences in terms of the reasons given for not lodging a claim that may warrant closer investigation (NOHSC, 2002: 16). The findings on inter-jurisdictional differences may have some interesting 'tie-ups' with comments of regulators referred to later in this report (for example comments relating to the greater knowledge of workers' compensation and willingness of South Australian workers to make claims).

Table 2: Persons Who Experienced a Work-Related Injury or Illness – Main Reason for not Applying for Workers' Compensation

	Received financial assistance '000	Did not receive any financial assistance '000	Total '000
MALES			
Main reason did not apply for workers' compensation			
Not covered or not aware of workers' compensation benefit	12.2	16.8	29.0
Did not think eligible	6.6	7.5	14.1
Minor injury only/not considered necessary	38.8	43.7	82.4
Negative impact on current or future employment	*2.5	*3.1	5.6
Inconvenient/required too much effort/paperwork	*3.2	8.4	11.5
Employer agreement to pay cost	5.9	*1.6	7.5
Other/don't know	11.0	8.8	19.8
Total	80.2	89.7	169.9
Applied for or received workers' compensation	147.3	6.6	153.9
Total	227.6	96.3	323.9
FEMALES			
Main reason did not apply for workers' compensation			
Not covered or not aware of workers' compensation benefit	*3.0	*4.8	7.9
Did not think eligible	*4.5	*3.8	8.3
Minor injury only/not considered necessary	16.7	28.3	45.0
Negative impact on current or future employment	*2.3	*3.0	5.4
Inconvenient/required too much effort/paperwork	*3.0	*2.8	5.8
Employer agreement to pay cost	*4.0	—	*4.0
Other/don't know	5.4	8.3	13.7
Total	38.9	51.1	90.0
Applied for or received workers' compensation	58.9	*5.1	64.0
Total	97.8	56.1	154.0
PERSONS			
Main reason did not apply for workers' compensation			
Not covered or not aware of workers' compensation benefit	15.2	21.6	36.8
Did not think eligible	11.1	11.2	22.4
Minor injury only/not considered necessary	55.5	71.9	127.4
Negative impact on current or future employment	*4.8	6.1	10.9
Inconvenient/required too much effort/paperwork	6.1	11.2	17.3
Employer agreement to pay cost	10.0	*1.6	11.5
Other/don't know	16.4	17.1	33.5
Total	119.2	140.8	259.9
Applied for or received workers' compensation	206.3	11.7	217.9
Total	325.4	152.4	477.8

* estimate has a relative standard error of between 25% and 50% and should be used with caution

— nil or rounded to zero (including null cells)

(a) Refers to the most recent work-related injury or illness

Source: ABS (2001:13)

TABLE 3: Persons Who Experienced a Work-Related Injury or Illness - Workers' Compensation

	DID NOT RECEIVE WORKERS' COMPESATION		RECEIVED WORKERS' COMPENSATION	
	<i>Applied for workers' comp '000</i>	<i>Did not apply for workers' comp '000</i>	<i>Applied for & received workers' comp '000</i>	Total '000
Status in employment of job where most recent work-related injury or illness occurred				
Employee	27.4	212.7	185.7	425.8
Employer	**0.3	8.9	**0.4	9.6
Own account worker	**0.8	38.3	*3.3	42.4
Full-time or part-time status of job where most recent work-related injury or illness occurred				
Full-time	23.2	197.8	154.6	375.7
Part-time	5.3	62.1	33.8	101.1
Varied/don't know	—	—	*1.0	*1.0
Occupation of job where most recent work-related injury or illness occurred				
Managers and administrators	**0.5	19.5	*4.3	24.3
Professionals	*3.1	35.7	17.9	56.7
Associate professionals	*2.2	27.2	16.1	45.5
Tradespersons and related workers	5.8	47.5	40.4	93.7
Advanced clerical and service workers	**0.6	*3.3	*1.3	5.2
Intermediate clerical, sales & service workers	*3.7	38.1	20.9	62.8
Intermediate production & transport workers	6.2	30.2	38.2	74.7
Elementary clerical, sales and service workers	*2.6	20.7	9.9	33.2
Labourers and relate workers	*3.8	37.6	40.4	81.7
Industry of job where most recent work-related injury or illness occurred				
Agriculture, forestry and fishing	**0.8	19.9	8.3	29.0
Mining	**0.1	*4.2	*2.7	7.0
Manufacturing	5.3	40.8	45.7	91.8
Electricity, gas and water supply	—	*2.4	*1.4	*3.8
Construction	*2.1	29.8	17.2	49.1
Wholesale trade	*0.9	10.6	7.0	18.4
Retail trade	*2.4	32.1	19.6	54.1
Accommodation, cafes and restaurants	*2.1	14.2	10.2	26.6
Transport and storage	*2.4	13.3	16.9	32.7
Communication services	*1.6	5.7	*2.3	9.7
Finance and insurance	*0.8	*3.0	*3.6	7.4
Property and business services	*2.0	16.0	7.2	25.3
Government administration & defence	*1.2	6.5	6.7	14.4
Education	*1.9	14.1	9.2	25.2
Health and community services	*3.3	28.5	21.1	52.9
Cultural and recreational services	**0.2	8.7	*3.2	12.1
Personal and other services	*1.2	10.0	7.2	18.4
Total	28.5	259.9	189.4	477.8

