



## Self-reported agreement type

Given the success of the 'Your Rights at Work' campaign in placing workplace relations firmly in the political consciousness for 'working Australians', it is worth considering whether the debate around *Work Choices* led Australian workers to develop a better understanding of how their pay and conditions are set.

In order to find out how their pay and conditions are set, employees in the Australia at Work study<sup>1</sup> are read the following statement

*I'm going to read you some information and then ask you how your pay and conditions are set. There are basically four ways this can be done. First, there are awards that apply to occupations or industries. These can be basic award or over-award conditions. Second, a collective agreement can be made between a group of employees, the employer and sometimes a union. Third, Australian Workplace Agreements, also known as AWAs. Finally, where none of these exist, an employee may have another type of individual contract.*

They are then asked:

*How are your pay and conditions set?*

In 2010, two-fifths (42 per cent) of employees in the study reported being on award-based pay and conditions. Around one in four (25.9 per cent) reported being covered by collective agreements, 5.4 per cent said they were on AWAs and 19.6 per cent reported that a common law employment contract determined their pay and conditions. Around 6 per cent of employees did not know what industrial instrument governed the employment.<sup>2</sup>

<sup>1</sup> The *Australia at Work* study is being conducted by the Workplace Research Centre at the University of Sydney Business School. The project is funded by the Australian Research Council's Linkage Grant scheme and the industry partner is Unions NSW. Further financial support is provided by CFMEU Energy & Mining Division, CFMEU ACT Branch, NSW Nurses' Association, the Police Federation of Australia, the SDA, the CEPU, the QLD Nurses Federation and the Nurses Federation (Victorian Branch). *The study* is a five-year longitudinal telephone survey of people who were aged 16 to 58 years and in the Australian labour force in March 2006 (i.e. prior to the implementation of the *Work Choices* legislation on 27 March 2006). New entrants and re-entrants to the labour force after March 2006 were not 'in-scope' for the study.

<sup>2</sup> Employee self-reports on instrument type do not align perfectly with data gathered from the ABS and other sources. Given the complexity of Australia's system for defining enforceable rights at work, this is not surprising. For further discussion on this, see Brigid van Wanrooy et al, *Australia at Work: The Benchmark Report*, University of Sydney, 2007: 28 and Brigid van Wanrooy, Sally Wright & John Buchanan, *Who bargains?* A report prepared for the NSW Office of Industrial Relations, Sydney, 2009:36-39.

There are some important differences between the characteristics of workers based on the type of agreement they believe determines their pay and conditions. Table 1 shows that **female employees** are more likely to report they are on award arrangements only (49.3 per cent), whereas **male employees** are more likely to report they are on individual contracts (23.6 per cent) or collective workplace agreements (27.3 per cent). **Young employees** are less likely to know how their pay and conditions are set, where 15.4 per cent did not know. This is also the case for **casual employees** with 12 per cent reporting that they did not know the type of industrial arrangement they were covered by.

**Table 1 Self-reported agreement type by individual and workplace characteristics, 2010, per cent**

Employee characteristics	Award based	Collective agreement	Individual contract	AWA	None/ Other	Don't know	Total
<b>Gender</b>							
Male	35.1	27.3	23.6	6.5	1.4	6.1	100.0
Female	49.3	24.5	15.5	4.2	1.2	5.4	100.0
<b>Age</b>							
16–24	47.4	19.5	13.0	*3.6	*1.2	15.4	100.0
25–44	39.0	25.7	23.4	5.6	1.2	5.1	100.0
45+	43.7	28.1	17.4	5.7	1.3	3.8	100.0
<b>Employment status</b>							
Permanent	39.9	27.8	20.9	5.5	1.2	4.7	100.0
Casual	55.3	11.8	13.9	4.8	*2.1	12.0	100.0
Fixed Term Contract	38.5	33.4	17.2	4.9	*1.7	*4.3	100.0
<b>Sector</b>							
Private	40.4	15.6	29.2	6.7	0.9	7.3	100.0
Public	42.5	45.2	3.2	4.2	1.6	3.3	100.0
Not for profit	49.7	29.6	12.6	*1.5	*3.0	*3.6	100.0
<b>Workplace size</b>							
Less 20 employees	47.8	13.8	24.7	4.7	1.8	7.2	100.0
20 to 100 employees	45.5	24.9	17.8	5.0	*0.8	6.0	100.0
More 100 employees	33.8	37.0	17.2	6.4	1.3	4.3	100.0
<b>Total</b>	<b>42.0</b>	<b>25.9</b>	<b>19.6</b>	<b>5.4</b>	<b>1.3</b>	<b>5.8</b>	<b>100.0</b>

\*cell size less than 20

Population: Employees only

Source: Australia at Work Wave 4

Weights: Weights10

From Table 1 we can also see that just under **one fifth** (23.4 per cent) of **employees aged 25 to 44 years** report being covered by an **individual common law contract**. Further, individual arrangements such as **common law contracts and AWAs** are more likely to occur in the **private sector** (29.2 per cent and 6.7 per cent respectively). In contrast, the **public and not for profit sectors** tend to rely on **collective arrangements** such as **awards** (42.5 and 49.7 per cent respectively) and **collective agreements** (45.2 per cent and 29.6 per cent respectively).