** estimate has a relative standard error greater than 50% and is considered too unreliable for general use

* estimate has a relative standard error of between 25% and 50% and should be used with caution

— nil or rounded to zero (including null cells)

(a) Refers to the most recent work-related injury or illness Source: ABS (2001:15)

The original ABS report neither mentioned the finding relating to claims by part-time workers nor provided a breakdown (of Table 2 reasons for not applying) that might provide some clues as to why part-timers are less likely to apply for workers' compensation when suffering a work-related injury or illness. However, a subsequent analysis of this data by NOHSC (2002) explored this issue. In terms of reasons given for not applying for compensation, around half of both full-time and part-time workers stated that it was only a minor injury and there was also no difference in the proportion who nominated concerns about a negative impact on employment prospects (just under 5%). Part-time workers were more likely to indicate they did not think they were eligible (11.3% compared to 7.7% of full-time workers) but full-timers were more likely to indicate they hadn't applied because they were not covered or were not aware of workers' compensation (15% as compared to 12% of part-timers. NOHSC 2002: 12). The results also suggested that part-time workers were less likely to nominate that they hadn't made a claim because the costs were met by their employer, although this finding needs to be treated with some caution as the relative standard error was between 25 and 50%.

The original ABS report made no reference at all to casual workers but NOHSC (2002: 13-14) re-examined the unpublished data and found that, as with part-time workers, casual workers (defined as those lacking leave entitlements) were less likely than other workers to claim workers compensation following a work-related injury. Interestingly, when nominating reasons for not applying for compensation casual workers were more likely to mention the minor nature of the injury (58% compared to 44% of permanent workers) and less likely to express doubts about their eligibility (5% as compared to 15% of permanent workers) or ignorance of their cover (5% compared to 10.5% of permanent workers. NOHSC 2002: 14). About equal proportions of casual and permanent workers (ie 5%) didn't apply due to concerns about the impact of this on their employment prospects.

In sum, ABS survey data provides some evidence of a connection between precarious employment and workers' compensation coverage. Quantitative and qualitative data from a series of surveys of precarious workers undertaken by the author and/or a colleague between 1995 and 2000 provide further insights. The surveys involved directly administered questionnaires to a total of 1588 workers in three states (Queensland, New South Wales and Victoria) and covering 12 different occupations (see Table 4). One 1997 survey (called S1) involved 248 micro business operators (garage, café, news agency and printery owner managers). A second survey involved 304 young casual workers working for a large fast food chain (S2); a third (S3) 200 home or factory based clothing workers; a fourth (S4) 331 self-employed small business operators in the building, cabinet making and demolition industry. The fifth survey involved 205 outsourced and non-outsourced workers in the childcare, hospitality, road transport and building industry (S5) while a sixth survey (S6) involved 300 long haul truck drivers, with roughly equal numbers of owner/drivers, small and large fleet employee drivers. Most surveys were conducted in Queensland but three large surveys (clothing, fast food workers and truck drivers) were either largely or exclusively composed of workers in two other states (NSW and Victoria).