## Award coverage versus Award dependence

It is important to distinguish between concepts of **award coverage** and **award dependence**. Many occupations, but not all, are covered by specific awards. However, some of these employees may have other instruments in place on top of the award. Thus, there is the large group of employees who are covered by an award while a smaller group may be dependent upon it to determine all their terms and conditions. Respondents were asked whether an award played a role in their pay and conditions.

Almost two-thirds (63.9 per cent) of all employees said that an award plays a role in determining their pay and/or conditions. Reports were highest among females (70.8 per cent) and those working in the Public Sector (78.2 per cent) and Not for Profit sector (75.0 per cent).

**Table 2 Self-reported award role by individual and workplace characteristics, 2010, per cent**

Employee characteristics	Yes	No	Don't know	Total
<b>Gender</b>				
Male	57.5	36.5	6.0	100.0
Female	70.8	23.3	5.9	100.0
<b>Age</b>				
16–24	61.2	28.3	10.4	100.0
25–44	59.5	34.6	5.9	100.0
45+	69.4	25.7	4.9	100.0
<b>Employment status</b>				
Permanent	63.6	31.0	5.4	100.0
Casual	65.9	25.4	8.7	100.0
Contract	63.6	29.6	6.8	100.0
<b>Sector</b>				
Private	54.9	38.2	6.9	100.0
Public	78.2	16.8	4.9	100.0
Not for profit	75.0	21.3	*3.7	100.0
<b>Workplace size</b>				
Less 20 employees	61.3	32.7	6.0	100.0
20 to 100 employees	67.7	26.5	5.8	100.0
More 100 employees	62.5	31.3	6.2	100.0
<b>Self-reported agreement type</b>				
Award	100.0	-	-	100.0
Collective agreement	69.8	23.1	7.1	100.0
Individual common law contract	-	91.9	8.1	100.0
AWA	62.6	30.7	*6.7	100.0
Other/None	35.9	55.8	*8.4	100.0
Don't know	-	63.6	36.4	100.0
<b>Total</b>	<b>63.9</b>	<b>30.1</b>	<b>6.0</b>	<b>100.0</b>

\*cell size less than 20

Population: Employees only

Source: Australia at Work Wave 4

Weights: Weights10

From Table 2 we can also see that **6 per cent of all employees** said they **did not know whether an award played a role** in determining their conditions. The group least likely to be aware of the Award system is young people. Just over one-in-ten (10.4 per cent) of those aged 16 to 20 years of age did not know if an award plays a role in their conditions. Relevantly, it is young workers in low skilled and low paid jobs who are more likely to be reliant on the Award system for their pay and conditions.

One of the more notable findings from this research is that the **vast majority (91.9 per cent)** of employees who reported they were on **individual common law contracts also reported that they were award-free**. There was a higher prevalence of common law contracts among non-managerial employees in smaller workplaces (i.e. less than 20 employees). Hence it seems this was an instrument-making solution for small employers who may not have the capacity or desire to negotiate their own collective agreements.

Our findings **vary considerably from the ABS data on method of pay setting** where the most common method of setting pay for all employees in May 2010 were **collective agreements (43.4 per cent)** and **individual arrangements (37.3 per cent)**. **Award only arrangements were the least common method of pay setting (15.2 per cent)** (ABS 2011).<sup>3</sup> This is, in part, because the ABS data refers to how the **main part** of an employee's pay was set and because the ABS only has **three categories** - **award only** (rate of pay specified by an award and not paid more than that rate of pay), **collective agreement** (main part of pay set by collective agreement or an enterprise award) and **individual arrangements** (main part of pay set by individual contract, AWAs, common law contracts or over award payments).

## What do our findings suggest?

Despite the success of the 'Your Rights at Work' campaign in placing workplace relations firmly in the political consciousness for 'working Australians', it has not translated a better understanding among employees about how their pay and conditions are set. There is considerable difference between employee and employer (i.e. ABS) reports of agreement type. While not all of the variance can be explained by a lack of understanding on the part of employees, it is reasonable to say that there remains a widespread confusion among employees about the legal basis upon which their pay and conditions are determined. Arguably, there remains an important role for both unions and government to educate workers about our system of workplace relations.

The perception among those employees who believe that an award plays a role in determining their pay and conditions is an important finding. If a large proportion of employees believe their conditions are set by the award, this is likely to mean that a greater proportion of workers will be concerned if the award system deteriorates. The initial version of the *Work Choices* legislation significantly reduced the role of awards in determining the safety net conditions. The subsequent addition of the 'Fairness Test' to the legislation meant that in 2007 awards were still relevant in determining some elements of the safety net for many employees. Under the Fair Work Act, along with the 10 National Employment Standards, Modern Awards form the basis of the new two-tier safety net.

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<sup>3</sup> ABS Catalogue 6306.0, *Employee Earnings and Hours*, Australia, May 2010, released 27 January 2011