Table 4: Percentage of 1,588 precariously employed Australian workers with workers' compensation coverage

	None	Workers' compensation	Insurance policy	Not sure	Other	No response
Long haul transport						
owner/drivers (n=99)	6.1	38.4	42.4	9.1	6.1	–
small fleet (n=104)	–	78.8	4.8	15.4	2.9	–
large fleet (n=85)	–	89.4	12.9	8.2	4.7	–
others (n=12)	8.3	41.7	8.3	33.3	8.3	–
Young casuals in fast food industry (n=304)	2	52	–	39.1	8.2	–
Clothing manufacture						
factory-based (n=100)	2	59	2	26	–	1
outworkers (n=100)	2	7	2	3	–	4
Interventions						
Building (n=150)	15.3	19.3	70	0.7	1.3	–
Cabinetmakers (n=150)	19.3	32.7	62.7	2	2.7	–
Demolishers (n=31)	19.3	19.3	58.1	–	3.2	–
Barriers						
Garage (n=73)	20.5	21.9	57.5	–	–	–
Café (n=70)	17.1	61.4	8.6	8.6	–	4.3
Newsagent (n=70)	17.1	44.3	18.6	7.1	5.7	8.6
Printing (n=35)	28.6	42.9	22.9	5.7	–	–
Subcontracting/outourcing						
Childcare (n=78)						
employee	11	87	3	–	–	–
outsourced	51	–	49	–	–	–
Hospitality (n=64)						
employee	9	83	–	–	9	–
outsourced	43	27	30	–	–	–
Transport (n=32)						
employee	12	88	–	–	–	–
outsourced	27	27	47	–	–	–
Building (n=31)						
employee	–	92	8	–	–	–
outsourced	11	6	78	–	6	–

Source: Taken from Mayhew and Quinlan (2001:5)

In three surveys we included control groups of non-contingent workers (although the sample size in one makes meaningful comparisons difficult). In each survey we asked the question “Are you covered by workers' compensation or a personal injury insurance policy? Respondents were then given a series of boxes to choose from. Some ticked more than one box so line totals in Table 2 sometimes exceed 100%.

Table 4 reveals significant differences between the groups in terms of their knowledge of workers' compensation cover. Overall, around 50% of the workers surveyed believed they were covered by workers' compensation while 20% felt they had no formal

entitlements to workers' compensation or other form of entitlement (including private insurance cover). While significant in their own right, these generalisations mask significant variations between different occupational groups. Of course it is important to objectively measure the accuracy of this knowledge against formal entitlements. One possible explanation is that these variations reflect differences in formal entitlements. While some groups surveyed might all be covered by workers compensation for others coverage depends on formal employment status and jurisdiction-specific definitions of what constitutes a worker. Unfortunately, making comparisons between reported knowledge and actual entitlements is not always possible due to the ambiguous employment status optional cover provisions in relations in relation to some groups. In some Australian jurisdictions compulsory cover applies to specific groups of self-employed workers while other self-employed workers or owner/managers have the option of voluntary cover, private accident insurance or nothing. The small business owner/managers we surveyed (S1 & S4) relied on a mixture of workers' compensation and private insurance but around 20% had no cover whatsoever (probably an underestimate once some of the unsure responses are added in). In several jurisdictions the situation is further complicated by recent changes in formal entitlements. In Queensland, for instance, compulsory cover of some groups of self-employed workers and a voluntary option for others to take out workers' compensation insurance was curtailed in 1997 and then further revisions made subsequently.

For groups where we can make definitive remarks our evidence casts doubt on an explanation linking knowledge to variations in formal entitlements. Both factory and home-based clothing workers are formally entitled to workers' compensation. However, only 7% of home-based workers were aware of this, 13% were unsure and more than 70% believed they were excluded from cover. Indeed, clothing outworkers had the poorest knowledge of their worker's compensation entitlements of all occupational groups we surveyed. Amongst factory-based clothing workers, 59% correctly believed they were covered, 26% were unsure and 12% believed they were not covered (the low figures even for this group probably reflect the significant proportion of non-English speaking background immigrants employed in this industry).

Although all fast food workers were covered by workers' compensation only 52% were clearly aware of this. Most other fast food respondents fell into the not-sure category (39%) rather than believing they had other forms of cover (8.2%) or had no cover whatsoever (2%). Since over 95% of employees in this firm were young casual part-time workers (symptomatic of the industry) it was impossible to compare their knowledge against a non-contingent group of fast food workers. However, overall their knowledge of workers' compensation entitlements compared poorly to other groups we surveyed, including workers where the coverage issue was far more complicated. At the same time this particular set of workers had good knowledge of OHS in terms of risk identification and preventative legislation, in large measure due to a pervasive OHS management system (with rigorous training and supervision) in place in the firm (Mayhew and Quinlan, 2002). It appears the company did not take the same effort to inform them of their workers' compensation entitlements and, not being unionized, they were denied another potential source of information.

The influence of factors other than formal coverage on knowledge is reinforced by the truck-driver survey. While all employed drivers were covered by workers' compensation, and overall awareness was high compared to other occupations we have surveyed, there was a significant difference in the level of awareness amongst those drivers working for large transport companies (89.4%) than those working for small fleets (78.8%). Almost twice as many employee small fleet drivers than large fleet drivers were unsure of their coverage. It is likely a firm size affect with regard to knowledge of worker's compensation applies in other industries. It is also worth noting that with regard to owner/drivers (where workers' compensation coverage is more problematic) 6.1% reported no insurance cover at all. In other occupations surveyed the figure is far higher. While the absence of any cover may be seen as a problem for the worker concerned it is likely to have ramifications for the community, especially when that worker is engaged in a dangerous industry and has dependents.

Comparisons between contingent and non-contingent workers were possible for our 1995 outsourcing study of employees and self-employed workers in childcare, hospitality, road transport and building (S5). Given the small cell sizes (especially for transport and building) the findings should only be treated as suggestive but responses broadly conform to our other studies and the ABS (1994) study. Between 83% and 92% of employee respondents were aware they were covered by workers' compensation, a finding not dissimilar to the ABS study. Interestingly, none of the workers surveyed reported being uncertain as to their coverage. With regard to self-employed workers it is again, difficult to comment on those reporting coverage under workers' compensation (due to the legal complexities here) except to say that only amongst two groups (hospitality and transport workers) did a significant minority of workers believe they had cover. This point is reinforced by the large number, ranging from 30% of outsourced hospitality workers up to 78% of building workers (all plumbers), who reported they were covered by private insurance. Equally important was the number of outsourced workers who reported having no cover whatsoever, especially amongst hospitality (43%) and childcare (51%) workers (Table 4).

Overall, our evidence indicates knowledge of workers' compensation entitlements is problematic in some industries where contingent workers are concentrated and that, where we are able to make comparisons, contingents workers are significantly more likely to report having no injury insurance cover whatsoever.

These observations are amplified when we turn to the qualitative data of specific comments made by workers interviewed. For example, in the fast food industry survey (S2) we found many young casual workers incorrectly believed that their entitlement to workers' compensation depended on the degree of the injury sustained or whether they or the company were at fault. Typical responses were:

'Depends if fault of self, then no. But if work fault then work comp. would pay' (young casual worker no.A14); 'If it was [named store] fault then yes. But if I was being stupid, then probably not' (no.A35); 'Depends on severity of injury.

Only if burns were significantly high' (no.A83). 'If you have to go to hospital' (no. B195); and 'If the fault is not yours' (no. B197).

Other young casuals believed compensation cover depended on whether they were full-time employees or had been given a warning:

'Only if you are full-time; not sure for casuals' (no.A28); and 'Depends on if I have been warned about it or not. If I have been told & I get hurt then it is my fault. But if they haven't told me then I get it' (no. B180).

Likewise, responses from both factory and home-based clothing workers confirmed a mixture of ignorance and fear, exacerbated by immigrant status:

'Don't claim; like job and no claim ... never complain as no understand. What can do? Too late for me now at my age' (factory-based NESB worker with OOS; no.F188; age group 40-49).; and 'I wish that I could have the entitlement for the workers' compensation; no payment for me' (outworker no.O11).

As might be expected, injured self-employed workers and owner/managers placed most reliance on a mixture of their own resources, private insurance and Medicare (see S1 & S4). Amongst micro business owner/managers (S1) the following responses were typical.

'I don't think we have a problem with health and safety here ... I don't know what I'd do if I couldn't work ... no insurance or workers' compensation' (garage owner/manager no.25); and 'When I was burnt by steam went to doctor that bulk billed so I didn't have to pay ... regularly take naprosyn tablets for back problems ... for years ... visit the doctor every six months to renew the prescription' (café and restaurant owner/manager no. 129).

Interviewees repeatedly complained economic pressures forced them to avoid any form of insurance cover and to continue working when injured:

'When you are starting a new business you have to be as economical as you can – things like insurance premiums are not a priority for me at the moment' (garage owner/manager no. 63); '... taking painkillers continually for back ... sore feet are from standing all day ... part of the job' (café owner/manager no. 123); 'Cannot afford to get sick as permanently at work trying to break even – also who would make money then.' (café owner/manager no. 156).

Responses in the Interventions Study (S4) of builders, cabinetmakers and demolishers revealed similar dependence on self-help/family support, private insurance and Medicare:.

'Short term, me – up to a few weeks. Long term – personal insurance (income protection)' (interventions builder no. B11); 'Private insurance after first 2 weeks' (interventions builder no. B151); 'Depends. Probably Medicare. Have to be off a long time for insurance' (interventions builder no. B140); 'If I was off work for a long time – insurance and income protection but otherwise myself' (interventions cabinetmaker no. C11); 'Get what I can on Medicare and then

myself until six weeks when private insurance takes over' (interventions cabinetmaker no.C111); and 'Medicare then myself (money I put aside)' (interventions demolisher no.D1).

Unlike micro business owners (S1), some of the Interventions respondents (S4) believed they were covered by workers' compensation. However, like the micro business owners', economic pressures still made them reluctant to make claims and to continue working except for the most severe injuries:

'Would depend on the type of injury. If serious – claim through workers. comp. With self-employed people if you have to take time off it has to be pretty bad' (interventions builder no.B135); 'If the injury required time off work (more than one month) then workers' compensation, else family' (interventions cabinetmaker no. C30); 'Medicare would pay for the medication but I would pay for the time off myself' (interventions cabinetmaker no.C88); and 'Don't use the workers' comp. for minor things' (interventions demolisher no. D28).

In sum, these quantitative and qualitative findings indicate that many workers in precarious jobs are ignorant of their workers' compensation entitlements, frequently reluctant to make claims and rely on other sources of support and treatment, most notably family members, the public health and social security system. If the findings are validated by further research it seems reasonable to suggest that as the precariously employed component of the workforce increases these problems will compound. These problems are not confined to Australia.

With several notable exceptions, there is little evidence that workers' compensation or other relevant government agencies have been giving attention to how improve knowledge of entitlements amongst especially vulnerable groups of workers. There was some difference of opinion between and within agencies about the extent of this problem. Representatives of agencies in several jurisdictions suggested their data did not indicate industries with an abnormally high level of systematic under-claiming (though gaps in data referred to earlier need to be taken into account here). Yet a agency representative from one of the same jurisdictions disputed this interpretation, referring to industries such as hospitality and retailing where they believed, admittedly on the basis of anecdotal evidence, that casual workers' ignorance of their workers' compensation entitlements was tacitly and not so tacitly encouraged by employers or managers. Reinforcing the last point, representatives from another jurisdiction stated they were aware of instances where employers withheld information from workers or discouraged them from making a claim. This is, of course, an offence under virtually every workers' compensation statute in Australia. However, the impression gained from interviews was that these provisions have been little used and no effort has been made to assess the extent of these practices even within industries such as trucking where allegations of such practices have been repeatedly and publicly made (Quinlan, 2001).

In other agencies there was a firm view that major gaps between entitlements and claims behaviour existed and needed to be addressed (see Part 2 of this report). For example, the Australian Capital Territory representatives referred to the presumption amongst

subcontractors, especially in the construction industry, that if they were a independent contractor for the purpose of tax and superannuation then the same would apply to workers' compensation (whereas in fact the coverage definitions in terms particular categories of workers are specific to each according to the relevant legislation and court rulings in that sphere).

There was some debate as to the effect of increased personal injury litigation (and media advertising by law firms) in recent years on awareness levels, although again it was suggested the impact of this might fall mainly on permanent workers. Several agency representatives suggested there were difficulties getting workers interested in their workers' compensation entitlements unless they were aware of injuries that had already occurred in the workplace. Accepting this argument, the task would be even more difficult in the case of temporary workers who would be less likely to have such knowledge of particular workplace.

Overall, most agencies were aware of serious gaps in knowledge of or access to entitlements amongst particular categories of contingent workers in specific industries. This knowledge was derived from disputed claims, incidents of denied access and a limited amount of targeted inspections, limiting their ability to make a more overarching assessment of the state of knowledge across different employment categories, industries and occupations (except where labour hire was concerned). The known areas were almost always ones (such as building) already marked by a high number of claims. Virtually all conceded that in other groups of workers, like young casual workers in the fast food industry knowledge was likely to be very poor (indeed there is evidence to this effect. Mayhew and Quinlan, 2002) but only a few, notably NSW and Queensland, had begun to address this issue (in terms of OHS knowledge, workers' compensation knowledge or both). Examining existing documentation confirmed this impression, seldom if ever is employment status mentioned or taken into account in advisory documents (except in terms of exclusion).

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